



Northwest Justice Project

Finishing Your Nonparental Custody Case

Forms and Instructions

December 2008

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Section 1: Introduction and Important Information

A. Should I use this packet?

This packet contains information and forms to finish a nonparental custody case. Most of the instructions are written from the petitioner's point of view because the petitioner typically prepares the final court papers if s/he's receiving custody of the child/ren, or if s/he chooses to drop the case. However, the general information about how to finish a case can be useful to both parties. In addition, a respondent might use some of the forms in this packet if s/he wins at trial or if the case is dismissed before trial.

Before a petitioner may ask the court to sign final papers giving him/her custody, s/he must have already

- filed the Summons, Petition, and other documents
- served the other parties with the Summons, Petition, and other documents, and waited the required time for them to Respond or obtained their signed agreement to the final papers
- completed the necessary background checks
 - usually petitioner files the state patrol reports with the court,
 - the court checks judicial records for information about the parties, and
 - CPS sends its background check information directly to the court; Petitioner may need to make sure the court's received this information
- obtained an Order re Adequate Cause in one of the following ways
 - a signed agreed order or
 - an order the judge signed after a hearing or,
 - in default cases where local practice allows it, a proposed Order re Adequate Cause (signed by every party not in default) presented to the judge to sign when the Motion for Default and final papers are presented (note: this can't be done in some counties and can't be done where a respondent's filed a Response)
- if the child in the case is an Indian child, met the requirements of the Indian Child Welfare Act (ICWA).

Look back to our packet [Filing a Nonparental Custody Case](#) for explanations.

The "List of Forms" section below contains lists of final papers you may need.

◆ Nonparental custody cases usually involve more than two parties (at least one petitioner and both parents). Sometimes there are additional parties, such as a person with court ordered time with the child or the state. These cases are more complicated to finish than cases with just two parties. Although it's possible to obtain an order of default against a party or to reach agreement with a party, petitioner can't usually obtain a Nonparental Custody Decree and Findings of Fact/Conclusions of Law giving him/her permanent legal custody unless the case is resolved as to all the parties.

◆ Note on reading this packet: You'll see footnotes in this packet. Footnotes will tell you the law or court case that supports the statement that comes before the footnote, or will give you special tips, links to relevant websites, or other additional information. Use the legal references in the footnotes to look up the law at your local law library, or to tell the court when you're trying to make a legal argument. CR is the [Civil Rules of Washington](#). GR stands for [General Rules](#). RCW stands for [Revised Code of Washington](#), which is the law of Washington State. Court cases have names, such as *In re Custody of Child*. The references to the law are up to date as of the date this packet is published. The law sometimes changes before the packet can be updated.

B. What if I have questions that aren't answered in this packet?

It is always a good idea to talk with an attorney familiar with family law before you file anything with the court. Many counties have family law facilitators who can help you fill out forms, or have free legal clinics where you may get specific legal advice about your case. If you are low-income and you do not live in King County, you may call CLEAR at 1-888-201-1014. If you live in King County, you may contact the King County Bar Association's Neighborhood Legal Clinics by calling (206) 267-7070 between 9:00 a.m. and noon, Monday – Thursday, to schedule a free half-hour of legal advice (ask for a family law clinic). You may also want to go to the website (www.washingtonlawhelp.org) and read our legal information publications about your particular family law case and information about legal aid programs in your area.

Section 2: Steps to Take to Finish Your Nonparental Custody Case.

This section assumes that you've completed the steps above, in "Should I Use This Packet?" Many of the steps listed in the paragraphs below are explained in more detail later in this packet.

A. Check for Special Local Procedures, Rules and Forms

Some counties have special procedures to follow before you can finish the case. Examples include a parenting class, a status conference, a case schedule, or other steps not described in this packet.¹ Ask the court clerk's office or the family law facilitator. Local court rules may be available in the law library or on the internet at <http://www.courts.wa.gov/rules/local.cfm?group=superior>. Some counties may have their own packets for finishing a nonparental custody case or forms for motions. If so, use that packet or form instead of ours. If you use our packet, get any additional local forms that you'll need.

B. Get Any Additional Packets or Forms That You Need

Most people will need at least the packet [Residential Schedules and Child Support in Nonparental Custody Cases](#), if petitioner's receiving permanent legal custody. Section 4 lists other packets available.

C. Participate in the Guardian ad Litem (GAL) or Family Court Services Investigation

A Guardian ad Litem might have been appointed or a Family Court Services investigation may have been ordered:

- a) if the parties disagreed about petitioner's request for custody and/or about visitation,
- b) if there are claims the child/ren aren't safe with a party (for reasons such as domestic violence, child abuse, neglect, or drug or alcohol problems),
- c) or, in some counties, in every nonparental custody case.

Our publication [Working with GALs and Parenting Evaluators](#), available at www.washingtonlawhelp.org, offers some tips on this process. If there's a GAL or Family Court Services investigation, cooperate with the investigation and wait for the report.

¹ Since 2003, [RCW 26.10.135](#) has required that the court consult the judicial information system to determine the existence of any information and proceedings that are relevant to the placement of the child before the court grants a custody order in nonparental custody cases. In 2007 a similar requirement, and a requirement that a screening and potentially a full assessment be done if domestic violence or child abuse were alleged, were added to dissolution of marriage and parentage cases. See [Ch 496, Laws of 2007](#). The 2007 law may affect nonparental custody cases. Ask about the procedures in your county. See also the text in the packet [Filing a Nonparental Custody Case](#) for an explanation of additional background checks required in nonparental custody cases.

D. Go to Any Parenting Class, Mediation, Case Status Conference or Settlement Conference That May Be Required

Some counties require parties to attend a special parenting class given by the court. This may be required even if you're entering orders by agreement or default. Some counties may require status or settlement conferences or mediation. Check with the family law facilitator or court clerk or your local court rules to see what your county requires.

E. Decide How Long You Need to Wait Until You May Finish Your Case

This depends upon the type of case you have:

Agreed cases:

If you're entering final papers by agreement, in most counties you may present them to the judge for approval any time after all of the following are completed:

- all the parties (including the GAL and the State if either's a party) have completed and signed the Order re Adequate Cause (if petitioner's receiving custody) and the final papers showing your agreement; and
- you participate in any locally required procedures such as parenting classes; and,
- (if petitioner's receiving custody) the background checks have been completed.

Contested cases:

If you're the respondent, you must file your Response and other papers before your deadline, and you must prepare for trial.

If you're the petitioner, you must wait for the deadline for every respondent to file a Response. The amount of time you must wait depends upon how you served each respondent.

- If you served him/her by personal service in Washington, you must wait at least **20 days** from the date of service.
- If you served him/her by personal service out of state, you must wait at least **60 days** from the date of service.
- If you served him/her by publication, you must wait at least **60 days** from the date of first publication.
- If you served the other party by certified mail, you must wait at least **90 days** from the date the papers were mailed.

If any respondent files a Response and you don't reach agreement, prepare for trial. The length of time it'll take to finish your case depends upon your trial date.

If a respondent files no Response, you may be able to get an Order of Default against him/her (see next item).

Before trial, the parties may file motions, conduct discovery, prepare for trial, etc.

Default cases:

If you're the petitioner and any respondent filed Response to the Petition before his/her deadline, file a motion for an order of default against that respondent.

If all respondents are in default (because all have failed to file Responses to the petition before the deadlines above), move for default and ask the court to approve your final orders by default when the deadline's passed for all respondents to Respond to the petition (and background checks are completed).

However, if one respondent's defaulted but another hasn't, the court won't approve final orders giving petitioner custody (it'll only enter an order of default as to the party in default). You'll usually need to either go to trial or reach agreement with the other respondent(s) before you can ask the court to approve the final papers.

◆ If a respondent files no Response, petitioner shouldn't wait too long after the Response deadline to file a motion for default (and enter final orders if the case is resolved as to all the other parties). If more than one year passes between service of the summons and petition and the entry of default orders, petitioner must serve the respondent with notice of the motion for default by certified mail or personal service.² In addition, if the case is inactive for months, the court may fine the petitioner or dismiss the case.

F. Finish the Case

The following paragraphs describe different ways the case might be finished. When you fill out the final papers, see the General Instructions section, the instructions for the individual forms you're using. In addition, to see what procedures to follow, read the section of this packet covering the way your case will be handled.

1. Default and agreed cases:

If you've reached agreement with all parties for petitioner to receive custody³ or if any respondent with whom you have no agreement is in default, prepare the final papers and, if necessary, default papers (see the section called "List of Forms" to identify the forms you need).

- **Parties who agree:** deliver your proposed final papers to each party who agrees to them. Each party who agrees should sign each of the final papers and the Order re Adequate Cause (if the judge hasn't already signed it and if petitioner's receiving custody).⁴ **If all other parties agree and sign**, present the final papers to a judge for approval. See Section 7 for more help.
- **Respondents in default:** If a respondent files no Response to the petition by his/her deadline, petitioner should file a motion for default against him/her. If petitioner has

² [CR 55\(f\)](#)

³ If the parties' agreement is to drop the case without petitioner receiving custody, see the item below on voluntary dismissals.

⁴ If another party refuses or fails to sign an agreed order of adequate cause, petitioner will need to complete the adequate cause process described in the packet [Filing a Nonparental Custody Case](#).

an order of default or a signed agreement with each party, petitioner can present the final papers to the judge for approval when s/he presents the Order of Default (and any agreement the other parties have signed). See Section 8 for more help.

If the judge signs the final papers, provide copies of the papers as signed by the judge to the other parties. See “Last Steps” information below.

2. Voluntary dismissal cases:

If petitioner decides to dismiss the case, either by agreement or by petitioner’s choice, prepare a Motion and Order of Dismissal. Notify the other parties, obtain signatures of the parties who approve, and ask the court to sign an Order of Dismissal. See Section 10 for more help.

If the judge signs the order of dismissal, provide conformed copies of the order signed by the judge to the other parties

3. Contested cases:

If petitioner wants permanent legal custody of the child/ren and has neither an order of default against or signed agreement with each party, or if a respondent files a Response and the parties don’t reach agreement, the case will go to trial. (Petitioner will also need to complete the adequate cause process if not already completed.) The case isn’t over until the judge signs written orders showing his/her trial decision. The party who succeeds at the trial usually prepares the final papers for the judge to sign. See Section 9 for more help.

Some steps often taken to prepare for trial:

- _____ Conduct discovery if necessary.
- _____ Obtain any appropriate temporary orders, if not done already.
- _____ If not already done, ask for a Guardian ad Litem to be appointed or a Family Court Services parenting evaluation, if appropriate.
- _____ Subpoena any witnesses or documents you’ll need for trial.
- _____ Go to trial.
- _____ Prepare final papers showing the judge’s decision.
- _____ Present the final papers to the judge to sign.

- If the case goes to trial, and the petitioner’s awarded custody, use the Findings of Fact and Conclusions of Law and the Nonparental Custody Decree at the end of the trial to show the judge’s decision. Petitioner may also need other forms, for example a Residential Schedule and Nonparental Custody Order of Child Support.
- If the case goes to trial and the judge decides that petitioner won’t get custody, final court papers also need to be prepared. If the judge dismisses the case respondent may, but isn’t required to use, the Order of Dismissal (WPF DRPCU 01.0570 (see the next paragraph) to show the judge’s decision. **However, we recommend that a respondent who wins at trial get help from an attorney in preparing detailed final papers that accurately show the judge’s decision. In many cases, the judge will have sent a letter stating his/her decision. Or respondent can pay for a copy**

of the tape or video recording or transcript of the judge’s oral decision. These materials can help an attorney prepare accurate final papers. Respondent shouldn’t use the Findings of Fact and Conclusions of Law or the Nonparental Custody Decree in this packet.

If the judge signs the final papers, provide copies of the papers as signed by the judge to the other parties. See “Last Steps” information below.

4. Involuntary Dismissal cases: (where the petitioner doesn’t agree to dismiss the case but the court orders dismissal)

- If the judge dismisses the petition before the case goes to trial, s/he may ask a respondent to prepare an order of dismissal. The Order of Dismissal WPF DRPSCU 01.0570 can be filled in to show the facts of the case and the judge’s decision. This packet doesn’t contain detailed instructions about preparing an order for dismissal for respondent to use because the reasons for dismissal can be too varied.
- If the judge dismisses the petition after the case goes to trial, the judge’s decision needs to be put into a written order. There should also be detailed written findings of fact for the judge to sign, explaining the facts the judge found to be true and the legal conclusions that follow from those facts. A respondent would usually prepare these papers and an order dismissing the case for the judge to sign. There are no court forms for detailed findings of fact and conclusions of law when a respondent wins at trial. See our recommendation under contested cases above.

◆ If the State of Washington (through the prosecuting attorney or attorney general) or a Guardian Ad Litem is a party to the case, you can’t enter final orders giving petitioner legal custody without their approval. If you file motions in the case or go to trial, they must receive notice and they can participate in the hearings and/or the trial.

If the judge signs the final papers, provide copies of the papers as signed by the judge to the other parties. See “Last Steps” information below.

G. Last Steps: After the Final Papers Are Signed by the Judge, File the Originals with the Clerk, Keep Conformed Copies for Yourself, and Provide Conformed or Certified Copies to the Other Parties

- DON’T LEAVE THE COURTHOUSE WITH OR CHANGE OR DESTROY COURT ORDERS THAT HAVE BEEN SIGNED BY THE JUDGE. If you don’t know what to do with the original orders, ask someone at the clerk’s office to help you.

- Getting Copies of the Orders. You'll need copies of the orders as signed by the judge. You need certified copies of any order with a safety restraint and of any Protection Order. (Get one certified copy for yourself, and one certified copy for each restrained party that you need to serve.) Get conformed copies of other orders.
- Ask the clerk how to get the conformed and certified copies you need. Follow those instructions.
 - For certified copies, the clerk will need to make them and may charge you a fee (such as \$5 for the first page and \$1 for every additional page).
 - For conformed copies,
 - The clerk may allow you to take the original orders and make copies in the library or at the clerk's office.
 - Or, if the copies of proposed orders you brought to court are exactly the same as the orders the judge signed, the clerk may tell you to stamp those copies with the date filed stamp and the judge's signature stamp.

□ 8. The Last Steps: Take these steps after the judge has signed your orders (by agreement, default, or after trial), you've filed the originals with the clerk, and you've obtained copies for yourself and the other party/parties. Remember: you need conformed copies of most orders, but one to two certified copies of any Protection order or Order containing a safety restraint.

_____ Keep one certified copy of any restraining order or protection order with you at all times. Keep the other court papers from your case in a safe place.

_____ If your orders have no safety restraints or a protection order, or if the restrained party or his/her attorney appeared and/or signed the orders, mail conformed copies of the orders the judge signed to the other party/ies. Mail conformed copies to any additional parties against whom there are no restraints. Have your server mail conformed (not certified) copies of the final orders the judge signed to the other party/ies at his/her last known address, have your server fill out a Certificate of Mailing or Personal Delivery, and file your Certificate of Mailing with the court clerk.

_____ If your orders include a restraining order or a protection order and you're the protected party, file a completed Law Enforcement Information Sheet with the court clerk. **Don't serve a copy of the Law Enforcement Information Sheet on the other party/ies.**

_____ If you have a **restraining order** and you're the protected party, have the other party personally served if all of the following are true:

_____ neither the restrained party nor his/her attorney appeared for the hearing; and

_____ neither the restrained party nor his/her attorney signed the order.

Have the restrained party personally served with the orders the judge signed (including a certified copy of the order that contains the restraint), have your server fill out a Return of Service form, (instructions for personal service and the Return of Service are in our [Filing a Nonparental Custody Case](#) packet), file the Return of

Service with the court clerk, and deliver a copy of it to the law enforcement agency named in your order.

◆ **WARNING:** The safety restraints may not be effective until the other party's personally served with the order.

_____ If you have a **protection order** and you're the protected party, make sure the other party's personally served with a certified copy of the *protection order* if all of the following are true:

_____ neither the restrained party nor his/her attorney appeared for the hearing; and

_____ neither the restrained party nor his/her attorney signed the order.

In most cases, the protection order will include an order for the clerk to forward a copy to the law enforcement agency where the restrained party lives for personal service on the restrained party free of charge. The other final orders don't need to be personally served, so mail conformed copies to the other parties as described above. Service of the protection order may also be ordered by mail or publication. Carefully read the "Service" section on the final page of the Order for Protection to determine what method of service is ordered, and who's responsible for arranging it. If law enforcement's not serving the protection order for you, then arrange for service as described in the protection order. Have your server fill out a Return of Service form, file the Return of Service with the court clerk, and deliver a copy of it to the law enforcement agency named in your order.

◆ **WARNING:** The safety restraints may not be effective until the other party's personally served with the order.

□ 9. Complete Final Tasks

- If appropriate, give a copy of the Decree, Residential Schedule and any restraining orders or Order for Protection to your children's school and daycare
- Follow the court's orders

See the packets [Filing a Nonparental Custody Case](#) or [Responding to a Nonparental Custody Case](#) for more detailed discussion of how to serve another party.

If you disagree with the judge's decision, you may want to file a motion for reconsideration or an appeal. Act quickly.

Section 3: Words You May Need to Know

Adequate cause hearing – (sometimes called threshold hearing): A hearing to decide whether the non-parent petitioner(s) have presented enough evidence to allow the case to proceed or whether the petition should be denied before trial.

Affidavit: A written statement made under oath and notarized by a Notary Public. Affidavits are no longer required in Washington; instead, the courts use Declarations.

Alleged father: The man (or men) who might be the father of a child, but whose paternity has not been legally established. See [RCW 26.26.011\(3\)](#).

Appearance: Informing the court and the parties of your whereabouts and your desire to participate in your case, either in person at a Court hearing, or in writing, usually by filing and serving a Notice of Appearance. Certain informal actions, such as negotiating, telephoning about the case, or writing a letter, that show a knowledge of the claims in the case and an intent to defend, might also be considered an appearance.

