

## CASE PROGRESSION CHECKLIST SUPPLEMENTAL PETITIONS

This checklist has been prepared to assist you with the necessary procedure for bringing your case to final hearing. This checklist lists the minimum requirements and, even though fairly specific, may not be all-inclusive for every case. **It is not intended, and should not be substituted for proper legal advice from an attorney.** You should, however, find that making sure all necessary steps noted below are followed would reduce procedural difficulties and time delays.

### I. INITIAL FILING:

#### A. Supplemental Petition for (check one): (Please attach copy of original court order)

- Supplemental Petition for Modify Custody or Visitation and Other Relief - Form 12.905(a)
- Supplemental Petition for Modification of Child Support - Form 12.905(b)
- Supplemental Petition for Modification of Alimony - Form 12.905(c)
- Other local form supplemental petition: \_\_\_\_\_

#### B. Required forms filed with petition:

- UCCJEA Affidavit - Form 12.902(d), if matters of visitation or custody of children are involved. **This form is not required if your petition to modify only covers alimony.**
- Child Support Guideline Worksheet – Form 12.902(e), if you are modifying custody, the matter of child support is normally addressed. (If you do not know the other party’s income, you may file this worksheet after his or her financial affidavit has been served to you.). **This form is not required if your petition to modify only covers visitation.**
- Financial Affidavit - Form 12.902(b) or 12.902(c) (according to your income-see instructions on form). **This form is not required if your petition to modify only covers visitation.**
- Non-military Affidavit - Form 12.912(b). **Not required if both parties have signed and filed a joint supplemental petition.**
- Affidavit of Indigency - Form 12.902(a), if you are requesting that filing fees and sheriff’s fees be waived. (The clerk will also require you to fill out a short financial affidavit in addition to this form.)
- Summons: Personal Service on an Individual – Form 12.910(a). **Not required if both parties have signed and filed a joint supplemental petition.**
- Process Service Memorandum - Form 12.910(b). **Not required if both parties have signed and filed a joint supplemental petition.**

**Out of State Service Information:** If service is required on a party residing outside of the state of Florida, the party who filed the petition must obtain service procedure information including fees, from the local officials responsible for process service where the other party resides. This information, along with applicable fees (in the form of a money order), must be provided to the Clerk’s Office. The Clerk’s Office will forward the completed summons and paperwork to the address you provide for the out of state agency. **Most other states will not honor a Florida Affidavit of Indigence.**

#### C. Required fees:

- Filing fee paid or fee waiver (Affidavit of Indigence) granted by Court.
- Fees paid for process service by Sheriff (separate check or money order payable to the Sheriff), or fee waiver (Affidavit of Indigence) granted. **No process service fees on a joint supplemental petition.**

**D. Required class**

- Completion of approved Parent Education and Family Stabilization Course. **Note:** If one party resides in another Florida county or out of state, it is generally acceptable to take the class available in their area of residence. **If you are adding a custody or visitation order to an existing Department of Revenue Child Support Enforcement case you are required to attend this class. This class is not required if your petition only covers support matters, or, if you have previously taken the class as a part of a divorce or paternity action.**

**E. Optional Forms:**

- Motion for Referral to General Master - Form 12.920(a) (A General Master is an Attorney appointed by the Chief Judge to take testimony and make recommendations to a judge. The primary purpose of having a General Master hear family law matters is to reduce the cost of litigation and speed up cases.)
- Order of Referral to General Master - Form 12.920(b)

**If both parties have signed and filed a joint supplemental petition, you may skip Section II entitled, “Service of Process.” The remaining sections still apply.**

**II. SERVICE OF PROCESS:**

**A. Personal Service**

- Summons returned “served” and the Original Return of Service has been filed by Clerk in your court file.
- After 20 days have passed from the day Respondent was served, check to see whether Respondent filed an answer or **any** paper within the 20 day period. If yes, you may check this item. **(If both checked, skip to Section IV; if no answer filed, go to “B”)**

**If your summons is returned to the clerk “NOT SERVED”**

1. **Alias summons:** Return to the Clerk of Court to request an **Alias** (2<sup>nd</sup> attempt at service) or **Pluries** (3<sup>rd</sup> or more attempt at service) service to be processed by the clerk of court.

Complete Summons: Personal Service on an Individual-form 12.910(a)

Process Service memorandum-form 12.910(b).

**If you are still unable to serve the other party**

2. **Constructive Service:** is only to be used after you have completed an actual diligent search for the other party and have been unable to locate them.

Constructive service is also known as “service by publication.” You will need a “Notice of Action” appropriate to your case. The supreme court forms do not contain a notice of action for any type of action except divorce, you will need to locate the appropriate form in a law library or have the assistance of an attorney to prepare the proper document. The document must be posted or published for 32 days before you can proceed further with your case.

Affidavit of Diligent Search and Inquiry 12.913(b).

**Constructive service is not available for all procedures. If constructive service is used, the court may grant only limited relief. In all cases it is best to have your petition personally served. This is a complicated area of the Law and you may wish to consult with an attorney before using constructive service.**

**If proper service is not obtained, the court cannot hear your case.**

## B. Default

- Respondent failed to answer or file any paper after service
- Motion for Default filed with Clerk - Form 12.922(a) (no sooner than 25 days after date of service) **and**
- Default entered by Clerk **Note:** If the other party has filed **anything in the case** the clerk will not be able to process the default. This is also true if the other party is a member of the military service. If the clerk is unable to process your default, you will need to file a motion for the “court to enter the default” send a copy to the other party and set a hearing on your motion.

