
FAMILY LAW GLOSSARY

Bifurcation: A procedure by which one issue, usually whether married status should be terminated, is separated from and resolved before the remaining issues.

Commingling: The mixing of separate property and community property.

Community Property: Property that was acquired by the parties during the marriage, except property acquired by gift or inheritance.

Continuance: A postponement of a trial or hearing.

Default Judgment: Occurs when the other party fails to file a Response with the court, so that a judgment is entered without a trial or notice.

Deferral of the Family Home: An exception to the general rule requiring equal division of community property whereby one spouse is allowed to remain in the family home with the minor children for a period of time. The court can make the order in appropriate cases even if the equity in the house exceeds the value of all other property.

Deposition: A discovery device by which a party can question a witness under oath in a relatively informal setting.

Discovery: A set of procedures by which each side gathers information essential to the preparation of his or her case.

Dissolution of Marriage: Formal legal term for a divorce.

DRTRA: An acronym for the Domestic Relations Tax Reform Act of 1984 which establishes many rules for how divorce related tax matters are handled.

ERISA: An acronym for the Employee Retirement Income Security Act of 1974 which governs the establishment and tax treatment of most retirement plans.

Ex Parte: Any court procedure where only one side is presented after giving short or no notice to the other party that an order is being sought. Ex parte activity is strongly disfavored by the court and only used in emergency situations.

Filing: Delivery of a document to the court clerk for inclusion in the court file which has been set up for a particular case.

Interlocutory Judgment: A old procedural step in a dissolution which is no longer a part of the dissolution process.

Interrogatories: A discovery process by which a party sends the other party a list of written questions which must be answered in writing under oath.

Joinder: A procedure by which an extra party is brought into a lawsuit; usually the pension plan administrators.

Joint Legal Custody: An arrangement where divorcing parents continue to share responsibility for major decisions affecting their children, usually relating to health, education and religion.

Joint Physical Custody: An arrangement where divorcing parents continue to share responsibility for their children's physical care. Joint physical custody *does not* imply equal physical custody.

Jurisdiction: The power or authority a court has to deal with a particular issue.

Legal Separation: A legal process, almost like dissolution, whereby custody, property and support issues are determined; but the parties remain technically married and therefore are unable to remarry.

Mandatory Settlement Conference: A meeting between two lawyers, a Superior Court judge and the parties at which an attempt is made to settle the case. This usually takes place one to two weeks prior to trial.

Master Calendar Date: The date on which trial is supposed to begin. However, a courtroom is not always available and the case may be continued or "trailed" behind another case to start upon its completion.

Motion: A request for court action on what is usually a collateral matter.

Note: A promise to pay another person money. A note may be unsecured or secured with some property of the paying person.

Order to Show Cause ("OSC"): A order issued by the court at a party's request, requiring the other party to appear in court on a specific date to "show cause" why a requested order should not be made.

Pendente Lite: A legal term meaning "pending the litigation." It is commonly used when referring to temporary orders sought before trial, such as for custody or support.

Petition: The two-page pleading form used to begin a divorce action.

Petitioner: The person who files the Petition and thereby commences the action for Dissolution of Marriage.

Pleading: A document prepared to be filed with the court.

QDRO: An acronym for a Qualified Domestic Relations Order; an order used to divide a pension, retirement or employee benefit plan.

Respondent: The spouse who files the response to the Petition.

Response: The two-page pleading form filed in response to the Petition.

Separate Property: Property which belongs to only one spouse, i.e. property acquired before marriage, after separation or property which was acquired by gift or inheritance.

Service: The process of giving or delivering a copy of a document to another party.

Standard Family Law Restraining Orders: Orders that automatically go into effect once the Petition and Summons are served on the Respondent. The orders prohibit each party from removing the children from the State of California, closing or transferring bank accounts, removing parties from insurance policies, transferring any real or personal property, and using community property to secure loans.

Subpoena: A court order or “writ” which requires a witness to attend a trial, hearing or deposition.

Subpoena Duces Tecum: A subpoena which requires the witness to produce documents in his or her possession or under his/her control.

Summons: A form issued by the court clerk to notify the Respondent that the Petition for Dissolution of Marriage has been filed.

Support Schedules: Tables adopted by the court to be used as guidelines in fixing child support and spousal support.

Temporary Restraining Order (“TRO”): A court order prohibiting certain conduct, generally in regard to harassment or dissipation of assets.

Tracing: An accounting process whereby one party attempts to relate an existing asset to another asset.

Trailing: A situation in which a judge orders that the attorneys and their clients be ready to begin a trial or hearing on very short (usually 22 hours) notice.

Trial Setting Conference: A court appearance at which dates are selected for trial and mandatory settlement conference.