Attachment: a document stapled to a court form and referred to in the form. Attachments should follow the format rules for court forms. (Basic information about the format rules is in the General Instructions section of this packet.)

Bailiff: A member of the judge’s staff who is in charge of courtroom procedure and security. The bailiff may sometimes be the same person as the clerk.

Calendar: The court’s schedule of cases to be heard, also called a Docket.

Caption: The heading of each legal document, which contains the name of the court, the names of the parties, the case number, and the name of the document itself.

Case Schedule: A printed schedule issued by the court in some counties showing major dates and deadlines in your case

Certified Copy: A copy of a document from the court file made by the court clerk that has an official stamp on it stating it is a true copy. Usually you must pay for a certified copy.

Clerk of the Court: An officer of the court who handles clerical matters like keeping records, entering judgments, and providing certified copies. In each courthouse, there is a Superior Court Clerk’s Office. Someone from the clerk’s office staff is also usually in the courtroom during hearings.

Commissioner/Court Commissioner: This person is similar to a judge but only makes decisions relating to a specific subject matter. Many counties have family law commissioners who decide cases only about family law⁵.

Confirm a Hearing or Trial: Notifying the court that you still plan to have the hearing or trial scheduled in your case. The way to confirm your hearing or trial differs from county to county and it is not required in all counties. Often a phone call to the court a few days before the hearing

⁵ Many decisions in family law cases are made by court commissioners instead of judges. However, to make this packet simpler, in most places we just use “judge.”

or trial is required. Local rules explain each county's requirements. If notice is required and not given, the hearing or trial may be cancelled.

Conformed Copy: A copy of any court document that has been filed with the clerk. It must be stamped with the date filed. If the document is an order, it must also have the name of the judge who signed it written or stamped on it.

Contested Case: A case in which opposing parties participate and disagree about the outcome of the case.

Continuance: Delaying your court hearing to a later date. In some counties the judge must approve any request for a continuance.

DCS: Division of Child Support: The state office (part of DSHS) that establishes, enforces and sometimes modifies child support obligations in many cases. DCS used to be called CSD, OSE and SED.

Declaration: A written statement made to the court under oath.

Decree: One type of final court order.

Default: The failure to respond to court papers within the legal deadline.

Default Order: An order that can be requested if the respondent fails to file a Response before the deadline, or, if s/he has appeared in the case, if s/he fails to file a Response after being served with a Motion for Default.

Dispute Resolution: The part of the parenting plan that states how the parties will try to resolve disagreements about the parenting plan (for example, mediation, counseling, court action). A Residential Schedule form usually does not have a dispute resolution provision.

Dissolution: The legal word for divorce.

Docket: The court's schedule of cases to be heard on a particular day.

Ex Parte: Going before the court without notifying the other party. Sometimes also refers to the courtroom where you see a judge without notifying the other party.

Ex Parte Restraining Order: An order signed by the judge if emergency circumstances require protection before a temporary hearing can be held.

Exhibit: Documents, records, and photographs introduced into evidence at trial or hearing. Attachments to legal forms might also be called exhibits.

Filing: Giving court papers to the Court Clerk to place in the case file.

Guardian ad Litem (GAL): A GAL is a person the court appoints in some cases to investigate the issues and make recommendations to the court about the children's best interests. If a GAL is appointed, s/he is a party and has to be served with papers filed.

Hearing: Going before a judge to request a court order or to defend against another party's request. Hearings usually take place before the trial date and concern specific issues for example, temporary relief. Hearings on important issues, for example, motions to dismiss, may end the case. In many counties the court does not allow live witness testimony at hearings, but the parties are expected to file and serve materials in advance in writing. In some counties, the outcome of certain types of modification cases may be decided by hearing rather than by full trial.

ICWA: Indian Child Welfare Act, a federal law that applies when a child is or may be an Indian Child.

In Forma Pauperis (IFP): A Latin term which means you may file your papers in court without paying the filing fee if you have a low income and show you cannot afford the fee.

Involuntary Dismissal: A court order ending the case without petitioner receiving any permanent relief requested in the petition. An involuntary dismissal usually happens over petitioner's objection. A written court order of dismissal needs to be entered if the judge orally orders the case dismissed. If the case is dismissed, temporary orders end.

Judgment: One type of final court order.

Jurisdiction: The court's authority to make decisions regarding certain people and issues. If a court does not have jurisdiction, it does not have the authority to make orders over the person or issue. In a child custody case there are two types of jurisdiction involved – there is "subject matter jurisdiction" which is jurisdiction to decide about the custody of the child, and there is "personal jurisdiction" which is required if the court is to decide about child support and, in some circumstances, paternity. Sometimes a court will have jurisdiction to decide one issue but not the others. (This usually happens when the child has been living in a state where the parent(s) has never lived.)affected.

Mediation: A meeting between the parties to a court case and a neutral third party (such as a mental health professional, judge, retired judge, or attorney not otherwise involved in the case), during which the parties try to mediate, or reach an agreement, about all of the legal issues in their case.

Modification/adjustment case: A court case for a major or minor modification or an adjustment of a parenting plan/residential schedule/custody decree. Modification/adjustment cases are also sometimes filed to change child support.

Motion: A formal request to the court for an order, usually about a specific issue.

Motion Docket: The court's schedule of motions to be heard.

Moving Party:

- in modification/adjustment cases, the moving party is the person who files the petition for modification/adjustment.
- in motions, the moving party is the person who filed the motion.

The moving party can be either a Petitioner or the Respondent in the original case.

Nonmoving party:

- in modification/adjustment cases, the nonmoving party is the party who did not file the petition for modification/adjustment.
- in motions, the nonmoving party is the person who did not file the motion.

The nonmoving party can be either a Petitioner or the Respondent in the original case. In nonparental custody cases there is often than one nonmoving party, such as other petitioners or respondents or the State of Washington, a Guardian ad Litem.

Note/Notice of Hearing/Note for Motion Docket: A form which lets the clerk know to schedule a hearing and tells the other parties the subject of the hearing and when and where the hearing will take place.

Notice of Appearance: A paper filed with the court and served on the other parties showing that a party wants to participate in the case and where to send papers filed about the case in the future.

Order: A court document signed by a judge that requires someone to do or not do something. Restraining orders, orders re adequate cause, Residential Schedules or decrees, are all examples of orders, if the judge has signed them. If you disobey an order of the court, you may be held in contempt of court. It is important to notice if an order you are served with is only a proposed order or if the judge has actually signed it. An order is not in effect until a judge has signed it. (See “proposed order” definition.)

Order to Show Cause: A court order scheduling a hearing and requiring a person to come to court at the time and place set for the hearing.

Other party: Every party to the case, other than yourself.

Parentage Case: A court case to determine parentage (paternity) of a child of unmarried parents, or a court case to establish a parenting plan/residential schedule for a child whose paternity was established by paternity affidavit or a modification of a parenting plan/residential schedule order in one of these types of cases.

Parenting Plan: In dissolution and some parentage cases, a proposal or, if signed by a judge, a court order which states when the child will be with each parent, who will make major decisions about the child, and how future disputes about the child will be resolved. In parentage cases, the parties may have either a parenting plan or a (parentage) residential schedule. The residential schedule form does not include the dispute resolution or decision-making parts of a parenting plan form. Parenting plans are not used in nonparental custody cases to award the nonparent custody.

Party: Anyone listed on the court papers as a Petitioner or Respondent. GALs and the State of Washington may also be parties.

Paternity (or Parentage): A legal determination of who the father of a child is, generally either through a court order in a paternity case, or with a valid paternity affidavit or by an un rebutted presumption of paternity (The presumption usually appears where a man and woman were married to each other when the child was born or shortly before or after the child’s birth). See [RCW 26.26.101\(2\)](#) for a complete definition.

Paternity Affidavit: A special form, also known as an Acknowledgment of Paternity or Paternity Acknowledgment, typically used by unmarried parents to state who the father of the child is. In Washington, these forms are often offered to the mother in the hospital right after a child’s birth. The form must be signed by the mother and the father (and presumed father) of a child, and must have been filed after July 1, 1997, to be a conclusive legal determination of paternity. For more information, see our publication [Parentage and Parenting Plans for Unmarried Parents in Washington](#). Signed paternity affidavits may be rescinded or challenged for a limited time.

Petition: The document that starts a case and asks the court for a decree, judgment, or final order.

Petitioner: The person who first files a legal case. The petitioner in the caption of a form does not change even when motions are filed later by the other party.

Presumed father: A man who is presumed by law to be the father of a child. You may find the legal definition of presumed father in [RCW 26.26.116](#). In general, a man is the presumed father of a child if:

- The child was born while the man was married to the child’s mother; OR
- The child was born within 300 days after the man’s marriage to the child’s mother was ended by divorce, separation, annulment, declaration or invalidity, or death. In general, if the man and the woman thought they had gotten married, even if the marriage is found to be invalid, the child is presumed to be the man’s child.
- The man and the child’s mother married each other after the child was born, the man has voluntarily said he was the child’s father AND the man agreed to be on the child’s birth certificate, or signed an affidavit of paternity, or promised (in writing or another record) to support the child as his own.⁶

Pro Se: Acting without an attorney; representing yourself in court.

Process: Written notice to appear in court.

Proposed Order: A document one party will be asking the judge to sign. It will not yet have the judge’s signature on it. Many counties require the parties to file and serve proposed orders with motions or responses to motions to show how that party wants the court to decide the motion. Even where proposed orders are not required, we recommend that you prepare and serve them and deliver copies to the court. A proposed order becomes an order if the judge signs it.

Residential Schedule: A proposal or, if signed by a judge, a court order which states when the child will be with each party. In nonparental; custody cases, if the nonparents are awarded custody the court may sign a residential schedule. (The nonparental custody residential schedule form differs from the parentage residential schedule form.)

Respondent: The person against whom a legal case was originally filed.

Response: A formal written answer to a Petition filed with the court by the Respondent. The term can also be used to describe the papers a person files in response to a motion, so it can be confusing. We will use the word “Response” with a capital “R” to refer to the Response form. We will say “response” with a small “r” to refer to all types of responses, including for example, responses to motions as well as to petitions.

Restraining Order: A court order to prevent a party from doing some act that may harm the other party or child.

Ruling: A decision by the court.

⁶ This definition of presumed father has been simplified to try to make it easier to understand. It is current as of the date of this publication. If you have questions about whether there is a presumed father in your case, you should read [RCW 26.26.116](#), and you may need to consult an attorney.

Service: Giving court papers to the other party in a legally correct way. When a petitioner starts a case, s/he must arrange for the Summons and Petition and other papers that begin the case to be properly hand-delivered or, in some cases and where allowed where the respondent cannot be found, sent by certified mail or published in a newspaper. After the initial Summons and Petition have been served, many later papers can be served by first class mail, with legally sufficient advance notice.

Settlement Conference: A formal meeting between the parties to a court case and a neutral third party (such as a judge, retired judge, or attorney not otherwise involved in the case), during which the parties try to settle, or reach an agreement, about all of the legal issues in their case. Some counties require parties to family law cases to have a settlement conference before going to trial. Some counties have programs to provide family law settlement conferences available free of charge.

Summons: A written notice that a case has been started.

Temporary Order: An order entered after a case is filed and before it is finished which is only in effect while the case is going on. In some counties, temporary orders may end at a fixed time, even before the case ends.

Time to Respond: (or deadline to respond): The length of time a party has to respond to something filed by another party. The length of time to file a Response to a Summons is 20 to 90 days after service, depending upon the type and location of service. The length of time to respond to motions is usually much shorter.

Transfer Payment: The amount of money one parent is ordered to pay as that parent's share of basic child support

Trial: The proceeding at which the judge listens to live testimony from parties and witnesses, considers evidence properly introduced, hears argument, and decides the outcome of the case.

Venue: The county where the case should be filed. Proper venue depends upon the type of case.

Voluntary Dismissal: Petitioner's decision to drop the case. If petitioner decides to drop the case a court order dismissing the petition should be entered. If a written order of dismissal is entered, temporary orders end.

Working Papers: A copy of papers filed with the court that is delivered in advance of the hearing for the judge to review. Local rules differ as to whether working papers are required or, if they are required, when and where they are delivered. Some counties require working papers to be delivered at or near the time you file a motion or response.

Section 4: List of Forms

The petitioner might be finishing the case in different ways with different respondents. Example: one by default and one by agreement. Petitioner and respondent may need different forms from these tables and/or forms found in other packets.

A. Final Forms to award petitioner custody

Petitioner will need the following forms in this packet if petitioner obtains permanent legal custody of the child/ren by default, by agreed order, or after trial. Petitioner may also need additional forms listed later in this section.

◆ Note: If the court enters an order in this case giving petitioner legal custody, and there's also a paternity case about the child, talk with a private attorney or with the prosecutor in the paternity case to make sure the final parentage order states that custody of the child is as determined in the nonparental custody case. Avoid conflicting custody orders.

Form Title	Form Number
Findings of Fact and Conclusions of Law (Nonparental Custody)	WPF CU 02.0100
Nonparental Custody Decree	WPF CU 02.0200

In addition, most petitioners will need forms from our packet [Residential Schedules and Child Support in Nonparental Custody Cases](#) if petitioner obtains permanent legal custody of the child/ren by default, by agreement, or after trial.

Residential Schedule (may be required in some counties, optional in others)	WPF CU 01.0450
Order of Child Support (if the court has jurisdiction over the respondent(s))	WPF CU 01.0500
Child Support Worksheets	

In addition, if the child is an Indian child, petitioner will need to have completed the requirements of the Indian Child Welfare Act (ICWA). Basic forms are in our packet [Filing a Nonparental Custody Case](#), and basic information about the act is in our publication [Nonparental Custody of a Child: Frequently Asked Questions and Answers](#). Talk with an attorney if ICWA applies to your case.

If a continuing restraining order, or a Civil Harassment or Domestic Violence Order for Protection is part of the decree, you'll also need:

Law Enforcement Information Sheet (available at clerk's office when the decree is filed) Don't serve this paper on other	WPF All Cases 01.0400
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parties. It's confidential.	
Return of Service	WPF DRPSCU 01.0250 (in the packet Filing a Nonparental Custody Case)
Protection Order forms	not in our packets, Protection order forms are available from the court clerk or through a domestic violence program

B. Default Forms

If petitioner's applying for an order of default, s/he'll need the following documents:

Form Title	Form Number
Petitioner's Notice re Adequate Cause Hearing (if there's no adequate cause order already signed by the judge and if the county permits combining the adequate cause and default hearings) ⁷	WPF CU 02.0300
Order re: Adequate Cause	WPF CU 02.0400
Note for Motion Docket	Non-Mandatory Form; your county may have its own required form
Motion and Declaration for Default	WPF DRPSCU 03.0100
Order of Default	WPF DRPSCU 03.0200
Certificate of Mailing or Personal Delivery	Non-Mandatory Form; your county may have its own form

If a respondent in default is a member of the military or the protected dependent of a military service member, petitioner may also need a waiver of rights under the Service Member's Civil Relief Act before the court will approve an order of default. That form is in the packets [Filing a Nonparental Custody Case](#) and [Responding to a Petition for Nonparental Custody](#). The respondent chooses whether to sign that form.

If the petitioner's ready to ask the court to enter a decree giving him/her permanent custody at the time s/he applies for a default order, s/he'll also need forms from Paragraph A above.

C. Voluntary Dismissal Forms

If petitioner's voluntarily dismissing the case, s/he'll need

Form Title	Form Number
Motion and Declaration for Dismissal	WPF DRPSCU 01.0550
Order of Dismissal	WPF DRPSCU 01.0560

⁷ This form's in the packet [Filing a Nonparental Custody Case](#).

D. Involuntary Dismissal Forms

- ◆ If the petition's being involuntarily dismissed after a hearing or trial, documents must be prepared for the judge to sign showing his/her decision. The court will usually ask respondent to prepare the final papers.
- ◆ General information about requesting involuntary dismissal before trial is in our packet [Responding to a Petition for Nonparental Custody](#).

Form Title	Form Number
Respondent may try to use the optional Order of Dismissal or another form they prepare	WPF 01.0570 (optional). No detailed instructions for this form.
If respondents win at trial, respondents should get individual legal help to prepare detailed Findings of Facts and Conclusions of Law showing the judge's decision. Don't use the Findings of Fact and Conclusions of Law in this packet.	No form available in this packet

E. Other forms and packets you may need:

Optional form which may be used if respondent agrees with the petition (form is in the packet [Responding to a Petition for Nonparental Custody](#)):

Joinder	WPF DRPCU 01.0330
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If you're scheduling a motion for hearing, in addition to the appropriate motion documents, you'll need:

Note for Motion Docket (or other locally required form)	Non-mandatory Form
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Our packets [Filing a Nonparental Custody Case](#) and [Responding to a Petition for Nonparental Custody](#) list several other packets that may be needed or useful. Check those packets or the packets on the website www.washingtonlawhelp.org for the list.

- ❑ **Your County's Note for Motion Docket or Notice of Hearing Form and Local Court Rules.** Some counties have their own Note for Motion Docket or Notice of Hearing form. Some counties may have their own form for Declaration re: Service Members Civil Relief Act. Some counties also have local rules for where and when you can note a motion for default or present your final court orders, or special requirements for completing the case. Check with the court clerk or family law facilitator.

- ❑ **Order for Protection forms** – complete Order for Protection forms if you’re asking for an Order for Protection from domestic violence as part of your nonparental custody case, or if you’re asking for the court to change or extend your Order for Protection as part of the nonparental custody case. Obtain the forms from your county clerk’s office, domestic violence advocacy program, or for domestic violence forms, online at <http://www.courts.wa.gov/forms/?fa=forms.contribute&formID=16>. Note that the “Petitioner” in the Protection Order form is always the protected person even if s/he was the respondent in the nonparental custody case.

