

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): DEWEY, CHETUM & HOWE, LLP JOHN DEWEY, ESQ. 123 PARK PLACE IRVINE, CA 92614 TELEPHONE NO.: (714) 123-4344 FAX NO. (Optional): (714) 123-1234 E-MAIL ADDRESS (Optional): ATTORNEY FOR (Name): JOHN SMITH	FOR COURT USE ONLY
SUPERIOR COURT OF CALIFORNIA, COUNTY OF ORANGE STREET ADDRESS: 341 THE CITY DRIVE SOUTH MAILING ADDRESS: SAME CITY AND ZIP CODE: ORANGE, CA 92868-3205 BRANCH NAME: LAMOREAUX	
PETITIONER/PLAINTIFF: MARY SMITH RESPONDENT/DEFENDANT: JOHN SMITH OTHER PARENT/PARTY:	
REQUEST FOR ORDER <input type="checkbox"/> MODIFICATION <input type="checkbox"/> Temporary Emergency Court Order <input checked="" type="checkbox"/> Child Custody <input checked="" type="checkbox"/> Visitation <input type="checkbox"/> Child Support <input type="checkbox"/> Spousal Support <input checked="" type="checkbox"/> Other (specify): <input type="checkbox"/> Attorney Fees and Costs EXCLUSIVE USE OF THE FAMILY RESIDENCE	CASE NUMBER: 13 D 012356

1. TO (name): MARY SMITH AND HER ATTORNEYS OF RECORD
2. A hearing on this Request for Order will be held as follows: If child custody or visitation is an issue in this proceeding, Family Code section 3170 requires mediation before or at the same time as the hearing (see Item 7.)

a. Date: JUNE 1, 2014 Time: 8:30 A.M. <input checked="" type="checkbox"/> Dept.: A <input type="checkbox"/> Room:
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b. Address of court same as noted above other (specify):

3. Attachments to be served with this Request for Order:

- | | |
|---|---|
| a. A blank Responsive Declaration (form FL-320)
b. <input type="checkbox"/> Completed Income and Expense Declaration (form FL-150) and a blank Income and Expense Declaration | c. <input type="checkbox"/> Completed Financial Statement (Simplified) (form FL-155) and a blank Financial Statement (Simplified)
d. <input type="checkbox"/> Points and authorities
e. <input checked="" type="checkbox"/> Other (specify): DECLARATION OF JOHN SMITH |
|---|---|

Date: JOHN DEWEY
(TYPE OR PRINT NAME)

(SIGNATURE)

COURT ORDER

4. YOU ARE ORDERED TO APPEAR IN COURT AT THE DATE AND TIME LISTED IN ITEM 2 TO GIVE ANY LEGAL REASON WHY THE ORDERS REQUESTED SHOULD NOT BE GRANTED.
5. Time for service hearing is shortened. Service must be on or before (date):
6. Any responsive declaration must be served on or before (date):
7. The parties are ordered to attend mandatory custody services as follows:
8. You are ordered to comply with the *Temporary Emergency Court Orders* (form FL-305) attached.
9. Other (specify):

Date: _____
JUDICIAL OFFICER

To the person who received this Request for Order: If you wish to respond to this Request for Order, you must file a **Responsive Declaration to Request for Order** (form FL-320) and serve a copy on the other parties at least nine court days before the hearing date unless the court has ordered a shorter period of time. You do not have to pay a filing fee to file the **Responsive Declaration to Request for Order** (form FL-320) or any other declaration including an **Income and Expense Declaration** (form FL-150) or **Financial Statement (Simplified)** (form FL-155).

PETITIONER/PLAINTIFF: MARY SMITH RESPONDENT/DEFENDANT: JOHN SMITH OTHER PARENT/PARTY:	CASE NUMBER: 13 D 012356
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REQUEST FOR ORDER AND SUPPORTING DECLARATION

Petitioner Respondent Other Parent/Party requests the following orders:

1. CHILD CUSTODY To be ordered pending the hearing
 - a. Child's name and age

JIMMY SMITH	JOINT	RESPONDENT
AUDREY SMITH	JOINT	RESPONDENT
	JOINT	RESPONDENT
 - b. Legal custody to (name of person who makes decisions about health, education, etc.)
 - c. Physical custody to (name of person with whom child will live)
 - d. As requested in form

