

JOINDER OF EMPLOYEE PENSION PLAN Family Law

What you will find in this packet:

- **Additional Resources** (FamLaw-101)
- **Requirements for Filing Court Papers** (MC-500)
- **Joinder of Employee Pension Plan Info** (FamLaw-005a)
- **Retirement Plan Joinder - Information Sheet** (FL-318-INFO)
- **Request for Joinder of Employee Benefit Plan and Order** (FL-372)
- **Summons (Joinder)** (FL-375)
- **Pleading on Joinder - Employee Benefit Plan** (FL-370)
- **Joinder of Employee Pension Plan - Info for Service of Process of the Plan** (FamLaw-005b)
- **Notice of Appearance and Response of Employee Benefit Plan** (FL-374)
- **Notice and Acknowledgment of Receipt - Civil** (POS-015)

If you don't find what you're looking for here, you may want to check out the additional resources listed on the back of this page

The Clerk of the Court cannot accept for filing any papers that do not comply with California Rules of Court 2.100 et seq. (CRC 2.118)

To avoid having your papers rejected by the clerk:

Use Judicial Council forms whenever possible

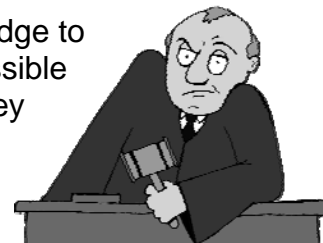
If you print Judicial Council forms from your computer, print them out single-sided. (Don't print double-sided unless you know how to tumble the pages). Judicial Council forms can be found at <http://www.courts.ca.gov/forms.htm>.

If the form you need is not on the Judicial Council website, you will have to make your own form which follows these rules

1. White or unbleached paper – 8 1/2 by 11 inches
2. One-sided paper – only one side of each page may be used
3. 12 pt font (Courier, Times New Roman, Arial or equivalent (Handwritten papers are OK – but write legibly)
4. Line spacing - One and one-half or double-spaced (use pleading paper – either the Judicial Council form MC-20 or create your own using the legal template in your word processor)
5. Margins – at least 1 inch from the left edge and ½ inch from right edge
6. Page Numbers – pages must be numbered consecutively on the bottom (1, 2, 3 ...)
7. Binding – Original and copies must be firmly bound (e.g. stapled) AND the Original must be 2-hole punched at the top.

You will need the **Original document**, signed in ink (blue is best), and correct number of identical copies (***original for the Court, a copy for each party***) for the clerk to file.

The Rules are important – Remember - You want the Judge to understand what you have written. Don't make that impossible by submitting papers that are too hard to read because they are upside down, the print is too small or too light, or the pages have fallen out of the file because they are too small or too large and/or not properly fastened.



JOINDER OF EMPLOYEE PENSION PLAN

GENERAL INFORMATION

1. Use this form packet if you need to join an employee pension plan to your case.
2. Pension issues are complicated and you may want to contact an attorney outside the court who can give you legal advice. Court staff, including Family Law Facilitators, can provide procedural assistance; they cannot give legal advice. Family Law Facilitators do not provide assistance about pensions or Qualified Domestic Relations Orders (QDRO's). Check the court website at www.cc-courts.org/findlawyer for information about attorney referral services.
3. If you have a pension, you can attach the form Pension Benefits – Attachment to Judgment (FL-348) to your Judgment to divide the pension. You must serve a copy of the filed Judgment on the plan.

INSTRUCTIONS FOR USING JOINDER OF EMPLOYEE PENSION PLAN FORMS

1. Review the Retirement Plan Joinder – Information Sheet (FL-318-INFO) to see if you need to join the plan.
2. Prepare the Request for Joinder of Employee Pension Benefit Plan and Order (Family Law) (FL-372).
3. Prepare the Summons (Joinder) (FL-375).
4. Prepare the Pleading on Joinder - Employee Benefit Plan (FL-370).
5. Make 2 copies of all of the forms.
6. File the original and 2 copies of each document.
7. Follow the directions in this packet for service on the plan.