If you’re considering asking for an Order for Protection, talk to an attorney because of the special issues involved in combining the protection order case with a nonparental custody case. This packet doesn’t explain how to combine the cases.

- ❑ **[Basic Tips on How to Prepare for a Court Hearing or Trial](#)**
- ❑ **[Residential Schedules and Child Support in Nonparental Custody Cases](#)** – use this packet if petitioner receives custody and is using a residential schedule, or if the court orders child support.
- ❑ Declaration Regarding Public Assistance: WPF SRPSCU 01.0600: This form’s available at the Administrator of the Courts website <http://www.courts.wa.gov/forms/index.cfm?fa=forms.static&staticID=14>. It’s not included in our packets because it’s an optional form and because our instructions tell you to serve the State in any case where TANF, Medicaid, or foster care are involved, and we instruct you to get the state’s signature on all default and agreed orders where the state might have an interest in the child support obligation in your case. However, some people may need the form if required in your county or if you need to verify that no public assistance has been paid or that the children aren’t in foster care or out of home placement.
- ❑ **[Serving Papers on the State](#)** - if any party’s asking for an order regarding child support, and any of the children has received public assistance (TANF), or medical coupons/Medicaid or is in foster care or out of home placement, get this packet. Include the state as a party and serve them with papers you file.

Section 5: Follow These General Instructions Before Beginning to Fill Out Any of the Forms

These general instructions will apply to all the forms you complete. The instructions cover all types of family law cases, so some of the information may not be used in your particular case. A Sample form at the end of this section may help you understand these instructions better.

The caption. This includes the name of your case, the case number, the name of the court, the title of the court paper, and, sometimes, the type of case. It appears at the top of the first page of every form.

Name of Court. Write in the name of the county where the case is filed in the blank space where the form reads "Superior Court of Washington County of _____."

Case name. Copy the case name for the petition. It's under the words "In re" on the top left side of page 1.

Case number. When the petitioner first files the papers to begin the case and pays the filing fee (or has the fee waived), the court clerk will assign a case number. All parties must write that case number on every paper they file with the court and serve on the other parties during the case. Write the case number near the top on the right hand section of the first page of every form after "No." (abbreviation for "number"). When the petitioner first files the case, s/he may be able to use a special stamp at the court clerk's counter to stamp the case number on each paper. It doesn't matter if the case number's written or stamped. If you're filing a modification/adjustment case in the same court that entered the order you're asking to modify/adjust, use the case number on that order.

You must write or stamp the case number on the first page of every copy of every paper you file with the court and on the copies you make for other parties. If you don't, your papers may be lost, or they may be returned to you. Some courts will also fine you for filing incorrect forms.

Title. Each form has a title. The title's on the right-hand side of the form under the case number. Sometimes the full title's pre-printed on the form, and sometimes you must add more information to complete it (example: on a declaration, you write in the name of the person completing the declaration).

◆ **Format:** Pleadings (legal forms) that you file with the court and attachments to those pleadings must follow the court rules about size and margins ([GR 14\(a\)](#)). Use regular size (8 ½ x 11") white paper. Write on only one side of the paper. The first page of each paper that you file must have a 3 inch margin (3 inches of space) at the top. The other margins (left, right and bottom, and the top from the second page on) must be at least one-inch wide. Use black or dark blue ink. If your forms don't follow these rules, the court clerk may refuse to file them, or may make you pay a fine.

The contents. Fill out each form according to the instructions for that form. In most counties you may print or type the information, but it must be readable and you must use **BLACK OR DARK BLUE INK**. A few counties require that all documents be typed. After filling out each form, re-read it to be sure you've correctly filled in all the blanks needed. Be sure any corrections are neat and readable. Don't write in the margins of any page, or the clerk may reject your form.

Dates. On the last page of most forms (not including orders), there's a space for the person who completes a form to write the date that the form's signed. Dates in orders will be filled in by the judge when s/he signs the order.

Signatures.

- **Your signature**

After you fill out a form, look for the place(s) requiring your signature:

- Some forms have one signature line for "petitioner" or "respondent." After you fill out a form such as the petition, sign at the place that applies to you. Some forms require you to sign in more than one place, so look carefully. Some forms require a date, and the place (city, state) that you signed the form, as well as a signature.
- When you prepare an order and plan to present it for the judge to sign, look for each place marked "presented by," and sign in the space underneath.

- **Judge's Signature:** Leave the judge's signature line and the date blank.

- **Other party's signature:** Certain forms you prepare have a place for other parties to sign. You can't force another party to sign a court paper. He/she can choose to sign, or not. However, if you've prepared an order after a hearing, the other party may be willing to sign the form you've prepared if s/he agrees it accurately states the judge's decisions (or the judge may require the other party to sign), even if the party's unhappy with the decision itself.

- Agreed orders. If the other party agrees with the orders you've written, that party should sign in the appropriate place (petitioner/respondent/moving or nonmoving party) on each court order that's agreed.
- Approved for entry/Notice of Presentation Waived. If you're the respondent or nonmoving party, or if you didn't prepare the order, you may be asked to sign in a blank under these words. If you check "Approved for entry," this means that you're agreeing that the judge should sign the order as it's written. If "Notice of Presentation Waived" is checked, that means that you're agreeing that the other party can give the order to the judge for him/her to sign without letting you know when the other party's going to take that order to the judge.

- **Other signatures/Declarant's Signature:** If someone else must sign a form (such as a witness or the person serving papers), be sure they fill out all information correctly and sign in the proper space provided. In a declaration form, the "declarant" is the person who is writing the declaration.

Place signed. Declarations and Returns of Service must include the place they are signed and the date (example: Signed this 10th day of October 2005 at Seattle, WA).

Identifying Information. Court rules try to protect privacy but also allow for public access to certain information in court files. The three boxes discuss these rules: [GR 15](#), [GR 22](#) and [GR 31](#).

Box #1

Things You Shouldn't Write in Most of Your Court Papers:

General Rules 22 & 31 try to protect privacy in family law cases. Almost all pleadings, orders and other papers filed with the court are available to the public (except for some aspects of parentage cases), and may be available to the public on the internet.

Except where instructions about a specific form tell you otherwise (for example the forms in Box #3), use these rules for papers you file with the court.

Residence Address (Where you Live) and Telephone Number: If you don't write these in court papers, do write in an address where you can get mail from the court, and it's a good idea to give the court a phone number where you can be reached.

Social Security/Driver's License, ID Numbers of Adults and Children: You're not required to write these in court papers. If you do, write only the last four digits, not the whole number.

Dates of Birth of Children: Don't write them in court papers.

Bank Account, Credit Card Numbers: Write the bank name, type of account (savings, checking, etc.), and only the last four digits of the account number.

Box #2:

Private Information That Should Be Filed With Sealed Cover Sheets:

If a sealed cover sheet's used, this information's usually available to the other party and the court, but it's not placed in the public file.

Financial Information: If you file paystubs, checks, loan applications, tax returns, credit card statements, check registers, W-2 forms, bank statements, or retirement plan orders, attach them to a Sealed Financial Source Documents form to ensure that they won't be available to the public.

Medical or Mental Health Records or Information: If you file papers containing health or mental health information (information about past, present, or future physical or mental health of a person, including insurance or payment records), attach the papers to a Sealed Personal Health Care Records form so that they won't be available to the public.

Confidential Reports: Reports such as Parenting Evaluations, CPS Reports, Domestic Violence Assessments, and Guardian ad Litem Reports that are intended for court use must have two

sections, a public section and a private section. Attach the private section of the report to a Sealed Confidential Reports Cover Sheet.

Retirement Plan Orders: Certain retirement information belongs in the public file, but “Retirement Plan Orders” don’t. Use the Sealed Financial Source Documents Cover Sheet for the Retirement Plan Order. See GR 22 for the definition or see an attorney if this affects your case.

Other Kinds of Confidential or Embarrassing Information Not Mentioned Above. If the paper that you want to keep confidential isn’t in the above list, try to file a motion with the court to ask permission to have that paper, or part of a paper, sealed under General Rule (GR) 15. We have no packet that tells you how to do this and there are presently no mandatory forms for this type of motion. Talk to an attorney.

Box #3

When You Should Write Private Information In Court Forms:

These forms aren’t placed in the public file, and information in them is usually not available to the other party.

You must fill in your personal information completely (including children’s full names, dates of birth, your residence address, social security numbers, etc.): Confidential Information Form, Vital Statistics Form, Domestic Violence Information Form, Foreign Protection Order Form, and Law Enforcement Information Sheet. If you’re afraid to give your address on these forms, consult an attorney, or call CLEAR at 1-888-201-1014.

SAMPLE FORM

Fill in the name of the Petitioner here.

Fill in the county where you are filing or where your case was already filed.

This sample case name is for dissolution cases. This information may be different depending upon the type of case.

Your court case number which is assigned by the court when you file your case.

Fill in Respondent's name.

In re the Marriage of:

JANE DOE,

and

JOE DOE,

Petitioner,

Opposing party.

NO. 08-3-99999-9

Note for Motion Docket

(No Mandatory Form Developed)

Form title.

TO THE CLERK OF COURT AND TO: **Joe Doe**
99 Railway Lane
Treelane, WA 98000

Please take notice that this case will be heard on the date below and the clerk is requested to note this issue on the docket for that day.

HEARING DATE: **Monday, October 4, 2008**

HEARING TIME: **10:00 a.m.**

LOCATION: **Treelane Superior Courthouse**

COURTHOUSE ROOM: **2**

ADDRESS: **102 West Broadway**
Treelane, WA 98000

NATURE OF MOTION: **Temporary Orders regarding parenting plan, child support, and restraining orders.**

Date: **9-25-08**

Jane Doe
Jane Doe, pro se

Section 6: Instructions for Filling Out Individual Forms in This Packet

The following forms are in this packet. **You won't use all of them.** Remember: **You may need additional forms.**

A. Findings of Fact and Conclusions of Law ("Findings and Conclusions") - WPF CU 02.0100

This form's used only if petitioner receives custody at the end of the case.

◆ If you're the petitioner asking for an order of default, when you ask the judge to sign the final papers you can't ask for things against a respondent that you didn't ask for in the petition. If you change what you're asking for, you must re-serve an amended petition and give respondent(s) another chance to respond.

◆ You can't have different findings and conclusions for different parties. The judge will sign just one Findings and Conclusions form and one Nonparental Custody Decree after trial or if the petitioner receives custody by default or agreement.

Look back at the Petition and Response for background information when filling out this form.

If you're preparing these forms after trial, fill in the paragraphs to show the judge's oral or written decision.

Caption. Fill in the caption as explained in the General Instructions.

Section I - Basis For Findings. If the final papers are entered by agreement, check the "agreement" box. If petitioner's filing a motion for default, check the "order of default" box and write in the name of the party (parties) in default and the date of the Order of Default (if the judge signed the Order of Default on a different date than the date s/he signs this Findings form). If one respondent's agreed and another's defaulted, check both the agreement and the default boxes and fill in the information about the defaulting party in the default box. If you've had a trial, check the "trial" box and write who participated in the trial.

Section II – Findings of Fact

- **Paragraph 2.1. Children for Whom Custody is Sought.** Write in the child/ren's names.
- **Paragraph 2.2.** Read this paragraph.
- **Paragraph 2.3 Indian Child Welfare Act:**

Indian Child Status:

If the child/ren aren't Indian children, check the second box and skip to the next paragraph of this form.

If the child/ren are Indian children and petitioner's followed all the special notice, evidence, and social services requirements of the Indian Child Welfare Act (ICWA), check the first box and then state in detail how all the ICWA requirements were met.

Jurisdiction:

If the children are Indian children but not living on a reservation, and if no tribal court has continuing jurisdiction, check the first box. If the children are Indian children and live on a reservation, OR if a Tribal Court has continuing jurisdiction, check the second box.

- **Paragraph 2.4 Basis of Jurisdiction.** Check the box(es) that applies in your case. In addition, if the box you checked has indented boxes beneath it, check the applicable indented boxes as well and fill in any blanks in an item you check. **See a lawyer** for individual advice if 1) there's been a previous custody decision about the child/ren in another case and you can't check the first box, or 2) there hasn't been any previous custody decision and you can't check the second box or 3) you check an emergency jurisdiction box. See our publications [*Nonparental Custody of a Child: Frequently Asked Questions and Answers*](#) and [*Which Court has the Right to Enter a Custody Order: Frequently Asked Questions and Answers about Whether a Washington Court has Jurisdiction*](#).
- **Paragraph 2.5 Background Records Check.** Read this paragraph. Make sure the court file contains the Washington State Patrol Criminal Records data for each petitioner and adult member of his/her household, and that the Order Directing DCFS/CPS to Release Information has been signed by the judge.
- **Paragraph 2.6. Standing.** Check every box that applies and fill in any blanks in a paragraph you've checked.
- **Paragraph 2.7 Best Interests of the Child.** Check every box that applies and fill in the blanks of the box(es) you checked. If the case is finalized by default, base the information upon the information in the petition. If the case is finalized by trial, use the findings stated by the judge when s/he announced the decision. If the case is finalized by agreement for the petitioner to have permanent legal custody, explain why it's in the best interests of the child/ren to live with the nonparent. If the child/ren are to live with the nonparent for a specific period, or if the child/ren will return to a parent upon the happening of an event or condition, state the reasons it's best for the child/ren to be with the nonparent and also the circumstances or time when the child/ren will return to the parent's home.
- **Paragraph 2.8. Adequate Cause.** If you already have an Order re Adequate Cause signed by the judge, check the first box and write in the date of that order. If you're asking the judge to sign the Order re Adequate Cause the same day as the Findings, check the first box.⁸ If you'll be asking for an Order of Default against all parties on the same day that you ask for an Order re Adequate Cause (in counties where this is permitted), write in the date you'll present both orders to the judge. If all parties have signed the Findings of Fact and Conclusions of Law, check the second box. If you have the agreement of some

⁸ Not all counties will allow these two orders to be entered at the same time if the parties haven't all agreed.

parties but are entering an order of default against others, check both boxes, fill in the date you present the Adequate Cause order for the judge to sign, and write an explanation in Paragraph 2.13 “*Other.*”

- **Paragraph 2.9 Limitations on Visitation.** If the case is finalized by default, the petitioner can’t add new limits or restrictions on the defaulted respondent’s visitation that weren’t in the petition. When completing this paragraph, more than one box might be checked, but **the boxes you check must be consistent with each other.** If **both** parents will have reasonable visitation rights (because no reasons exist to restrict visitation for either parent), check the second box. If reasons exist to restrict the visitation of one or more respondent(s), such as abandonment, abuse, domestic violence or another reason, check the third box, check the first indented box, fill in the name of the first restricted respondent, then check the box(es) that show the reason(s) for the restriction(s). If you checked “other,” fill in the blank.

- Follow these same instructions and fill out the second subparagraph for the other respondent if there are reasons to restrict this respondent’s visitation.

If harm to the child/ren couldn’t be prevented, even with restrictions on the respondent(s)’ visitation, check the fourth box “limitations on visitation with the children will not adequately protect” and fill in the names of the respondent(s) whose contact could harm the child/ren. CHECK THIS BOX ONLY WHERE THE RESPONDENT IN QUESTION IS GETTING NO TIME WITH THE CHILD/REN.

If limiting factors (see box 3) exist but the conduct wouldn’t harm the child/ren, check the “contact between____ and the children will not cause” paragraph and fill in the respondent(s) involved.

If the conduct of the respondent didn’t have any impact on the child/ren, check the sixth box and write in the appropriate respondent’s name.

If you checked the third box for one respondent but there’s no reason to restrict the other respondent’s contact, then also use the “other” item in paragraph 2.9 and write in

“There’s no reason for limiting the visitation of _____ (fill in the unrestricted parent), and s/he should have reasonable visitation.”

- **Paragraph 2.10 Child Support.** If the judge doesn’t order child support, check the first box. (The judge **will** usually require child support, unless s/he’s sure the child/ren are adequately provided for, or if the court lacks jurisdiction over a parent who hasn’t had enough contact with the state of Washington.) If child support’s being set, check the second box and write in the date the court signs the support order (if different from the date the judge signs the Findings). Complete a Child Support Order and submit Child Support Worksheets. If child support’s already been set by DCS or in a paternity case, and you don’t want to change it, check the third box, “other,” and write in the blank “Child support shall be paid under the order entered under Case No. [fill in the IVD# or paternity case number].”

- **Paragraph 2.11 Continuing Restraining Order.** If a continuing restraining order will be entered, check the second box, “a continuing restraining order against,” write in the name(s) of the party(ies) to be restrained and explain the reasons. If you’re finishing the case by default against a party, you can’t add restrictions or reasons as to that party that

weren't included in the petition, unless you file and serve an amended petition. If there's no continuing restraining order, check the first box.

- If there are other restraining orders, check the "other" box and write about that order in the box.
- **Paragraph 2.12. Attorney Fees, Other Professional Fees and Costs** Check the appropriate box as follows:
 - no award is the first box,
 - each person paying his/her own fees is the second box,
 - one person being ordered to pay costs or fees for another is the third and fourth boxes. If those boxes are checked, fill in the blanks next to the checked box and state the name of the party who'll be paid, the name of the paying party, the amounts of the fees, and the reasons payment's needed.

In default cases, you can't award petitioner attorney fees or costs unless the box requesting them was checked in the petition's "Request for Relief."

- **Paragraph 2.13. Other.** In this paragraph, write in any additional facts that the court must have to enter your final orders. The reasons for each item added to the Nonparental Custody Decree must be explained in the Findings and Conclusions form. If the decree will order any item not already covered in the Findings above, add the factual explanation for that item here. Example: if the Decree orders that the child/ren will be returned to a respondent under certain conditions, the Findings and Conclusions should explain the circumstances and the expected result.