## III. FINANCIAL DISCLOSURE:

If your petition involves financial issues such as child support or alimony, each party has a right to the production of certain documents during the discovery phase of the case. See Fla. Fam. L. R. P. 12.285. **This section does not apply if you are only modifying visitation.**

- Certificate of Compliance with Mandatory Disclosure - Form 12.932. The actual documents (tax returns, pay stubs etc.) should not be filed in the court file. The documents should be provided to the other party and this affidavit should be filed with the Clerk to notify the court that the listed documents have been provided to the other party. You may be required to bring these documents with you to the hearing.

**Note:** If the other party refuses to provide you with their financial information, a motion to compel can be filed with the court requesting the court to order the other party to provide you their financial information.

**OR:**

- Waiver of Mandatory Disclosure documents signed by both parties. This means that both parties agree NOT to exchange these documents, however, the requirement to file financial affidavits cannot be waived.

**Only now is the case potentially ready for setting for trial/final hearing.**

## IV. SETTING A HEARING:

- After an answer is filed or a Default has been entered, contact the following office to set your hearing. If the other party filed a counterpetition you are required to respond to their counterpetition. If the other party filed a motion to dismiss your petition, a hearing must be set (by either party) to address the motion to dismiss before you can set a final hearing. Pending motions may also prevent your final hearing from being set as they must sometimes be addressed before a final hearing.
- Call the resource center at 727-582-7200 to request final hearing. Your court records will be viewed for completeness and you will either be given a court calendar date or you will be given further instructions for setting your final hearing.

Depending upon which Judge your case is assigned to, you may be required to prepare the Notice of Hearing – please be sure that you have completed the **certificate of service** section on the bottom of the form. There is one notice of hearing in your package, if you need more they can be obtained from the clerk of court for a fee or downloaded from [www.jud6.org](http://www.jud6.org) (Representing yourself in court section) for free. You will need the free acrobat reader (available from [www.adobe.com](http://www.adobe.com)) software installed on your computer to access the forms on our web page.

### **Distribute as follows:**

- 1) Original filed with Clerk’s Office
- 2) Copy to other party or their attorney (must be received 5 days prior to the hearing date).
- 3) Copy maintained for your use (optional).

**If you do not properly complete this step, your hearing could be delayed.**

**NOTE: IF YOU ARE INVOLVED IN OTHER CASES, SUCH AS AN ACTIVE DEPENDENCY CASE, YOUR CASE COULD BE REFERRED TO A UNIFIED FAMILY COURT JUDGE FOR HEARING. IF THIS IS YOUR SITUATION, PROCEDURES FOR SETTING A HEARING WILL BE SLIGHTLY DIFFERENT. PLEASE CONTACT THE RESOURCE CENTER AT THE ABOVE PHONE NUMBER FOR ASSISTANCE.**

**V. FINAL HEARING:**

A. Make arrangements for child care if applicable. Children are not allowed to attend without prior Order, per Fla. Fam. L.R. P. 12.403.

B. Bring the following to the final hearing:

**Stamped (\$.60), pre-addressed legal size (9.5” business size) envelopes for each party, one for each if before Judge, two for each if before General Master.**

**Certified copies** of all previous court orders affecting children (custody, visitation, support, dependency), or other matters in your case (Alimony, distribution of assets/liabilities) especially if those orders were entered by a Court in another state or county.

Pay stubs (from past 3 months), certified copies of other support orders that you are required to pay, documentation of assets and liabilities.

Completed child support guideline worksheet, if modifying custody or child support - Form 12.902(e)

If your petition involves modification of child support (or custody) then a new “Memorandum to Clerk” will need to be completed. Please bring address information for yourself and the other party to the hearing.

Income Deduction Order and 2 copies, if case involves support

Final Disposition Form (obtain from Clerk)

**Other possible documents you may need.** If one of the other parties in the case is deceased you may need a certified death certificate to prove that fact. If your petition in any way concerns real property (such as a house or piece of land) you may need the legal description of that piece of property at your hearing.

## **VI. AFTER THE FINAL HEARING:**

**When can I expect my final paperwork to arrive?** If your hearing was before a general master and both parties appeared for the final hearing, you will be asked at the end of the hearing if you wish to waive the objection period. If you both agreed to waive the objection period, the general master's office prepares the order and sends it directly to the judge. If both parties did not appear, or one party does not waive their opportunity to file objections, then you will first receive a copy of the master's findings and recommendations in the mail shortly after the hearing. After 15 days, if there is no objection, the findings and recommended order will be forwarded to the judge's office for signature.

**How do I get the support taken out of the other party's paycheck?** Unless the other party is self-employed, income deduction orders are usually entered in cases where support has been ordered. If your hearing was before the general master, your order is not final until you receive the "order confirming findings and recommendations of general master" in the mail after your hearing. Once you have received this order, it is generally your responsibility to contact the clerk of court to obtain a "certified" copy of your income deduction order. It is then your responsibility to mail the certified income deduction order to the employer. It is suggested that you use certified mail so you have proof that it was received by the employer. If the other party changes jobs frequently, you may need to follow this procedure every time they change jobs. The income deduction order is not made out to a specific job, it should be accepted by any employer (note: this should include employers in other states). The income deduction order makes the employer a party to the case.

**The FLSDU:** The State of Florida Disbursement Unit handles all income deducted support payments for the State of Florida. Their toll free automated number is 877-769-0251.

**"If you are a person with a disability who needs any accommodation in order to participate in a court proceeding, you are entitled, at no cost to you, to the provision of certain assistance. Within two (2) working days of your receipt of any notice or order requiring your presence at a hearing, please contact the Human Rights Office, 400 S. Ft. Harrison Ave., Ste. 300, Clearwater, FL 33756, (727) 464-4062 (V/TDD)."**