<input type="checkbox"/> Child Custody and Visitation Application Attachment (form FL-311)
<input type="checkbox"/> Request for Child Abduction Prevention Orders (form FL-312)
<input type="checkbox"/> Children's Holiday Schedule Attachment (form FL-341(C))
<input type="checkbox"/> Additional Provisions—Physical Custody Attachment (form FL-341(D))
<input type="checkbox"/> Joint Legal Custody Attachment (form FL-341(E))
<input type="checkbox"/> Other (Attachment 1d)
 - e. Modify existing order
 - (1) filed on (date):
 - (2) ordering (specify):

2. CHILD VISITATION (PARENTING TIME) To be ordered pending the hearing
 - a. As requested in: (1) Attachment 2a (2) Child Custody and Visitation Application Attachment (form FL-311)
 (3) Other (specify):
 - b. Modify existing order
 - (1) filed on (date):
 - (2) ordering (specify):
 - c. One or more domestic violence restraining/protective orders are now in effect. (Attach a copy of the orders if you have one.) The orders are from the following court or courts (specify county and state):

(1) <input type="checkbox"/> Criminal: County/state: Case No. (if known):	(3) <input type="checkbox"/> Juvenile: County/state: Case No. (if known):
(2) <input type="checkbox"/> Family: County/state: Case No. (if known):	(4) <input type="checkbox"/> Other: County/state: Case No. (if known):

3. CHILD SUPPORT (An earnings assignment order may be issued.)
 - a. Child's name and age
 - b. I request support based on the child support guidelines
 - c. Monthly amount requested (if not by guideline) \$
 - d. Modify existing order
 - (1) filed on (date):
 - (2) ordering (specify):

Notice: The court is required to order child support based on the income of both parents. It normally continues until the child is 18. You must supply the court with information about your finances by filing an *Income and Expense Declaration* (form FL-150) or a *Financial Statement (Simplified)* (form FL-155). Otherwise, the child support order will be based on information about your income that the court receives from other sources, including the other parent.



SMITH, JOHN

PETITIONER/PLAINTIFF: MARY SMITH RESPONDENT/DEFENDANT: JOHN SMITH OTHER PARENT/PARTY:	CASE NUMBER: 13 D 012356
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4. SPOUSAL OR PARTNER SUPPORT *(An earnings assignment order may be issued.)*
- a. Amount requested *(monthly)*: \$ _____ c. Modify existing order
 Terminate existing order (1) filed on *(date)*: _____
 (1) filed on *(date)*: _____ (2) ordering *(specify)*: _____
 (2) ordering *(specify)*: _____
 d. The *Spousal or Partner Support Declaration Attachment* (form FL-157) is attached *(for modification of spousal or partner support after judgment only)*
 e. An *Income and Expense Declaration* (form FL-150) must be attached
5. ATTORNEY FEES AND COSTS are requested on *Request for Attorney Fees and Costs Order Attachment* (form FL-319) or a declaration that addresses the factors covered in that form. An *Income and Expense Declaration* (form FL-150) must be attached. A *Supporting Declaration for Attorney Fees and Costs Order Attachment* (form FL-158) or a declaration that addresses the factors covered in that form must also be attached.
6. PROPERTY RESTRAINT **To be ordered pending the hearing**
- a. The petitioner respondent claimant is restrained from transferring, encumbering, hypothecating, concealing, or in any way disposing of any property, real or personal, whether community, quasi-community, or separate, except in the usual course of business or for the necessities of life.
 The applicant will be notified at least five business days before any proposed extraordinary expenditures, and an accounting of such will be made to the court.
 b. Both parties are restrained and enjoined from cashing, borrowing against, canceling, transferring, disposing of, or changing the beneficiaries of any insurance or other coverage, including life, health, automobile, and disability, held for the benefit of the parties or their minor children.
 c. Neither party may incur any debts or liabilities for which the other may be held responsible, other than in the ordinary course of business or for the necessities of life.
7. PROPERTY CONTROL **To be ordered pending the hearing**
- a. The petitioner respondent is given the exclusive temporary use, possession, and control of the following property that we own or are buying *(specify)*:
 123 ABC AVE. ORANGE, CA

 b. The petitioner respondent is ordered to make the following payments on liens and encumbrances coming due while the order is in effect:
- | <u>Debt</u> | <u>Amount of payment</u> | <u>Pay to</u> |
|-------------|--------------------------|---------------|
| | | |
8. OTHER RELIEF *(specify)*:

NOTE: To obtain domestic violence restraining orders, you must use the forms *Request for Order (Domestic Violence Prevention)* (form DV-100), *Temporary Restraining Order (Domestic Violence)* (form DV-110), and *Notice of Court Hearing (Domestic Violence)* (form DV-109).