Section III. Conclusions of Law

- **Paragraph 3.1** Read this paragraph.
- **Paragraph 3.2 Disposition** Write in the name of the person the child/ren will reside with. If the child/ren will be placed with petitioner now but returned to a parent at a specific time in the future or upon the happening of a specific event or condition in the future, add that here.
- **Paragraph 3.3 Child Support.** If no child support's being ordered, check the "Does not apply" box. If the court's signing a child support order, check the "child support for the dependent children should be set" box. If child support's already been set by DCS or in a paternity case and you don't want to change it, check the "other" box, and write in the blank "Child support shall be paid under the order entered under Case No. [Fill in the IVD# or paternity case number]."
- **Paragraph 3.4 Visitation.**

Use the first section of the paragraph for one respondent and fill in his/her name. If the court's signing a Residential Schedule form, check the box in front of "as set forth in the Residential Schedule" and write in the date the court signs the final Schedule (if it's different than the date the judge signs the Findings form). If there's no separate Residential Schedule form but reasonable or restricted visitation will take place with this respondent, check the box in front of "as follows." After "as follows," write in the specific

visitation schedule for this respondent and any restrictions that apply during visitation in detail. If there's no separate residential schedule form and no visitation will take place between this respondent and the child/ren, check the box in front of "as follows" and after "as follows" write in a statement such as "there shall be no visitation or other contact between the child/ren and ____ (Name of respondent) until further order of the court."

Following these same instructions, fill out the second subparagraph for the other respondent.

- **Paragraph 3.5 Continuing Restraining Order.** If there won't be a restraining order, check the "does not apply" box. If there'll be a continuing (future) restraining order, check the second box, "A continuing restraining order should be entered."
- **Paragraph 3.6 Attorney Fees, Other Professional Fees, and Costs.** If the court's making no arrangement for payment of fees and costs, check the "does not apply" box. If the court orders each party to pay his/her own fees or someone else's, check the second box and write in the details.
- **Paragraph 3.7 Other.** In this paragraph, write in any additional information that the court needs to enter your final orders.
- **Signature.** The party who prepared this form and will be taking it to the judge should sign and print his/her name on the left side under "Presented by." Each other party who's agreeing should sign and print his/her name under "Approved by," if that party agrees with everything written in the Findings and Conclusions. **DON'T fill in the date or sign on the line that says Judge.** The Judge fills those lines in when s/he signs the Findings.

B. Nonparental Custody Decree - WPF CU 02.0200

Use this form only if petitioner's receiving custody at the end of the case.

Look back at the Petition for Nonparental Custody and the Findings of Fact and Conclusions of Law when you fill out this form.

◆ You can't have a different decree for different parties. The judge will sign just one Findings and Conclusions form and one Nonparental Custody Decree after trial or if the petitioner receives custody by default or agreement.

Caption. Fill out the Caption. Check the box for "Clerk's Action required" if a judgment, a child support order, or restraining order's being entered. If a restraining order's entered, also check the box "Law Enforcement Notification."

Section I. Judgment/Order Summaries.

1.1 Restraining Order. If there won't be any continuing restraining order, check the "does not apply" box. If there'll be a continuing restraining order, check the second box, "Restraining Order Summary" and, below it, fill in the name of the person restrained and the name of the person(s) protected.

1.2 Money Judgment Summary. In this section, fill in a summary of any money judgment.

A money judgment might include money one party's ordered to pay the other for back child support, or for attorney or GAL fees. If you're the petitioner and entering the order by default, you may only enter a judgment against the defaulted party if you clearly asked for the judgment in the petition. If you're not entering a money judgment, check the "does not apply" box and skip the rest of this section. If a judgment's being entered, check the second box and fill in the following lines.

If you write a judgment for back support here, don't write it again in the judgment section of the Order of Child Support.

- A. Judgment Creditor:* Write in the name of the person to whom money's owed.
- B. Judgment Debtor:* Write in the name of the person who owes the money.
- C. Principal Judgment Amount:* Write the total amount of money (or back support) owed without interest. Fill in the dates for which the money's owed.
- D. Interest to Date of Judgment:* Write the total amount of interest, if any, which will be owed by the date the court signs the final orders.
- E. Attorney Fees:* Write in the total amount of any attorney fees owed by one party to the other.⁹
- F. Costs:* Write in the total amount of costs owed by one party to the other.
- G. Other recovery amount:* Write in any additional money owed by one party to the other.
- H. Principal judgment shall bear interest at.* Enter any amount up to 12% in your individual case.
- I. Attorney's fees.* Enter any interest rate up to 12% if attorney's fees are awarded.
- J. Attorney for judgment creditor.* If the person to whom money's owed has an attorney in this case, write in the attorney's name.
- K. Attorney for judgment debtor.* If the person who owes money has an attorney in this case, write in the attorney's name.
- L. Other.* Write any additional explanation needed here.

Section III. Decree

- **Paragraph 3.1** Read this paragraph.
- **Paragraph 3.2. Custody.** If the petitioner will have custody, fill in the name of the petitioner(s) awarded custody. At the end of the paragraph, fill in the child/ren's name(s).
- **Paragraph 3.3 Visitation.** Use the first part of the paragraph for the first respondent. Fill in the respondent's name. If the court's signing a Residential Schedule form, check the box in front of "as set forth in the Residential Schedule" and write in the date the court signs the final Schedule (if different than the date the judge signs the decree). If there's no separate Residential Schedule form, but reasonable or restricted visitation will take place with this respondent, check the box in front of "as follows," and after "as follows" write in detail the specific visitation schedule for this respondent and any restrictions that apply during visitation. If there's no separate residential schedule form and no visitation will take place between this respondent and the child/ren, check the box in front of "as

⁹ Our packets don't describe when or how to request attorneys fees.

follows,” and after “as follows” write a statement such as “there shall be no visitation or other contact between the child/ren and _____ (name of this respondent) until further order of the court.”

Following these same instructions, fill out the second subparagraph for the other respondent.

- **Paragraph 3.4 Child Support.** If the court’s setting child support, check the box and write in the date the judge will sign the final Order of Child Support (if different from the date the judge signs the decree). If the court’s setting no support, write “Does not apply” in the space. If child support’s already been set by DCS or in a paternity case, and you don’t want to change it, write “Child support shall be paid under the order entered under Case No. [fill in the IVD# or paternity case number].”

- **Paragraph 3.5. Continuing Restraining Order**

If petitioner’s entering the final papers by default, s/he can’t ask for a restraining order against the person in default different from what was requested in the petition.

If there won’t be a continuing restraining order, check the “does not apply” box. If there’ll be a restraining order, check the second box, “A continued restraining order is entered” and each of the indented boxes that apply. If you checked an indented box, write in the required information next to that box (the names of the person restrained and protected, names of the child/ren, distance, etc). In addition, if you’ll have a restraining order you must:

- check the box “clerk’s action” and then write in the name of the law enforcement agency that covers the protected person’s area;
- complete the law enforcement information sheet (available at the clerk’s office);
- in the section of Paragraph 3.5 marked “service,” mark whether the restrained party or attorney appeared in court when this decree was signed, or signed the decree, or whether service is required; and
- in the “expiration” section, write in the date the restraining order ends.

Check the last box in the paragraph if a temporary restraining order was entered earlier in the case and is now being terminated.

- **Paragraph 3.6 Attorney Fees, Other Professional Fees and Costs.** If none are awarded, check the “does not apply” box. If the court’s ordered payment of costs or fees (including Guardian ad Litem fees) or has stated that each party will pay his/her own fees, write in the court’s order here.
- **Paragraph 3.7 Other.** Use this paragraph to write in any other parts of the decision/decreed/agreement that aren’t covered elsewhere in the decree. Look back at the “other” paragraphs of the Findings and Conclusions. Cover those items in this paragraph of the decree if not included elsewhere. In addition, if the nonparent’s obtaining custody but there’s a plan for returning the child/ren to the parent(s), write in the terms of return here. Or, if the nonparent will have custody but the parent(s) will have some right to make decisions about the child/ren or attend school activities, write the plan here. Or, if the nonparent will have custody, you’re not using a Residential Schedule form and the

parents will be denied access to health and education records, state that here. If you're using a Residential Schedule, write in "The Residential Schedule signed by the court is approved and incorporated as part of this order."

- **Paragraph 3.8 Relocation.** Read this paragraph.
- **Signature:** Leave the judge's line blank. Each party agreeing to the decree should sign his/her name under petitioner or respondent and print or type his/her name below the signature. If the State or the GAL's a party, use one signature line for each of them. The person presenting the decree to the court should check the box "presented by." Other parties should check the box "approved by" if they agree with the decree, or "notice for presentation waived" if they've had a trial and agree that the decree shows what the judge ordered or if they don't want to get notice of the date the final orders will be signed by the judge. If you've had a trial and a party disagrees that your final papers correctly show the judge's decision, that party can require a presentation hearing (explained in the section below on Trials and on scheduling hearings), rather than sign the final papers you prepared.

C. Motion to Dismiss - WPF DRPSCU 01.0550 (for Petitioner's use if s/he's asking to dismiss the case)

Petitioner(s) may use this form and the Order of Dismissal (WPF DRPSCU 01.0560) in the next paragraph below to dismiss (drop) the case without receiving permanent legal custody. Otherwise, don't use this form.

- **Caption.** Fill out the caption.
- **In the first and only paragraph** of the motion, before "*Name of moving party*," fill in the petitioner(s)' name(s). In the second blank, fill in "Nonparental Custody Petition." In the third blank, fill in any reason(s) for your request. For example, if the parties have agreed on dismissal, write that in.
- **Signature:** If Petitioner's dismissing the case, s/he signs this form as moving party. In addition, each party agreeing to the motion should sign his/her name under nonmoving party and print or type his/her name below the signature. (Additional lines for additional parties.) Each party who signs should show the date of signature.

D. Order of Dismissal - WPF DRPSCU 01.0560 (for Petitioner's use if s/he's asking to dismiss the case. Check the form number to make sure you have the right form – there are 2 Order of Dismissal forms)

Petitioner may use this form and the Motion to Dismiss above if s/he chooses to dismiss the case. Otherwise, don't use this form.

- **Caption.** Fill out the caption.
- **In the first line of the text** fill in the petitioner(s)' name(s). In the second blank, fill in "Nonparental Custody."

- **Signature:** Leave the judge’s line blank. Each party agreeing to the dismissal should sign his/her name under either moving party(ies) (the petitioner(s) requesting dismissal) or nonmoving party (the respondents) and print or type his/her name below the signature. If the State, or if a GAL is a party, use one signature line for each of them.

E. Motion and Declaration for Default – WPF DRPSCU 03.0100

Petitioner uses this form when a respondent’s failed to Respond to the petition by his/her deadline. If you use this form, also use the Order of Default, below. Use a separate form for each respondent in default.

Caption. Fill out the caption.

Section I. Motion

Write your name in the first blank. Write the name of the party you believe is in default in the second blank. If you’re moving for default against more than one party, you’ll need a separate form for each. Write the date and sign your name on the line for the "requesting party." Print your name and write the date in the places indicated.

Section II. Declaration.

In this declaration, the “other party” is the party you believe is in default.

Paragraph 2.1. Proper Jurisdiction and Venue

Fill in the county/state where the petitioner lives, where the children in the case live, and where the respondent lives. If there’s a reason not listed to show why venue is proper, check the “other” box and write that in. For example, if your case is a petition to modify a parenting plan, one additional reason for proper venue could be that this is the court where the final order, decree or judgment that you’re asking to modify was entered.”

Paragraph 2.2. Jurisdiction Over the Other Party

Fill in information about the party you believe is in default. Check all of the boxes that apply in your case. If there’s any reason why Washington has jurisdiction besides those listed, check the last box and write that reason in the blank.

Paragraph 2.3. Service on Other Party

- In the first blank, write the title of every form that was served on the party you believe is in default. Remember to include the Summons and Petition and all the other documents served. Include everything. Check the Return of Service form to be sure. If you don’t have enough room in the blank, write “See attached Exhibit A,” list the documents on a separate sheet of paper, write “Exhibit A” at the top of the paper, and staple it to the Motion. Fill in the date s/he was served with these papers.
- If the other party was served in Washington, check the first box.
- If the other party was served outside Washington, check the second box and write in the blank space the state or country where they were served. In the space at the end of the paragraph, write a brief explanation about why you couldn’t serve that party in

Washington. (For example, if s/he lives out of state, write “_____ (name) lives out of state.”)

Paragraph 2.4. Time Elapsed Since Service on the Other Party.

Remember: Wait the appropriate length of time (based on the kind and place of service) before moving for default.

- If the other party was personally served in Washington, check the first box.
- If the other party was personally served outside of Washington, check the second box.
- If the other party was served by certified and first class mail (in or out of state), check the third box.
- If the other party was served by publication (in the newspaper), check the fourth box.

Paragraph 2.5. Appearance of the Other Party

- If you haven’t been contacted by the other party since the party was served with the petition, and that party’s never filed or served a Notice of Appearance or a Response form, or come to a court hearing, check the first box.
- If you’ve been contacted by the other party since that party was served, or if that party appeared in the case, but the party never filed or served a Response, check the second box.

Paragraph 2.6. Service Members' Civil Relief Act Statement

This paragraph states whether you believe the other party is a member on active duty in the military¹⁰ or the dependent of a resident of Washington who is on active duty and is a National Guard member or a Reservist. Dependents are spouses or minor children or persons for whom the service member provided most of the support for the last six months.¹¹

You must try to find out whether or not the other party’s on active duty in the military, or is a dependent of someone in the military. Try checking the following website:

<https://www.dmdc.osd.mil/scra/owa/home>, or contacting the Defense Manpower Data Center, 1600 Wilson Blvd., Suite 400, Attn: Military Verification, Arlington, VA 22209-2593; Telephone (703) 696-6762 or 5790 fax (703) 696-4156.

To try to make sure the other party isn’t a dependent of someone on active duty, also serve the Notice re: Dependent of a Person in Military Service form. (If you already served the Notice re: Dependent form with your petition, don’t serve it again.)

¹⁰ Service members who are protected by the federal act include all members on Federal active duty, including regular members of the Armed Forces (Army, Navy, Air Force, Marine Corps and Coast Guard); Reserve, National Guard and Air National Guard personnel who have been activated and are on Federal active duty (whether as volunteers or as a result of involuntary activation); inductees serving with the armed forces; Public Health Service and National Oceanic and Atmospheric Administration Officers detailed for duty with the armed forces; persons who are training or studying under the supervision of the United States preliminary to induction; and National Guard and Air National Guard personnel on duty for training or other duty authorized by 32 U.S.C. §502(f) at the request of the President, for or in support of an operation during a war or national emergency declared by the President or Congress. *U.S. Coast Guard Legal Assistance Service Members Civil Relief Act Guide* at http://www.uscg.mil/legal/la/topics/sscra/sscra_guide.htm#coverage.

For Washington State’s Service Members Civil Relief Act, see RCW 38.42.010 et seq.

¹¹[RCW 38.42.010](#) lists people considered dependents of a service member.

Paragraph 2.6.1 Service member status¹².

- In paragraph A, fill in the other party's name.
- Check the appropriate box(es) showing that party's service member status.
- In paragraph B. after "*factual basis*,"
 - If you checked the website <https://www.dmdc.osd.mil/scra/owa/home>, check the first box and staple the report you received to this form.
 - If you have other or additional reasons for checking the item you did in paragraph 2.6.1A, check the box *other factual basis*. Then write in what you know about whether the other party's in the military and whether they're on active duty. Describe all the efforts you made to find out about the other party's military status, and the results of each effort. For example, describe contacts with the other party's friends, family, and employers. Or, if you contacted the Defense Manpower Data Center by fax or mail, explain that, and attach any certificate about military service you received in reply.
- In paragraph C, if the other party's on active duty, check the box at the beginning of 1C and the appropriate box(es) under it that apply. If you check the last item, check the appropriate box in the text of that item. Otherwise, skip this item.

Paragraph 2.6.2. Dependent of a service member status.

- Paragraph 2.6.2 A Write the other party's name and then check the box below it that applies.
- In paragraph 2.6.2 B.
 - If you had a Notice re: Dependent of a Person in Military Service¹³ mailed to the other party at least 23 days ago (or served more than 20 days ago), and s/he didn't respond to it, check the box next to "*the other party failed to respond to a notice*," check the box that applies and fill in the date requested. Otherwise, skip that box.
 - Under "other factual basis," write in what you know about whether the other party is or isn't a dependent of a resident of Washington who is on active duty and is a National Guard member or a Reservist.
- In paragraph 2.6.2.C: if the other party's a dependent of a resident of Washington who is on active duty and is a National Guard Member or a Reservist, check the box at the beginning of 2 C, and then check the box(es) under it that apply. If you check the last

¹² The Service Members Civil Relief Act, [RCW Ch. 38.42](#) (state law), and the Service Members Civil Relief Act of March 4, 1918, as amended, 50 U.S.C. App., 501 et.seq. (federal law) provide special protection for members of the military, including National Guard and Reservists, who are on active duty, and certain dependents. If the other party's on active duty or is a protected dependent, consult an attorney for more information about these special rights. The court's likely to appoint an attorney to represent the other party and may stay (delay or stop) your case until the other party comes back from active duty.

¹³ This form's in the Filing packet for your type of case, and our instructions there tell you to serve it with the Petition. This form can be served later, but our packets don't tell you how to do this.

item, check the appropriate box in the text of that item. Otherwise, skip this item.

Paragraph 2.7. Other

Leave this blank.

Signature. Sign and date the form and write in the place you signed it (for example, “Yakima, Washington”).

F. Order of Default – WPF DRPSCU 03.0200

Petitioner should use a separate form for each respondent in default. If you use this form, you’ll also need the Motion and Declaration for Default above.

Caption:

Fill out the caption as shown in the general instructions.

Section I. Basis.

Write your name in the blank.

Section II. Findings

Paragraph 2.2. Service on Nonrequesting Party

In the first blank, write nonrequesting party’s name. (This is the party you believe is in default). In the next blank, write the title of every paper that was served on this party when you filed the case. (Look back at the Motion for Default and at the Return of Service to be sure you’ve included everything.) In the last blank, write the date that the other party was served with the Petition and other papers.

Paragraph 2.3. Time Elapsed Since Service Check the same item that you checked in the Time Elapsed paragraph of the Motion for Default.

Paragraph 2.4. Appearance

Check the same item that you checked in the Appearance paragraph of the Motion.

Paragraph 2.5 Service Members Civil Relief Act Statement.

Paragraph 2.5.1. Service member status. Check the appropriate box(es) showing the nonrequesting party’s service member status.

Paragraph 2.5.2. Dependent of a service member status. Check the box that applies.

- If you know that the nonrequesting party isn’t a dependent of a resident of Washington who is on active duty and is a National Guard Member or a Reservist, check the first box.
- If you know that the nonrequesting party is a dependent of a resident of Washington who is on active duty and is a National Guard Member or a Reservist, check the second box.
- If you’re not sure whether the nonrequesting party is a dependent of a resident of Washington who is on active duty and is a National Guard Member or a Reservist, but you had a Notice re: Dependent of a Person in Military Service

mailed to him/her at least 23 days ago (or served more than 20 days ago), and s/he didn't respond to it, you may check the third box "*is presumed not a dependent...*".

Paragraph 2.6. Other

Leave this blank.

III. Order. The judge will check the appropriate box.

Signature. Sign the form under "Presented by" and print your name and the date in the blank below your signature. **Do not write the date or sign on the Judge/Commissioner lines – the judge will do that.**

G. Order of Dismissal - WPF DRPSCU 01.0570 (respondent may use this form if the judge decides to dismiss the petition. Check the form number to make sure you have the right form – there are 2 Order of Dismissal forms)

Respondent **may** use this form if the judge ordered involuntary dismissal (example: if the court dismisses the case at the hearing on a motion or at the end of trial). Respondent's not required to use this dismissal form and, especially after trial, we recommend that Findings of Fact and Conclusions of Law and final order be prepared to show the judge's decision in detail. Findings and Conclusions could be used with this order of dismissal or with a separate final court order. There's no court form containing findings of fact and conclusions of law for respondents to use if they win at trial. **If respondents do win at trial, they should get an attorney's help in preparing the final papers to show the judge's decision.**

Here are basic instructions for completion of the Order of Dismissal form WPF 01.0570

1. **Caption.** Fill out the caption.
2. After the words "on the" write "Petition for Nonparental Custody brought by _____ (fill in petitioner's name(s))."
3. After the words "A hearing or trial was held on," fill in the date of the hearing or trial when the judge decided the case should be dismissed.
4. After the words "respondent(s)/defendant(s)," fill in the respondents' names(s). After respondent's name(s), write as complete an explanation as possible of the findings the court made and the reasons for it. If you've prepared separate Findings of Fact and Conclusions of Law, write in "based upon the Findings of Fact and Conclusions of law approved by the court on _____" (fill in the date the court signs the Findings).
5. After the words "It is ordered Dismissed with," circle either "with prejudice" or "without prejudice." "With prejudice" means that the case **can't** be filed again on the same facts. "Without prejudice" means that the petitioner **could begin** the case all over again.

6. **Signature:** Leave the judge’s line blank. The person preparing the Order of Dismissal and presenting it to the court should sign under “presented by” and print or type his/her name in the space below the signature. Other parties who agree to sign the form should sign under “approved as to form” if they agree that the order shows what the judge ordered. If there are additional parties who need to sign, add spaces for their signatures. If you attach more pages, write the page number and “Order of Dismissal” at the bottom of each.

If you’ve had a trial and a party does not agree with your final papers, that party may ask to have a presentation hearing. (See the section titled “Follow These General Instructions If You Need to Schedule a Hearing.”)

Section 7: Steps to Take to Finish Your Nonparental Custody Case by Agreement.

You might finish the case by trying to reach agreement with the other parties, by going to a settlement conference, or through mediation. See the publication called [Mediation: Should I Use It?](#) for information about mediation.

If you reach agreement with all the parties (or get orders of default against those who haven't agreed), prepare final papers showing the agreement and to present to the court as described in this section and, if you need to schedule a formal hearing, in the section called "Follow These General Instructions If You Need to Schedule a Hearing."

If the agreement's for petitioner to voluntarily dismiss (drop) the case without an award of custody, also see the section called "Steps to Finish Your Case by Petitioner's Voluntary Dismissal."¹⁴

If some parties agree for petitioner to receive permanent legal custody but others contest, the case isn't ready to be finished. Final papers that give the petitioner permanent legal custody can't usually be presented to the judge to sign until the case can be resolved as to ALL the parties (by agreement with each, default, or trial). If you've reached agreement with some but not all parties, speak with an attorney for help in recording the agreement you reached with those parties while the case with the other parties proceeds.

Some examples of agreements that may be negotiated:

- entering an order dismissing the case,
- entering a nonparental custody decree that specifically states when and how the child/ren will return to a parent,
- entering a nonparental custody decree with reasonable, defined visitation for one or both parent(s),
- entering a nonparental custody decree that denies one or both parents all contact with the child/ren or significantly limits contact.

If possible, each party should ask a lawyer (NOT the other party's lawyer) to review the agreed papers before signing them.

◆ **Information about the joinder form:** If a respondent agrees with everything petitioner requested in the petition and related documents including the nonparent having custody of the child/ren, respondent paying child support, and having visitation with the child/ren as requested by petitioner (including any restrictions), and ALL other requests in the petition and other initial papers, the respondent may choose to sign a Joinder form. This form and instructions for it are in the [Responding](#) packet.

¹⁴ If petitioner chooses to dismiss the case before trial, respondent's agreement isn't usually necessary unless s/he has filed a counterclaim. [CR 41](#).

◆ **A respondent's never required to sign a Joinder.** Respondents who want to agree to final orders should ask to review the final papers and, if they're correct, sign those papers instead of the joinder form. That's the best way to be sure the final papers accurately show all details of the agreement.

If you're a respondent who signs the Joinder form, check the box on the Joinder form requesting notice of further proceedings. If this box is checked, petitioner must give this respondent proper notice of all hearings in the case. In particular, when petitioner sets the time and place for presenting the final papers for the judge to sign, s/he must give respondent adequate advance notice of the presentation hearing and copies of the proposed final papers. This reduces the chance of future disagreements or challenges.

◆ If a respondent does sign a Joinder, petitioner must not ask the judge to sign final orders different from what was requested in the petition and other initial papers unless that respondent signs the new final papers.

If you and all the parties have agreed (or if you've obtained orders of default signed by the judge against those who don't agree), follow these steps to complete the agreed papers:

1. **Prepare the final papers.** Identify the papers you need using the tables in the "List of Forms" section and prepare them.
2. **Have each party sign the originals of each of the completed papers (you don't need to get the signature of a respondent against whom you already have an order of default, or a respondent who signed a joinder form and waived future notice in the case).**¹⁵ If the prosecutor or Guardian ad Litem (GAL) is a party in your case, they must review and sign the forms before you present them to a judge.
3. **Make sure the steps on page 1 of this packet have been completed** if the final papers award custody to petitioner(s).
4. **Arrange to present your final papers to the court.** If all the other parties have signed the final papers showing their agreement, or if you already have an order of default against a party who hasn't agreed, decide which of the following procedures applies to you:
 - Ask the court clerk or family law facilitator if your agreed papers can be presented "ex parte" or if you need to schedule a hearing. If an ex parte presentation's allowed, find out when and where you can present the papers to the judge to approve, and inform the other parties of the date, time, and place

¹⁵ However, remember in these situations your final papers must not include any orders different from what you requested in the petition and initial papers.

you'll present the papers to the judge. If possible, all the parties should come to court when you present the final papers to confirm the agreement. Follow the steps in paragraphs 5 below. Note: Petitioner can't present the final papers ex parte if a respondent's signed a joinder form and requested notice of further proceedings, unless that respondent also signed the final papers after petitioner has prepared them. OR

- If an "ex parte" presentation's not available, file a Note for Motion Docket form to schedule a hearing for a judge to sign your final papers. If you schedule a hearing, follow the steps in the section of this packet called "Follow These General Instructions If You Need to Schedule a Hearing" and in paragraph 5 below.

5. **Go to the courtroom** at the date and time scheduled. Bring along the papers you'll ask the judge to sign or that show your agreement, and your own copies of court papers you've filed. (Look back at the "Lists of Forms" section.) Enter the courtroom quietly. Go to the judge's clerk, give your name, and offer the clerk the original agreed papers. Sit down and wait to be called. When you're called, approach the judge and explain that you're there to present your final agreed papers in the nonparental custody case. The judge will review your papers, and may ask you some questions. If other parties in your case are present, the judge may ask them about the agreement. Agreed cases can usually be resolved with a brief hearing, rather than a trial. If the judge accepts the agreement, s/he'll sign the final papers. **Exception: If the judge finds that the proposed final papers have a custody arrangement that's not in the best interests of the child/ren, or if the background checks reveal problems, the judge may ask further questions and may delay or deny approval of the papers, even if the parties have agreed to them.** Occasionally, if s/he's very concerned about the information received from CPS, the judge will make a CPS referral for investigation.

If the judge signs the final papers, provide copies to the other parties and complete appropriate final tasks as described in the "Steps to Take" section of this packet.

Section 8: Steps to Take to Move for Default

Petitioners should read this section and the “Follow These General Instructions If You Need to Schedule a Hearing” section if you apply for an order of default against one or more respondents.

◆ NOTE: If the time for responding has passed, petitioner may get an order of default against a respondent who’s filed no Response, even if you’re not ready to finish the case. The advantage is that, once the court’s signed an order of default against a respondent, that respondent can’t participate in the case without court permission.

If a respondent’s filed no Response to the petition (or has appeared but filed no Response), ask the court to enter an order of default against him/her any time after his/her deadline to Respond to the petition’s passed. However, if this respondent filed a Response to the petition, you can’t obtain an order of default against him/her.

If you get an order of default against one respondent, but any other party files a Response or contests the case, the judge usually can’t sign the final papers giving petitioner custody when s/he signs the Order of Default. The case will probably need to go to trial against the remaining parties (those who haven’t agreed or been defaulted).

On the other hand, if you’re able to finish your case as to all parties at the same time that you apply for an order of default, you can add the other final papers to the default papers you file, serve on the parties, and ask the judge to sign. (This might happen, for example, if you’re applying for orders of default against all the respondents on one day, or if one respondent’s in default and the other’s agreed.)

In all cases: If the judge finds that the proposed final papers have a custody arrangement that’s not in the best interests of the child/ren, or if petitioner hasn’t taken steps the law requires, the judge may delay or deny approval of the papers.

If you’re applying only for an order of default and aren’t ready to finish the case with all the parties, you’ll need these papers:

- Motion and Declaration for Default
- Proposed Order of Default
- Note for Motion Docket (or local form)
- Waiver of Rights under the Service Members’ Civil Relief Act for a respondent who’s on active duty in the military service or a protected dependent of a service member, if that respondent’s signed the waiver. This form’s in the [Filing a Nonparental Custody Case](#) and the [Responding to a Petition for Nonparental Custody](#) packets. A respondent can choose whether to sign the waiver or not. **If respondent’s on active duty or is the protected dependent of a service member and doesn’t sign this form, you may not be able to get an order of default against him/her.** Talk with an attorney in this situation.

- You may also need a Petitioner’s Notice of Hearing for Adequate Notice Determination, and/or a Motion re: Adequate Cause (found in our packet [Filing a Nonparental Custody Case](#)) and a proposed Order re Adequate Cause, if you don’t already have an Order re Adequate Cause signed by the judge. Check with the court clerk or family law facilitator in your county about whether you need to serve a respondent these forms when you’re setting a default hearing against this respondent.

If you’re ready to finish your case as to all parties when you apply for an order of default (because you’ve either reached an agreement with or can enter a default against each party), and you want to ask the judge to sign all the final papers (Findings of Fact and Conclusions of Law, Nonparental Custody Decree, and related final papers) at the same time you present an order of default, then

1. the necessary background checks and any special parenting classes must be completed, and
2. you must either have
 - an Order re Adequate Cause already signed by the judge or
 - an Order re Adequate Cause signed by every party not in default and you must be in a county that allows you to present the adequate cause order to the judge together with the order of default, and
3. you’ll also need to complete all of the final papers, serve your proposed final papers and a copy of the Order re Adequate Cause (if the judge hasn’t yet signed it) on the other parties with the Motion for Default, and take the papers to your default hearing. (See the “Lists of Forms” section to identify the papers you need.)

The instructions in the rest of this section are in addition to those in the “Follow These General Instructions If You Need to Schedule a Hearing” section. Read both together.

1. Complete the Motion and Declaration for Default, and the proposed Order of Default, using the instructions for those forms.
2. Complete your final papers if you’re resolving the case as to all the parties at the time you ask the court to sign the order of default. (See the “Lists of Forms” section and instructions for the individual forms.)
3. Complete the Note for Motion Docket form (instructions are in the section, below, on how to schedule a hearing) and, if you don’t already have an Order re Adequate Cause signed by the judge and this order’s necessary in your county, the Petitioner’s Notice of Hearing for Adequate Notice Determination and Motion re: Adequate Cause (found in our packet [Filing a Nonparental Custody Case](#)).
 - When you ask the court clerk or family law facilitator for a hearing date, explain that you’re filing a motion for default and, if applicable, that you’ll be presenting your final papers.
 - On the Note for Motion Docket form, in the blank “**Nature of Motion,**” write in “Motion for Default,” and, *if you’re ready to finalize the case with all parties*, add “Presentation of Final Nonparental Custody Findings, Conclusions and Decree.” If you’re presenting any additional documents to the judge for

approval, add each additional item to the list, for example: “Residential Schedule,” “Order re Adequate Cause.”

4. File and serve the Motion, proposed Order of Default, and Note for Motion Docket, Petitioner’s Notice of Hearing for Adequate Notice Determination and Motion re: Adequate Cause (if any) and all papers listed for presentation in your Note for Motion Docket. Follow the procedure described in the “Follow These General Instructions If You Need to Schedule a Hearing” section to file and serve the papers.
 - Technically, you don’t need to notify a respondent that you’re applying for an order of default against him/her if all the following are true:
 1. This respondent hasn’t filed or served a Notice of Appearance (or other document in the case), and
 2. This respondent hasn’t attended any hearing, participated in the case in any way, or contacted you about the case, and
 3. You already have an Order re Adequate Cause signed by the judge (finding that adequate cause exists) and
 4. **Less than one year** will have passed between the date you served this respondent with the summons and petition and the date the judge will sign the default and orders.
- However, we recommend that you give him/her notice even in this situation, if possible.** This is because, if the respondent later tries to challenge the default, it may help if you can show that you gave him/her one last chance to participate.
- **If more than one year will have passed between the date you served the respondent in default, and the entry of your default orders, you must give at least ten days’ notice of the motion, and you must serve the notice of the motion personally or by certified mail.**
- If the judge has already signed an order of default against a different respondent, you don’t need to serve that respondent.
5. Confirm the hearing and provide working papers if required in your county (this and the following steps are explained in more detail in the section “Follow These General Instructions If You Need to Schedule a Hearing”).
6. Have the server complete Certificates of Mailing or Personal Delivery and file them with the court.
7. Go to the hearing and ask the judge to sign your order of default and any other papers you want the court to approve. In addition to the forms scheduling the hearing and the default orders you’ll ask the judge to sign, take with you:
 - any copies you have of the background check or parenting class documents .
 - any signed agreements with other parties or joinder forms or signed Order re Adequate Cause.

- any signed Waiver of Rights under the Service Members' Civil Relief Act for a respondent who's a service member or dependent of a service member.
 - if you're asking the court to finalize the entire case at the same time you apply for the default, then the proposed final papers (the originals if you didn't already leave them with the court as working papers and your own copies).
- 8. If the respondent in default doesn't come to the hearing, ask the judge to sign the Order of Default, and, if applicable, the Order re Adequate Cause, and your final papers signed by the parties not in default.
- 9. If the respondent in default comes to the hearing, the judge will probably not sign your Order of Default, Order re Adequate Cause¹⁶, or final papers. Ask the judge to set a deadline by which the respondent must file a Response. Ask the judge to set a Review Hearing so that you may present your Order of Default and other papers again if the respondent hasn't filed and served a Response by that time.
 - If the respondent doesn't file a Response by the court's deadline, go to the review hearing and ask the judge to sign your Order of Default and, if applicable, your Order re Adequate Cause and final papers.
 - If the respondent **does** file a Response before the review hearing, you won't be able to obtain an order of default against that respondent. You'll need to reach agreement or prepare for trial. In addition, if you don't have an Order re Adequate Cause already signed by the judge, you must follow the steps in the [*Filing for Nonparental Custody*](#) packet to schedule the adequate cause hearing.
- 10. If the judge signs your Order of Default, Order re Adequate Cause, and final papers, congratulations, you're almost finished with your case. Follow the instructions in the "Steps to Take" section of this packet for filing the final papers, providing copies to the other parties, and completing final tasks.
- 11. If the judge signs your Order of Default but not your Order re Adequate Cause or final papers, follow the instructions in the Filing packet to complete the adequate cause process and in this packet to finish the case with the remaining parties.

¹⁶ You may need to be ready to go ahead with your adequate cause hearing immediately, however.

Section 9: If You Don't Reach Agreement and You Don't Get Orders of Default, Get Ready to Go to Trial

If any respondent files a Response to the petition and the parties reach no agreement about final papers, prepare to go to trial (unless you're a respondent against whom an order of default's been entered).¹⁷ If you're preparing for trial, you must follow the court's rules about trial preparation. In some counties, you have a case schedule or other notice that tells you about some of the things to do to prepare for trial. Talk with your family law facilitator for more information about those deadlines. If you have no case schedule, don't wait until the last minute to get ready for trial. Make sure that you start weeks, if not months, in advance.