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9. I request that time for service of the *Request for Order* and accompanying papers be shortened so that these documents may be served no less than (specify number): _____ days before the time set for the hearing. I need to have this order shortening time because of the facts specified in item 10 or the attached declaration.
10. FACTS IN SUPPORT of orders requested and change of circumstances for any modification are (specify):
 Contained in the attached declaration. (You may use Attached Declaration (form MC-031) for this purpose. The attached declaration must not exceed 10 pages in length unless permission to file a longer declaration has been obtained from the court.)
 SEE ATTACHMENT.

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

Date:

JOHN SMITH _____
 (TYPE OR PRINT NAME) (SIGNATURE OF APPLICANT)



Requests for Accommodations

Assistive listening systems, computer-assisted real-time captioning, or sign language interpreter services are available if you ask at least five days before the proceeding. Contact the clerk's office or go to www.courts.ca.gov/forms for *Request for Accommodations by Persons With Disabilities and Response* (form MC-410). (Civil Code, § 54.8.)

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Attorneys for Respondent,
JOHN SMITH

SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF ORANGE

MARY SMITH,

Petitioner,

vs.

JOHN SMITH,

Respondent.

) Case No. 13D012345

) **DECLARATION IN SUPPORT OF**
) **REQUEST FOR ORDER**

I, John Smith, declare:

I request joint legal custody and sole physical custody of my children, Jimmy and Audrey. I request that Petitioner only be allowed to have supervised visitation with my children. Petitioner is a bad parent and a drug addict. She was previously prescribed pain medication and she developed a dependency on this medication, during our marriage. When I confronted her about her problem, she tried to claim that the medication was for her "arthritis", but I know she is making that up. I have asked my children to watch Petitioner and report back if she is still taking pain killers. My children have reported on multiple occasions that they have observed their mother taking her pills. When they have reported this information to me, I have responded by telling my children that mommy has a drug problem and that I am going to ask the Court to take them away from her. Petitioner's addiction to drugs demonstrates that she has no self control and is an UNFIT PARENT. Is this the kind of person that should be taking care of my children? What is stopping Petitioner from taking drugs and then driving somewhere with my children and getting into a car accident? What if she decides to hurt the kids while she is in an intoxicated state? Where is the line drawn?

DECLARATION OF JOHN SMITH MAY 10, 2014

While we were married, I started my gardening business called Green Thumb. My business is my number one priority and I spend most of my time making sure that my business is successful. Petitioner was constantly trying to distract me from work to deal with the kids and their events because she didn't understand the importance of what I do. I generally service approximately 50 commercial and residential properties each week and I do not have time to deal with things like my children's trivial parties and baseball practices! I think that it would be more convenient for me to have sole physical custody of my children, so that I can schedule Petitioner's visitation and the children's activities around my work schedule. Petitioner suggested that we share physical custody on a 50/50 basis. I told her I would never agree to that and I would not rest until I had sole custody of my children.

I believe that whoever has custody of my children should have exclusive use of the family residence. I think it makes the most sense for me to be awarded custody and exclusive use of the family residence, since I provided \$40,000 of my inheritance towards the down payment to purchase the house. I also provided most of the mortgage payments for the house because I earned \$4,500 each month from my business during the marriage. Petitioner only worked part time as a hairdresser and she earned \$8.00 an hour plus tips. I REPEATEDLY told Petitioner to get a full time job and to contribute more financially, but she refused because she had to "take care of the children". I told her that she was not taking care of the children; she was just being LAZY and sitting around the house all day and using the children as an excuse.

Petitioner can also not afford to make the house payment based on her current income. Petitioner needs to go out and get a full time job and support herself. I think that forcing her out of the house would help give her the incentive that she needs to get a better paying job and to turn her life around. If Petitioner stays in the family residence she will continue to just sit around the house all day. Is that the kind of role model that my children should have?

Executed this 10th day of May 2014, at Orange, California. I declare, under penalty of perjury under the laws of the State of California, that the foregoing is true and correct.

JOHN SMITH

DECLARATION OF JOHN SMITH MAY 10, 2014