Find out about how your trial's scheduled. Sometimes a case schedule or the court announces the trial date, and sometimes the parties must ask for a trial date.

If you and the other party disagree about whether the children should be placed with petitioner and/or about the parent's visitation if petitioner has custody, and if there are claims the children are unsafe with one or more parties (for reasons such as domestic violence, child abuse, neglect, or drug or alcohol problems), ask the court for a parenting evaluation or appointment of a GAL. See our publications [*Parenting Plans: Court Orders about Child Custody*](#), [*How to Request a Guardian ad Litem for Dissolution Cases*](#) (has general information useful for many types of family law cases) and [*Working with a GALs and Parenting Evaluators: Tips for Parents in Family Law Cases*](#) for more information.

If you have a trial, each party will have the chance to tell the judge why the judge should rule in that party's favor. Each party must present the judge with evidence (admissible documents or testimony, for example) that help prove that party's claims. The "Steps to Take" section of this packet has an overview of the process of taking your case to a trial. That list is very general and may not apply in every case. This packet doesn't include detailed information about how to prepare for trial because it'd require too many pages. However, these other publications may help you prepare for trial: [*Mediation*](#), [*How to Subpoena Witnesses and Documents*](#), and [*Basic Tips on How to Prepare for a Court Hearing or Trial*](#). Talk with an attorney for specific advice about how to prepare for trial in your case.

At the end of your trial, the judge will announce his/her decision and give reasons for it. However, the case isn't over until final papers are signed by the judge. The judge will usually ask one of the parties, or a party's attorney if a party has one, to prepare the final papers for the judge to approve. Those papers will be presented to the judge at a "presentment" or "presentation" hearing. Sometimes the judge at the end of the trial will set a date for the presentation hearing. If s/he doesn't set the date, then the person who prepares the final papers must give the other parties advance notice of the time and place of this hearing. The person who prepares the final papers s/he wants the judge to sign must give the other parties advance copies of those papers to review. That person must write the final papers to say exactly what the judge ordered – not what that party wanted. Any party who doesn't think the proposed final orders say what the judge ordered can come to the hearing and explain the objection. In

¹⁷ If an order of default's been entered against you and you want to defend against the petition and go to trial, you'll need to have the order of default vacated. This packet doesn't describe that procedure. It is best to talk with an attorney in this situation.

some counties, the disagreeing party must propose different final papers that s/he believes more accurately show the judge's decision and provide them in advance to the judge and other parties.

See the "Steps to Take" and "Lists of Forms" sections for the final papers needed after trial. If you're preparing the final papers, make sure they show the judge's reasons and decision.

After you've prepared the final papers, schedule the "presentation" hearing. Take the steps in the "Follow These General Instructions If You're Scheduling a Hearing" section for setting up a hearing, filing notice of the hearing date, notifying the other parties, confirming the hearing, and providing working papers. In addition,

- In the Note for Motion Docket form, after "Nature of Motion" write "Presentation of Final Orders Nonparental Custody."
- You don't need a separate motion form.
- Call the court clerk or the judge's office to get a hearing date with your trial judge. The papers will need to be presented to that judge.
- Remember: Include copies of your proposed final papers when you serve other parties with notice of the presentation hearing.

◆ **Important note to Respondents if the judge decides at trial that petitioner won't receive custody:** There are no required court forms to cover this situation. **Don't use** any of the following forms in this packet: Findings of Fact and Conclusions of Law, Nonparental Custody Decree, Residential Schedule, Child Support Order, WPF DRPSCU 01.0560 Order of Dismissal. It MAY be possible for you to use the WPF DRPSCU 01.0570 Order of Dismissal, but you don't have to use this form. This packet contains no detailed instructions for that form, because they couldn't cover every situation.

If you're a respondent and you win at trial, **see an attorney for individual legal advice** about how to write up the appropriate final papers in your case. The judge's decision needs to be in a written order and the final papers **MUST** accurately show the judge's decision, the facts the judge decided were true, and the legal conclusions the judge made.

At the presentation hearing, you'll ask the judge to sign the final papers you prepared. The judge will review the papers, listen to any objections raised by other parties and decide whether to sign the papers as prepared or to change them.

◆ If another party's prepared final papers after trial and asks you to sign them, read each paper carefully to see if it accurately states what the judge decided at your trial. If you believe any paper doesn't show the judge's decision correctly, or if you're not sure, you can insist on a

presentation hearing where you'll explain why you believe the language in the final papers doesn't show the judge's decision. If the judge didn't announce the presentation hearing date at the end of your trial, ask that the other party set a "presentation" hearing and give you notice of that hearing.

If the judge signs the final papers provide copies to the other parties and complete appropriate final tasks as described in the "Steps to Take" section of this packet.

Section 10: Steps to Finish Your Case by Petitioner's Voluntary Dismissal

Read this section if the case is being dismissed at petitioner's request before trial. This section describes how petitioner can ask the court to dismiss (drop) the case if s/he decides not to ask for permanent court-ordered legal custody of the child through the petition.

This section **doesn't** describe when a dismissal's proper or possible, and it gives no information about other legal reasons for dismissal. It doesn't tell respondent how to dismiss the case if the judge denies petitioner custody at trial.

If the judge signs an Order of Dismissal, the nonparental custody case ends. If petitioner changes his/her mind and decides that s/he wants a custody order after all, s/he must file for custody all over again. That includes filing a new summons and petition, and paying a new filing fee or getting a new order waiving the fee.

◆ **CAUTION:** If there are any temporary court orders in the nonparental custody case, those court orders will end when the court signs an order of dismissal. Example: if petitioner has temporary custody through a temporary order and the case is dismissed, the temporary custody order ends. If you have questions about whether to dismiss the case, talk with an attorney.

A. Instructions for Petitioner Requesting Dismissal

If petitioner wants to request a dismissal, s/he should fill out and sign the Motion to Dismiss **WPF DRPCU 01.0550** and the Order of Dismissal **WPF DRPCU 01.0560** using the instructions for those forms in this packet. If there's more than one petitioner, use the procedures in this section only if all petitioners sign the dismissal papers.

Petitioner(s) should ask the respondents and the state or GAL (if either's a party) to sign the motion and order. If they won't sign, or if they're unavailable, usually the court will approve the order of dismissal at the hearing on the motion to dismiss, unless a counter-petition's been filed or another petitioner disagrees.

After you've filled out the appropriate dismissal papers, ask a judge to sign the order. Choose which of the following applies to you and follow it:

- If all the other parties have signed your order, try to ask the judge to sign it without scheduling a hearing. Read the procedures described below for "ex parte" motions, and use them if allowed.
- If any other party hasn't signed the Order of Dismissal, or if the court requires you to set up a hearing to present your order, take the steps
 - in the "Follow These General Instructions If You Need to Schedule a Hearing" section and in

- the last item of this section, called “Instructions for Scheduling a Hearing on Your Motion to Dismiss.”

B. Instructions for Presenting an Ex Parte Motion

Use this procedure if all parties have signed your Order of Dismissal and if the court doesn't require you to schedule a specific hearing date.

Call the court clerk's office and ask to speak with a clerk assigned to ex parte family law matters. Ask if (and when) you can present an agreed order dismissing a nonparental custody case “ex parte” for approval. If the clerk tells you this type of order is appropriate to present to the judge “ex parte,”

1. Make copies of the completed motion to dismiss and order of dismissal.
2. Take the originals and the copies to the courthouse when you go.
3. Go to the courtroom as directed when you called the clerk. There'll probably be a clerk in the judge's courtroom. Give the clerk the original motion and agreed order, and tell the clerk that you want to dismiss the petition. The clerk may ask you to sit down and wait until your name's called.
4. When your name's called, go and stand in front of the judge. Give your name and state that you'd like the petition dismissed. Explain that you have an agreed order. The judge may ask you questions.
5. If the judge signs the order of dismissal, follow the instructions in “Steps to Take” section for filing the originals, making copies, and delivering copies to the other parties.

C. Instructions for Scheduling a Hearing on Your Motion to Dismiss

Follow these instructions and those in the section called “Follow These General Instructions If You Need to Schedule a Hearing,” if all the other parties haven't signed your order of dismissal or if the court requires you to schedule a hearing to present your order.

1. Complete the appropriate motion and the proposed order using the instructions for those forms.
2. Complete the Note for Motion Docket or any locally required form.
3. File and serve the Motion, proposed Order of Dismissal, and Note for Motion Docket (or local form) as described in the “Follow These General Instructions If You Need to Schedule a Hearing” section.
4. Have the server complete Certificates of Mailing or Personal Delivery and file them with the court.
5. Confirm the hearing and provide working papers if required in your county.
6. Go to the hearing and present your order of dismissal.

7. If the other parties **don't** come to the hearing, ask the judge to sign the Order of Dismissal.
8. If the other parties **do** come to the hearing, the judge will probably give each a chance to speak and then will decide whether to sign the Order of Dismissal.
9. If the judge signs your Order of Dismissal, the petition's dismissed and the case is ended.
10. If the judge doesn't sign the Order of Dismissal, the case isn't finished. Read the information in this packet and/or get individual legal advice about how to proceed.
11. Provide the other parties with a conformed copy of the order the judge signed, and keep a conformed copy for your records.

Section 11: Follow These General Instructions If You Need to Schedule a Hearing on a Motion for Default or Petitioner’s Motion to Dismiss or to Present Final Papers by Agreement or Final Papers After Trial

A. Overview

The instructions in this section describe the general procedure for setting up a hearing on a motion or to present final papers after trial or by agreement. **Also, read the instructions in the section of this packet that applies to the type of hearing you’ll be having:**

- “Steps to Finish Your Case by Agreement,” for presentation of agreed orders.
- “Steps to Take to Move for Default,” for motions for default (with or without presentation of final papers)
- “If You Don’t Reach Agreement” for presentation of final papers after trial, OR
- “Steps to Finish Your Agreement by Dismissal” for petitioner’s motions to dismiss.

The general steps to schedule, file and serve a hearing notice and complete the hearing process are:

1. Fill out the papers you need. The basic papers needed are:
 - motion and declaration forms showing your requests (not needed when presenting final papers after trial or by agreement).
 - proposed order(s) and/or final papers (See the “Lists of Forms” section).
 - Note for Motion Docket (below) (or locally required form) or Notice of Presentation (below) (or locally required form).
 - any special forms for the type of request you’re presenting (See the section of this packet that applies to you).
2. File and serve the appropriate papers. (See below.)
3. Have the server complete Certificates of Mailing or Personal Delivery and file them with the court. (See instructions below.)
4. Confirm the hearing and provide working papers if required in your county. (See instructions below.)
5. Go to the hearing and present your paper(s) to the court. (See instructions below.)
6. If the judge signs your papers, file the originals, keep a copy for yourself, and provide copies to the other parties. (See the “Steps to Take” section)
7. If the judge doesn’t sign your papers as requested,

- if applicable, prepare an order that shows the decision the judge made, ask the judge to sign it before the parties leave the courthouse, file it, and provide copies to the other parties, and
- follow the appropriate next steps in this packet.

B. Prepare a notice of the hearing you're scheduling

The notice of hearing tells the court and other parties the date, time, location, and reason for your hearing. **Many counties require you to use a special form.** Check with your family law facilitator or court clerk to find out if your county uses one. If your county has no special form, use one of the forms included here.

1. How to Get a Date for Your Hearing.

Check local court rules, or ask the court clerk or family law facilitator what days and times you may schedule your hearing. Tell the clerk or facilitator the type of hearing you're scheduling. Ask whether you need to schedule your hearing with a particular judge. Family law hearings are usually scheduled in the family law department or on the family law calendar. In some counties, nonparental custody hearings are scheduled only on certain days. In many counties, if the State's a party to your case, you must schedule your hearing on a date that the prosecutor's present for family law cases. Presentation of final papers after trial needs to be scheduled for hearing with the judge that decided the case.

From the days that are available for hearing, select one that allows you to give enough advance notice to the other parties. (See next paragraph.)

2. How Much Notice to Give.

Under the Washington civil rules, you must give your notice and related papers to the other parties and to the court at least **five court days** (business days that aren't legal holidays) **before the hearing date. However, some counties require more than five court days notice for family law hearings, and you need additional time if the papers will be mailed.** Check your local court rules or call your family law facilitator or the court clerk to find out how many days notice you must give. When counting, don't count weekends, holidays, or the day the papers are served.

Default motions only: If it'll have been more than one year between the date you served the summons and petition, and the entry of default orders, additional service requirements apply. See the section of this packet "Steps to Take to Move for Default."

Add Days for Mailing.

Mailing. If the papers are mailed, instead of personally delivered, you must add at least three (3) days¹⁸ to the number of days' notice required by your county's rules. Example: if you mail a document on a Monday, it'll be presumed to have been served on Thursday. If the third day after the papers are mailed is a weekend or holiday, you must add days so that the

¹⁸ Three days are clearly required under [CR 5](#). There's a legal argument that, reading [CR 5](#) and [CR 6](#) together, you must give at least six days.

papers arrive on a business day that isn't a legal holiday or weekend.¹⁹ Try to give more than the minimum number of days for notice of your hearing. If for some reason the other party doesn't get enough notice of your hearing, you'll need to reschedule your hearing – even if the other party doesn't show up and object.

3. Instructions for filling out the Note for Motion Docket Form

Use this form, or any local form required in your county, for motions for default or motions to dismiss.

- **Caption.** Fill in the caption.
- **To the Clerk of the Court and to.** In this section, fill in the names of the other parties. Include all the parties you're notifying: every petitioner and respondent, the Guardian Ad Litem (if you have one), and, if the State appeared, the attorney who filed a Notice of Appearance on behalf of the State (prosecuting attorney or attorney general).
- **Hearing Date/Time:** Fill in the date and the time of your hearing.
- **Location:** Fill in the name and address of the courthouse (e.g., Thurston County Superior Court).
- **Courthouse Room:** Fill in the room number where your hearing is scheduled.
- **Address:** Fill in the address of the courthouse.
- **Nature of Motion:** Write in the kind of motion you'll be presenting:
 - "Motion for Dismissal" (where petitioner requests dismissal) OR
 - "Motion for Default" OR
 - "Motion for Default" and, *if you're ready to finalize the case with all parties*, add "Presentation of Final Nonparental Custody Findings, Conclusions and Decree." If all parties not in default have signed the Order re Adequate Cause and you'll ask the judge to sign this order on the date of your hearing, add "Order re Adequate Cause." You may also need to add the form called Petitioner's Notice re Adequate Cause and/or the Motion re: Adequate Cause (found in the packet [Filing a Nonparental Custody Case](#)) to the papers served. If you're presenting any additional documents to the judge for approval, add each additional item to the list, for example: Residential Schedule, Child Support Order and Worksheets.
- **Signature: Fill in the date and sign and print your name and your address.**

4. Instructions for filling out the Notice of Presentation Form

Use this form, or any local form required in your county, to give notice of the date and place you'll present to the judge for his/her signature either (1) the final papers signed by every party (showing their agreement) against whom you don't already have an order of default, or (2) the papers showing the judge's decision after trial. If the judge announces a presentation hearing date at the end of your trial, you may not need this form.

- **Caption.** Fill in the caption.

¹⁹ [CR 6\(a\) & \(e\); CR 5\(b\)\(2\)](#) .

- **To the Clerk of the Court and to.** In this section, fill in the names of the other parties. Include all the parties you're notifying: every petitioner and respondent, the Guardian Ad Litem (if you have one), and, if the State appeared, the attorney who filed a Notice of Appearance on behalf of the State (prosecuting attorney or attorney general). Exception: if the judge has already signed an Order of Default against a respondent, don't notify that respondent.
- **Hearing Date/Time:** Fill in the date and the time of your hearing.
- **Location:** Fill in the name and address of the courthouse (example: Thurston County Superior Court).
- **Courthouse Room:** Fill in the room number where your hearing is scheduled.
- **Address:** Fill in the address of the courthouse.
- **Nature of Hearing:** Write in the kind of papers you'll be presenting:
 - If the petitioner's receiving custody after trial and you're presenting final papers showing the judge's trial decision, then write "Presentation of Nonparental Custody Final Orders." OR
 - If the petitioner's not receiving custody after trial, "Presentation of _____ (fill in the names of the papers you'll present for the judge to sign)." (See text box for respondents in the section on going to trial and the information to respondents in the "Lists of Forms" section.)
 - If you and all parties against whom you don't already have a signed order of default have signed agreed papers showing how the case will be finished, "Presentation of Agreed Final Nonparental Custody Orders" by petitioner receiving custody.
- **Signature:** Fill in the date and sign and print your name and your address.

C. File Your Note for Motion Docket or Notice of Presentation and Related Papers

1. **Copy and organize your papers.** Make one copy of every paper you'll be filing for each of the other parties, for yourself, and for the judge (if you need working papers). Organize the papers into separate sets, one set for each of the other parties and the judge. Remember: keep a full set of copies for yourself. Put each of the other parties' sets of papers in an envelope, addressed to that party, with your return address. **Don't make copies of the Law Enforcement Information Sheet, if you're using this document.**
2. **Take the originals and the copies to the superior court clerk's office in the courthouse where the petition was filed.** Give the clerk the originals of your documents for filing. The clerk may not allow you to file the original proposed order(s) or other originals you'll ask the judge to sign. Follow the clerk's instructions about whether to deliver the proposed orders to the judge before the hearing as working papers, leave them with the clerk, or just bring them with you to the hearing.
3. **Ask the clerk to stamp the copies to show the date that you filed the originals.** Take the conformed (stamped) copies back from the clerk.

D. Give Notice of the Hearing, and Complete and File Certificates of Mailing or Personal Delivery

Notice of the hearing (the Note for Motion Docket or Notice of Presentation) and copies of your hearing-related papers may be served by first class mail or hand delivery. *However, if your motion is for default and more than one year will have passed between the date you served the summons and petition for nonparental custody, and the entry of default orders, additional service requirements apply.* **Give notice of your hearing to every party in the case, except to a party against whom the judge has already signed an Order of Default.**²⁰

Make sure that your papers are served in time to give enough notice to all parties before the hearing date. (Check the deadline you calculated when setting your hearing date.)

For more information on serving the attorney for the state, see our packet [Serving Papers on the State](#). Make sure that the papers served on each person include the notice of hearing, motion (in default or voluntary dismissal cases), proposed order(s), and any other papers you've filed with the court or will ask the judge to approve (**exception: don't serve any Law Enforcement Information Sheet you've prepared.**)

While the case is going on, if the party you're serving has given an address for receiving legal papers in the case, send the papers to him/her at that location. (The other party's address may be, for example, at the end of the Response form, the Summons, a Notice of Appearance, an Amended Notice of Appearance, or any updated notice changing the address for service.) If the party has an attorney in the case, serve the attorney. If a respondent hasn't appeared in the case, give notice at the address where the Summons and Petition were served and at any last known address(es).

Although many county courts allow a party to serve his/her own papers after the Summons and Petition have been served, other counties don't. To be safe, don't deliver or mail the papers yourself. Ask an adult friend or relative to do it for you.

When your friend's mailed or delivered the papers to a party, have him/her fill out the Certificate of Mailing or Personal Delivery the same day. Your friend should fill out a separate form for each person s/he mails or delivers the papers to. File the original certificates with the court clerk and keep a conformed copy for your records.

Make sure that papers are mailed or delivered before your deadline. When counting, don't count the day of delivery or mailing, weekends, or court holidays.

Add Days for Mailing.

Mailing. If your friend mails the papers, rather than personally delivering them, add at least three (3) days²¹ to the number of days' notice required by your county's rules. Example: if you mail a document on a Monday, it'll be presumed to have been served on Thursday. If the third day after the papers are mailed is a weekend or holiday, you must add days so that the

²⁰ Technically, the law doesn't require you to serve a motion for default upon a party who hasn't participated in the case in any way (unless more than one year has passed since the summons and petition were served on that party). However, we recommend that you serve him/her with any motion for default you file anyway, and you must serve him/her with other motions you file until the judge signs an Order for default against him/her.

²¹ Three days are clearly required under [CR 5](#). There's a legal argument that, reading [CR 5](#) and [CR 6](#) together, you must give at least six days.

papers arrive on a business day that isn't a legal holiday or weekend.²² Try to give more than the minimum number of days for notice of your hearing. If for some reason the other party doesn't get enough notice of your hearing, you'll need to reschedule your hearing – even if the other party doesn't show up and object.

If a document's sent by regular first class mail, and if you think another party won't show up at a hearing, try to have an additional copy sent by certified mail, return receipt requested, so you have more proof of mailing. If you do, staple the green return receipt card to the Certificate.

Personal Delivery. Your friend may deliver the papers to the other party rather than mail them. "Delivering" the packet of papers to another party (or the other party's attorney) means:

- handing it to the attorney or to the party; or
- leaving it at his office with his/her clerk or other person in charge of the office²³; or,
- if there's no one in charge, leaving it in a place in the office where someone can easily find it (for example, on top of the front desk); or,
- if the office is closed or the person to be served has no office, leaving it at his dwelling house or usual place of abode (home) with some person of suitable age and discretion then residing there.²⁴

²² [CR 6\(a\) & \(e\)](#); [CR 5\(b\)\(2\)](#) .

²³ Although [CR 5\(b\)\(1\)-\(2\)](#) appears to allow a person to be served at his/her office, and you can usually deliver papers to an attorney or GAL at his/her office, we recommend that you DON'T serve other parties at their offices unless they've used that as their service address in a Notice of Appearance, Petition, or Response form.

²⁴ [CR 5\(b\)\(1\)](#). A person of suitable age and discretion means someone who's an adult (or at least an older teenager) who doesn't have a mental impairment that would prevent him/her from understanding that the legal papers should be given to the other party.

E. Instructions for the Certificate of Mailing or Personal Delivery (No Mandatory Form)

Make some blank copies of this form, since you may need to fill it out and file it several times. Use this form to show that copies of papers you file in court have been given to the other parties. You will need a separate form for each party to whom papers were mailed or delivered.

1. **Caption.** Fill in the caption.
2. **In the first paragraph,** write the date the papers were mailed or delivered in the first blank and the name of the party served in the second blank. (If you are serving an attorney for a party, write in the party's name here and information about the attorney in the paragraphs below). After "*with the following documents:*" write the name of **every form** sent/delivered to that person. If you leave out a form, you do not have proof it was served. If the papers were served by mail, check the first box and add the name and address of the person the papers were mailed to. If you mailed an additional copy by certified mail, write that in. If the papers were hand delivered, check the second box and fill in the time and address of delivery in the blanks provided, and the name of the person to whom the papers were delivered.
3. **Signature.** The person who delivered or mailed the papers should sign and date the form, state the place signed (city and state), and print his/her name in the places indicated.

F. Filing the Certificates of Mailing or Personal Delivery

- **Make one copy of each completed Certificate.** You do not need to give copies of this form to the other parties. If you mailed a copy of the forms by certified mail and have a certified mail receipt back from the post office, attach the original receipt to the Certificate of Mailing you file with the clerk (and make a copy for your records). If you used certified mail but do not have the green receipt back when you file the Certificate, you may file the receipt later, attached to a page labeled with your case caption.
- **Take the originals and the copies to the superior court clerk's office** in the courthouse where your case was filed. Give the clerk the originals of the Certificate of Mailing or Personal Delivery forms.
- **Ask the clerk to stamp your copies** to show the date that you filed the Certificates. Take each stamped copy back from the clerk. The clerk will keep the originals.
- **Keep your copies of the Certificates in a safe place.** You may need them.

G. Deliver Working Papers and Confirm Your Hearing

In many counties, you must:

- deliver an extra copy of all of papers (including proposed orders) for your hearing for the judge to read. This set of copies is called Working Papers.
- confirm the hearing a few days before the hearing date. “Confirming the hearing” means telling the court that the hearing will take place as scheduled.

To learn the rules for working papers and confirming the hearing in your county, read local court rules, and check with the Family Law Facilitator or court clerk.

◆ If you don’t give the judge working papers and don’t confirm your hearing in a county where this is required, the court may cancel your hearing, or the judge might not consider any of your papers.

If you need working papers, make one copy of all your hearing papers (including the proposed orders) for the judge. Make sure to keep one copy for yourself. (Look at the forms checklists in this packet and make sure that you’ve included all you need.) Try to make an index for the judge that lists the title of each paper you submitted for working papers and numbers them. **Write the date, time and room number of the hearing, and “Family Law, Motion for _____” (fill in the subject of your hearing) in the upper-right hand corner of the first paper.** Ask the clerk’s office where to deliver the papers and deliver them to the correct place.

H. Go to the Hearing

These general guidelines apply to hearings on motions or presentations of final papers. See also the section about the particular hearing you’re having.

- **Take Your Court Papers with You.** Bring along all the proposed orders and other original papers you’ll ask the judge to approve. If you’ve already delivered the original proposed orders to the court, take along an extra copy in case the judge needs it. Bring your own copies of those papers and your hearing papers. Also take copies of your proofs of service (Returns of Service and/or the Certificates of Mailing or Personal Delivery). If you’ve signed agreements with other parties or joinder forms, bring them as well. Also bring your own copy of all the papers you filed and served on the other parties earlier in the case, because the judge may have a question about them and not have the court file.
- **Get to Your Hearing Early.** Dress neatly and bring a pad of paper and black pen for taking notes. Don’t bring your child/ren if you can help it – the judge will usually not let them sit in the courtroom. If you’re not there on time, the hearing will be cancelled (or the other party may win).
- **When You Get to the Courtroom.** When you arrive, tell the person in charge in the courtroom (often called the clerk or the bailiff) your name and the name and number of your case. Take a seat. When the judge walks in the room, stand up. When your case name is called, tell the court that you’re present. Remain in court until your case is called for

hearing. When you're told to come forward, do so and give the clerk the original papers that you're asking the judge to approve.

- **Presenting Your Papers.** The judge will usually ask if any other party's present. The judge may have you explain what you're asking the court to approve and why. Be brief. Make your statement directly to the judge, not to any other party present during the hearing. If any other party appears at the hearing, the judge may allow him/her to speak or the judge may ask questions. If no other parties appear, show the judge your Certificates of Mailing or Personal Delivery. Ask the judge to sign your proposed order(s), and, if applicable, other papers requiring the judge's signature. If you're asking for an order of default, the judge may want to see your Return of Service (the form that shows that you served the other party with the Summons, Petition and other papers). The judge may ask you some questions to make sure that the information is complete and correct.
- **Getting Copies of the Orders and providing copies to the other parties.** If the judge signs your papers, follow the instructions in the "Steps to Take" section to file the originals, get copies, deliver the copies, and complete final steps appropriate to your case.

I. If you Disagree with the Judge's Hearing Decision

If you disagree with the court's decision on your motion, you may have a chance to appeal. There are three possibilities, listed below. Try to talk with an attorney before deciding what to do.

- **Motion for Reconsideration.** If a court commissioner or judge decided the motion, and you believe that there's new evidence or another legal reason that could change the commissioner or judge's mind, you may file a Motion for Reconsideration. See [CR 59\(a\)](#). You have 10 days from the date the court signed the order to file a Motion for Reconsideration.²⁵ Local court rules may require you to also serve the other parties within the same deadline – if you plan to serve by mail, mail your motion at least 3 days earlier. Motions for Reconsideration aren't usually easy to win. Consult with an attorney, if possible, before filing one.
- **Motion for Revision.** If a court commissioner decided the motion, and you don't want to try to give the commissioner more evidence, you may file a Motion for Revision. A motion for revision is heard by a judge, and that judge can hold a "new hearing" on the evidence that the commissioner considered. You have 10 days from the date the court commissioner signed the order to file a Motion for Revision.²⁶ Local court rules may require you to also serve the other parties within the same deadline – if you plan to serve by mail, mail your motion at least 3 days earlier. Motions for Revision aren't usually easy to win. Consult with an attorney, if possible, before filing one.
- If you choose not to file either of the above motions or if you lose these motions, then your only remedy is to file an appeal with the Court of Appeals (or, in some cases, a request for discretionary review) and properly notify the other parties. Generally, you have 30 days from the date the judge signs the order to do this.²⁷ However, there are

²⁵ [CR 59\(b\)](#).

²⁶ [RCW 2.24.050](#).

²⁷ [Rules of Appellate Procedure \(RAP\) 5.2\(a\)](#).

other requirements for filing in the Court of Appeals, not all decisions can be appealed, and few cases are successful. Definitely talk with an attorney before filing an appeal/request for discretionary review.

◆ We don't yet have packets on how to file a Motion for Reconsideration, a Motion for Revision, or a Notice of Appeal. Check with your local court clerk or Family Law Facilitator to see if they have a packet.

Section 12: Blank Forms

The rest of this packet contains blank forms for you to complete. Make a copy of each form so that you have an extra in case your first draft needs a lot of changes. You may need forms from other packets, and you WON'T need all the forms in this packet.

**Superior Court of Washington
County of _____**

In re the Custody of:

Child(ren),

Petitioner(s),

and

Respondent(s).

No. _____

**Findings of Fact and
Conclusions of Law
(Nonparental Custody)
(FNFCL)**

I. Basis for Findings

The findings are based on:

- agreement.
- order(s) of default against (name(s)) _____ signed by the court on this date or dated _____.
- trial. The following parties and lawyers attended:

II. Findings of Fact

Upon the basis of the court record, the court ***finds:***

2.1 Children for Whom Custody Is Sought

The petitioner(s) are seeking custody of the following child(ren):

2.2 County Where Children Reside

The child(ren) named in paragraph 2.1 permanently reside in this county or can be found in this county.

2.3 Indian Child Welfare Act

Indian child status:

The child(ren) are Indian child(ren) as defined by 25 U.S.C. § 1903. The Indian Child Welfare Act does apply to these proceedings; all notice and evidentiary requirements under the Indian Child Welfare Act have been satisfied, as follows:

The child(ren) are not Indian children as defined by 25 U.S.C § 1903 and The Indian Child Welfare Act, 25 U.S.C. § 1901, et seq., does not apply to these proceedings.

Jurisdiction:

The child(ren) are Indian children as defined by the Indian Child Welfare Act, 25 USC § 1903 but are not domiciled or residing within the boundaries of an Indian reservation; and no Tribal Court has continuing jurisdiction over the child(ren); this court has jurisdiction under 25 USC § 1911.

The child(ren) are Indian children as defined by the Indian Child Welfare Act, 25 USC § 1903 and are domiciled or residing within the boundaries of an Indian reservation; or a Tribal Court has continuing jurisdiction over the child(ren).

2.4 Basis of Jurisdiction

- This court has exclusive continuing jurisdiction. The court has previously made a child custody, parenting plan, residential schedule or visitation determination in this matter and: retains jurisdiction under RCW 26.27.211.
- This state is the home state of the children because:
 - the children lived in Washington with a parent or a person acting as a parent for at least six consecutive months immediately preceding the commencement of this proceeding.
 - the children are less than six months old and have lived in Washington with a parent or a person acting as parent since birth.
 - any absences from Washington have been only temporary.
 - Washington was the home state of the children within six months before the commencement of this proceeding and the children are absent from the state but a parent or person acting as a parent continues to live in this state.
- The children and the parents or the children and at least one parent or a person acting as a parent have significant connection with the state other than mere physical presence, and substantial evidence is available in this state concerning the children's care, protection, training and personal relationships, and:
 - The children have no home state elsewhere.
 - The children's home state has declined to exercise jurisdiction on the ground that this state is the more appropriate forum under RCW 26.27.261 or .271.
- All courts in the children's home state have declined to exercise jurisdiction on the ground that a court of this state is the more appropriate forum to determine the custody of the children under RCW 26.27.261 or .271.
- No other state has jurisdiction.
- This court has temporary emergency jurisdiction over this proceeding because the children are present in this state and the children have been abandoned or it is necessary in an emergency to protect the children because the children, or a sibling or parent of the children is subjected to or threatened with abuse. RCW 26.27.231.
- There is a previous custody determination that is entitled to be enforced under this chapter or a child custody proceeding has been commenced in a court of a state having jurisdiction under RCW 26.27.201 through 26.27.221. The requirements of RCW 26.27.231(3) apply to this matter. This state's jurisdiction over the children shall last until (date) _____.
- There is no previous custody determination that is entitled to be enforced under this chapter and a child custody proceeding has not been commenced in a court of a state having jurisdiction under RCW 26.27.201 through 26.27.221. If an action is not filed in (potential home state) _____ by the time the child has been in Washington for six months, (date) _____, then Washington's jurisdiction will be final and continuing.

Other:

2.5 Background Records Check

The court has consulted the judicial information system, if available, to determine the existence of any information and proceedings that are relevant to the placement of the child. The court has also directed the Department of Social and Health Services to release information as provided under RCW 13.50.100; and has required the petitioner to provide the results of an examination of state criminal identification data provided by the Washington State Patrol criminal identification system as described in chapter 43.43 RCW for the petitioner and adult members of the petitioner's household.

2.6 Standing

- At the beginning of the case, the child(ren) had not been in the physical custody of either parent since (date) _____.
- Neither parent was a suitable custodian at the beginning of the case.
- Other:

2.7 Best Interest of the Child

It is in the best interest of the child(ren) to be placed in the custody of the petitioner(s), and at this time:

- The child(ren) have not been in the physical custody of either parent since (date) _____ because:
- Neither parent is a suitable custodian for the child(ren), because:

2.8 Adequate Cause

Adequate cause for this proceeding has been found in an order signed by the court on this date or dated _____; or is agreed as evidenced by the signatures on the last page of this document.

2.9 Limitations on Visitation

- Does not apply.
- There are no reasons for limiting visitation of either parent.
- The following reasons exist for limiting visitation of

Respondent (name) _____:

- Willful abandonment that continues for an extended period of time or substantial refusal to perform parenting functions.
- Physical, sexual or a pattern of emotional abuse of a child.
- A history of acts of domestic violence as defined in RCW 26.50.010(1) or an assault or sexual assault which causes grievous bodily harm or the fear of such harm.
- Other:

Respondent (name) _____:

- Willful abandonment that continues for an extended period of time or substantial refusal to perform parenting functions.
- Physical, sexual or a pattern of emotional abuse of a child.
- A history of acts of domestic violence as defined in RCW 26.50.010(1) or an assault or sexual assault which causes grievous bodily harm or the fear of such harm.
- Other:

Limitations on visitation with the children will not adequately protect the children from the harm that could result if the children has contact with (name(s)) _____.

Contact between (name(s)) _____ and the children will not cause physical, sexual, or emotional abuse or harm to the children and

the probability that the parent's harmful or abusive conduct will recur is so remote that it would not be in the children's best interest to apply the limitations of RCW 26.10.160(1)(a) and (b).

- (Name(s)) _____'s conduct did not have an impact on the children.
- Other:

2.10 Child Support

- Does not apply.
- There are children in need of support and child support should be set pursuant to the Washington State child support statutes. The Order of Child Support signed by the court on this date or dated _____, and the child support worksheet which has been approved by the court are incorporated by reference in these findings.
- Other:

2.11 Continuing Restraining Order

- Does not apply.
- A continuing restraining order against (name(s)) _____ is necessary because:

- Other:

2.12 Attorney Fees, Other Professions Fees and Costs

- Does not apply.
- Each of the parties has sufficient property, income or resources available to pay his or her own respective attorney fees, professional fees and costs.
- (Name) _____ has incurred reasonable attorney's fees, other professional fees and costs in the amount of \$_____.
(Name) _____ has the ability to pay these fees and
(name) _____ has the need for the payment of these fees as follows:
- (Name) _____ has incurred reasonable attorney's fees, other professional fees and costs in the amount of \$_____.
(Name) _____ has the ability to pay these fees and
(name) _____ has the need for the payment of these fees as follows:
- Other:

2.13 Other

III. Conclusions of Law

The court makes the following conclusions of law from the foregoing findings of fact:

3.1 Jurisdiction

The court has jurisdiction over the children.

3.2 Disposition

It is in the best interest of the children to reside with:

3.3 Child Support

- Does not apply.
- Child support for the dependent children should be set pursuant to the Washington State child support statutes.
- Other:

3.4 Visitation

Respondent (name) _____: Visitation shall be as set forth in the Residential Schedule(s) signed by the court on this date or dated _____, and approved by the court and incorporated as part of these findings; or as follows:

Respondent (name) _____: Visitation shall be as set forth in the Residential Schedule(s) signed by the court on this date or dated _____, and approved by the court and incorporated as part of these findings; or as follows:

- Other:

3.5 Continuing Restraining Order

- Does not apply.
- A continuing restraining order should be entered.

**Superior Court of Washington
County of _____**

In re the Custody of:

Child(ren),

Petitioner(s),

and

Respondent(s).

No. _____

**Nonparental Custody Decree
(DCC)**

Clerk's action required

Law Enforcement Notification, ¶ 3.5

I. Judgment/Order Summaries

1.1 Restraining Order Summary

Does not apply. Restraining Order Summary is set forth below:

Name of person(s) restrained: _____ . Name of person(s)
protected: _____ . **See paragraph 3.5**

Violation of a Restraining Order in Paragraph 3.5 below with actual knowledge of its terms is a criminal offense under Chapter 26.50 RCW and will subject the violator to arrest. RCW 26.10.040.

1.2 Money Judgment Summary

Does not apply. The judgment summary is as follows:

- A. Judgment creditor _____
- B. Judgment debtor _____
- C. Principal judgment amount (back child support) _____ \$ _____
from (date) _____ to (date) _____

- D. Interest to date of judgment \$ _____
- E. Attorney fees \$ _____
- F. Costs \$ _____
- G. Other recovery amount \$ _____
- H. Principal judgment shall bear interest at _____ % per annum
- I. Attorney fees, costs and other recovery amounts shall bear interest at _____ % per annum
- J. Attorney for judgment creditor _____
- K. Attorney for judgment debtor _____
- L. Other: _____

II. Basis

The findings of fact and conclusions of law have been entered in this case.

III. Decree

It is Decreed:

3.1 Jurisdiction Over the Children

The court has jurisdiction over the children as set forth in the Findings of Fact and Conclusions of Law.

3.2 Custody

The petition is granted. The petitioner(s) (name(s)) _____ is/are granted custody of the following children:

3.3 Visitation

Respondent (name) _____: Visitation shall be [] as set forth in the Residential Schedule signed by the court on this date or dated _____; or [] as follows:

Respondent (name) _____: Visitation shall be [] as set forth in the Residential Schedule signed by the court on this date or dated _____; or [] as follows:

[] Other:

3.4 Child Support

[] Child support shall be paid in accordance with the Order of Child Support, which was signed by the court on this date or dated _____, and incorporated as part of this decree.

3.5 Continuing Restraining Order

[] Does not apply.

[] A continuing restraining order is entered as follows:

[] (Name) _____ is restrained and enjoined from disturbing the peace of (name of the protected person(s)) _____.

[] (Name) _____ is restrained and enjoined from going onto the grounds of or entering the home, work place or school of the protected person(s) or the day care or school of the following named children: _____.

[] (Name) _____ is restrained and enjoined from knowingly coming within or knowingly remaining within (distance) _____ of the home, work place or school of the protected person(s); or the day care or school of these children: _____.

other: _____

[] (Name) _____ is restrained and enjoined from molesting, assaulting, harassing, or stalking (name) _____.

[] Other:

Violation of a restraining order in paragraph 3.5 with actual knowledge of its terms is a criminal offense under Chapter 26.50 RCW and will subject the violator to arrest. RCW 26.10.040.

[] **Clerk's Action.** The clerk of the court shall forward a copy of this order, on or

before the next judicial day, to:
(name of appropriate law enforcement agency) _____
which shall enter this order into any computer-based criminal intelligence system
available in this state used by law enforcement agencies to list outstanding warrants.
**(A law enforcement information sheet must be completed by the party
or the party's attorney and provided with this order before this order
will be entered into the law enforcement computer system.)**

Service

- The restrained party or attorney appeared in court or signed this order; service of this order is not required.
- The restrained party or attorney did not appear in court; service of this order is required. The protected party must arrange for service of this order on the restrained party. File the original Return of Service with the clerk and provide a copy to the law enforcement agency listed above.

Expiration

- This restraining order expires on: (month/day/year)_____.
- This restraining order supersedes all previous temporary restraining orders in this cause number.
- Any temporary restraining order signed by the court in this cause number is terminated.
Clerk's Action. The clerk of the court shall forward a copy of this order, on or before the next judicial day, to: _____ law enforcement agency where **Petitioner** resides which shall enter this order into any computer-based criminal intelligence system available in this state used by law enforcement agencies to list outstanding warrants.

3.6 Attorney Fees, Other Professional Fees and Costs

- Does not apply.
- Attorney fees, other professional fees and costs shall be paid as follows:

3.7 Other

3.8 Summary of RCW 26.09.430 - .480, Regarding Relocation of a Child

This is a summary only. For the full text, please see RCW 26.09.430 through 26.09.480.

If the person with whom the child resides a majority of the time plans to move, that person shall give notice to every person entitled to court ordered time with the child.

If the move is outside the child's school district, the relocating person must give notice by personal service or by mail requiring a return receipt. This notice must be at least 60 days before the intended move. If the relocating person could not have known about the move in time to give 60 days' notice, that person must give notice within five days after learning of the move. The notice must contain the information required in RCW 26.09.260. See also form DRPSCU 07.0500 (Notice of Intended Relocation of A Child).

If the move is within the same school district, the relocating person must provide actual notice by any reasonable means. A person entitled to time with the child may not object to the move but may ask for modification under RCW 26.09.260.

Notice may be delayed for 21 days if the relocating person is entering a domestic violence shelter or is moving to avoid a clear, immediate and unreasonable risk to health and safety.

If information is protected under a court order or the address confidentiality program, it may be withheld from the notice.

A relocating person may ask the court to waive any notice requirements that may put the health and safety of a person or a child at risk.

Failure to give the required notice may be grounds for sanctions, including contempt.

If no objection is filed within 30 days after service of the notice of intended relocation, the relocation will be permitted and the proposed revised residential schedule may be confirmed.

A person entitled to time with a child under a court order can file an objection to the child's relocation whether or not he or she received proper notice.

An objection may be filed by using the mandatory pattern form WPF DRPSCU 07.0700 (Objection to Relocation/Petition for Modification of Custody Decree/Parenting Plan/Residential Schedule). The objection must be served on all persons entitled to time with the child.

The relocating person shall not move the child during the time for objection unless: (a) the delayed notice provisions apply; or (b) a court order allows the move.

If the objecting person schedules a hearing for a date within 15 days of timely service of the objection, the relocating person shall not move the child before the hearing unless there is a clear, immediate and unreasonable risk to the health or safety of a person or a child.

**Superior Court of Washington
County of _____**

In re the Custody of:

Child(ren),

Petitioner(s),

and

Respondent(s).

No. _____

**Motion for Order
of Dismissal
(Optional use)
(MTDSM)**

_____ [Name of moving party] moves (asks) the court for an order dismissing this action because the moving party no longer wants the relief requested in the

_____ [Name of Petition] for these reasons: _____

Date: _____

Signature of Moving Party or Lawyer/WSBA No.

Print or Type Name

Date: _____

Signature of Nonmoving Party or Lawyer/WSBA No.

Print or Type Name

**Superior Court of Washington
County of _____**

In re the Custody of:

Child(ren),

Petitioner(s),

and

Respondent(s).

No. _____

**Order of Dismissal
(Optional use)
(ORDMS)**

The court received _____ [Name of moving party]'s motion for order of dismissal. Having reviewed the motion and the court file, it is hereby **Ordered** that this _____ action is dismissed.

Dated: _____

Judge/Court Commissioner

Presented by:

Approved as to form:

Notice of Presentation waived:

Signature of Moving Party or Lawyer/WSBA No.

Signature of Nonmoving Party or Lawyer/WSBA No.

Print or Type Name

Print or type Name

Signature of Moving Party or Lawyer/WSBA No.

Signature of Nonmoving Party or Lawyer/WSBA No.

Print or Type Name

Print or type Name

**Superior Court of Washington
County of _____**

In re the Custody of:

Child(ren),

Petitioner(s),

and

Respondent(s).

No. _____

**Motion and Declaration for
Default
(MTDFL)**

I. Motion

(Name of requesting party) _____ moves the court for an order of default against (name of other party being defaulted) _____. Venue of this action is proper as set forth in the Declaration below.

Dated: _____

Signature of Requesting Party or Lawyer/WSBA No.

Print Name

II. Declaration

2.1 Proper Jurisdiction and Venue

The court has proper jurisdiction and venue pursuant to the allegations of the petition at the time of filing.

The petitioner resides in (county and state only) _____.

The child(ren) reside(s) in (county and state only) _____.
Respondent resides in (county and state only) _____.
 Other:

2.2 Jurisdiction Over the Other Party

This court has jurisdiction over the other party because:

- the other party is currently residing in Washington.
- the petitioner and respondent lived in Washington during their marriage or domestic partnership and the petitioner continues to reside, or be a member of the armed forces stationed, in this state.
- the petitioner and respondent may have conceived a child while within Washington.
- The other party was personally served with summons and petition within this state.
- The other party submits to jurisdiction of this state by consent as evidenced by joinder or consent to jurisdiction signed by respondent.
- The other party engaged in sexual intercourse in the state of Washington as a result of which the child may have been conceived.
- The other party resided with the child in this state.
- The other party resided in this state and provided prenatal expenses or support for the child.
- The child resides in this state as a result of the acts or directives of the other party.
- Other:

2.3 Service on Other Party

The other party was served with (documents) _____
on (date) _____:

- in the state of Washington.
 - in (state or country where served) _____.
- Service within the state of Washington could not be made for the following reasons:

2.4 Time Elapsed Since Service on the Other Party

- The other party was served within the state of Washington and more than 20 days have elapsed since the date of service.

- The other party was served outside the state of Washington and more than 60 days have elapsed since the date of service.
- The other party was served by mail and more than 90 days have elapsed since the date of mailing.
- The other party was served by publication and more than 60 days have passed since the date of first publication.

2.5 Appearance of the Other Party

- The other party has failed to appear.
- The other party has appeared, but has failed to respond.

2.6 Servicemembers Civil Relief Act Statement

2.6.1 A. Service member status -- (name of other party) _____:

- is not a service member;
- is on active duty in the U.S. armed forces (excluding National Guard and reserves);
- is on active duty and is a National Guard member or a Reservist residing in Washington;
- is not on active duty in the U.S. armed forces (excluding National Guard and reserves);
- is not on active duty and is a National Guard member or a Reservist residing in Washington;
- I am unable to determine whether the other party is or is not on active duty in the U.S. armed forces;
- I am unable to determine whether the other party is or is not on active duty as a National Guard member or a Reservist residing in Washington.

B. Factual basis:

- See the attached Defense Man Power Data Center Report obtained from <https://www.dmdc.osd.mil/scra/owa/home>.
- Other factual basis:

C. As indicated above, the other party is on active duty and (check all that apply):

- The other party is represented by an attorney.
- The court has appointed an attorney to represent the other party.
- A stay of these proceedings has has not been entered by the court.

2.6.2 A. Dependent of a service member status -- (name of other party) _____
_____:

- is not a dependent of a resident of Washington who is on active duty and is a National Guard member or a Reservist;
- is a dependent of a resident of Washington who is on active duty and is a National Guard member or a Reservist;
- I am unable to determine whether the other party is a dependent of a resident of Washington who is on active duty and is a National Guard member or a Reservist.

B. Factual basis:

- The other party failed to respond to a notice to him or her as a dependent of a person in Military Service that was served on mailed by first class mail on (date) _____, therefore he or she should be presumed not a dependent of a resident of Washington who is on active duty and is a National Guard member or a Reservist.
- Other factual basis:

C. As indicated above, the other party is a dependent of a resident of Washington who is on active duty and is a National Guard member or a Reservist and (check all that apply):

- The other party is represented by an attorney.
- The court has appointed an attorney to represent the other party.
- A stay of these proceedings has has not been entered by the court.

2.7 Other

I declare under penalty of perjury under the laws of the state of Washington that the foregoing is true and correct.

Signed at (city) _____, (state) _____ on (date) _____.

Signature of Requesting Party

Print Name

**Superior Court of Washington
County of _____**

In re the Custody of:

Child(ren),

Petitioner(s),

and

Respondent(s).

No. _____

**Order of Default
(ORDFL)**

I. Basis

A motion for default has been presented by (name of requesting party) _____.

II. Findings

The court *finds*:

2.1 Proper Jurisdiction and Venue

The court has proper jurisdiction and venue.

2.2 Service on Nonrequesting Party

(Name of nonrequesting party being defaulted) _____

was served with _____

_____ on (date) _____.

2.3 Time Elapsed Since Service

- The nonrequesting party was served within the state of Washington and more than 20 days have elapsed since the date of service.
- The nonrequesting party was served outside the state of Washington and more than 60 days have elapsed since the date of service.
- The nonrequesting party was served by mail and more than 90 days have elapsed since the date of mailing.
- The nonrequesting party was served by publication and more than 60 days have passed since the date of first publication.

2.4 Appearance

- The nonrequesting party has failed to appear.
- The nonrequesting party has appeared but has failed to respond.

2.5 Servicemembers Civil Relief Act Statement

2.5.1 Service member status --- It appears the nonrequesting party:

- is not a service member;
- is on active duty in the U.S. armed forces (excluding National Guard and reserves);
- is on active duty and is a National Guard member or a Reservist residing in Washington;
- is not on active duty in the U.S. armed forces (excluding National Guard and reserves);
- is not on active duty and is a National Guard member or a Reservist residing in Washington.

2.5.2 Dependent of a service member status --- It appears the nonrequesting party:

- is not a dependent of a resident of Washington who is on active duty and is a National Guard member or a Reservist;
- is a dependent of a resident of Washington who is on active duty and is a National Guard member or a Reservist;
- is presumed not a dependent of a resident of Washington who is on active duty and is a National Guard member or a Reservist.

2.6 Other

**Superior Court of Washington
County of _____**

In re the Custody of:

Child(ren),

Petitioner(s),

and

Respondent(s).

No. _____

Note for Motion Docket

(No Mandatory Form Available)

TO THE CLERK OF COURT AND TO: _____

Please take notice that this case will be heard on the date below and the clerk is requested to note this issue on the docket for that day.

HEARING DATE: _____

HEARING TIME: _____

LOCATION: _____

COURTHOUSE ROOM: _____

ADDRESS: _____

NATURE OF MOTION: _____

Dated: _____

Signature of Lawyer or Party

Print or Type Name

Notice to party: you may list an address that is not your residential address where you agree to accept legal documents.

Address

**Superior Court of Washington
County of _____**

In re the Custody of:

Child(ren),

Petitioner(s),

and

Respondent(s).

NO. _____

Notice of Presentation

**(No Mandatory Form
Developed)**

TO THE CLERK OF COURT AND TO: _____

Please take notice that this case will be heard on the date below and the clerk is requested to note this issue for hearing that day.

HEARING DATE: _____

HEARING TIME: _____

LOCATION: _____

COURTHOUSE ROOM: _____

ADDRESS: _____

NATURE OF HEARING: _____

Dated: _____

Signature of Lawyer or Party

Print or Type Name

Notice to party: you may list an address that is not your residential address where you agree to accept legal documents.

Address

**Superior Court of Washington
County of _____**

In re the Custody of:

Child(ren),

Petitioner(s),

and

Respondent(s).

NO. _____

**Certificate of Mailing or Personal
Delivery**

(No Mandatory Form Available)

I hereby certify that I am over the age of 18 and competent to be a witness.

On _____, I served _____, with the following documents: _____

_____ in the following

manner

Via first class U.S. Mail, postage prepaid; to
(Name & Address of Party Being Served):

Hand Delivery

At the following address:

by handing to and leaving with _____(name) a true and correct copy of said pleadings at ____ a.m./p.m.

I declare under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

DATED this ____ day of _____, 20____ at
_____(city), _____(state).

Signature

Print or Type Name

Finishing Your Nonparental Custody Case 12/08
EVALUATION FORM

Your comments are appreciated and will help to make this packet more useful to others. Please take a moment to complete this form and return it to:

Danielle Rebar
Northwest Justice Project
500 W. 8th, Suite 275
Vancouver, WA 98660

1. Where did you get this book? _____
2. What's your primary language? _____
3. Are you a *low-income person? yes no
[*\$1100 for household of 1; \$1400 for 2; \$1700 for 3; \$2000 for 4; \$2200 for 5]
4. What's the last grade you completed in school? _____
5. Did you read the instructions? yes no
6. Did you also need the help of an agency, court facilitator, or advocate to complete your case? yes no
6a. If yes, what agency or individual helped you? _____
7. Did you use the legal forms? yes no
8. Did you find anything difficult to understand? yes no
8a. If yes, please tell us what. _____

9. Did you find any mistakes? yes no
If yes, what mistakes were found? _____

10. Today's Date: _____
11. Other Comments or Suggestions: _____