RETIREMENT PLAN JOINDER—INFORMATION SHEET

Type of Retirement Plan	Examples	Joinder Required
Governmental plan of a state, county, public school or university, or other public agency	California Public Employees' Retirement System (CalPERS), California State Teachers' Retirement System (CalSTRS), and University of California Retirement System (UCRS) (includes both qualified plans and nonqualified plans, such as Int. Rev. Code, § 457(b) or (f) deferral plans or Int. Rev. Code, § 403(b) Tax Sheltered Annuity (TSA))	Yes
Federal government plan	Federal government plans including all military branches, Civil Service Retirement System (CSRS), Federal Employees Retirement System (FERS), Foreign Service Pension System (FSPS)	No
Funded plan (whether or not qualified) covering employees working for private-industry employer (includes collectively bargained plans)	Int. Rev. Code, § 401(k) plan, defined benefit pension plan (traditional or cash balance), profit-sharing plan, money purchase or target benefit pension plan, Employee Stock Ownership Plan (ESOP), Tax Sheltered Annuity (TSA)	No (ERISA covered)
Unfunded nonqualified plan covering employees working for private-industry or tax-exempt employer (other than excess benefit plans)	Supplemental executive retirement plan, Int. Rev. Code, § 457(f) deferral plan, Stock Appreciation Right (SAR) or phantom stock plan, severance plan	No (ERISA covered)
Plan (qualified or nonqualified) covering only business owners and spouses or employees of a church	Int. Rev. Code, § 401(k) plan, defined benefit pension plan (traditional or cash balance), profit-sharing plan, money purchase or target benefit pension plan, Keogh, Tax Sheltered Annuity (TSA)	Yes
Individual Retirement Account or annuity	Individual Retirement Account (IRA), Roth IRA	No (not true retirement plans; Qualified Domestic Relations Orders (QDROs) do not apply). May be divided by judgment or order
All others		Generally yes

For domestic partnerships and same-sex marriages, please consult an attorney as federal laws apply and rules may vary.

ATTORNEY OR PARTY WITHOUT ATTORNEY <i>(Name, state bar no., and address):</i> TELEPHONE NO.: _____ FAX NO. <i>(Optional):</i> _____ E-MAIL ADDRESS <i>(Optional):</i> _____ ATTORNEY FOR <i>(Name):</i> _____	FOR COURT USE ONLY
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
MARRIAGE OF PETITIONER: RESPONDENT:	
CLAIMANT:	
REQUEST FOR JOINDER OF EMPLOYEE BENEFIT PLAN AND ORDER	CASE NUMBER:

TO THE CLERK

1. Please join as a party claimant to this proceeding *(specify name of employee benefit plan):*

2. The pleading on joinder is submitted with this application for filing.

Dated:

 (SIGNATURE OF ATTORNEY FOR)
 PETITIONER RESPONDENT

 (TYPE OR PRINT NAME)

ORDER OF JOINDER

3. IT IS ORDERED

- a. The claimant listed in item 1 is joined as a party claimant to this proceeding.
- b. The pleading on joinder be filed.
- c. Summons be issued.
- d. Claimant be served with a copy of the pleading on joinder, a copy of this request for joinder and order, the summons, and a blank *Notice of Appearance and Response of Employee Benefit Plan* (form FL-374).

Dated:

Clerk, By _____, Deputy

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, state bar number, and address): TELEPHONE NO. (Optional): _____ FAX NO. (Optional): _____ E-MAIL ADDRESS (Optional): _____ ATTORNEY FOR (Name): _____	FOR COURT USE ONLY
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
MARRIAGE OF PETITIONER: RESPONDENT:	
CLAIMANT:	
SUMMONS (JOINDER)	
CASE NUMBER:	

NOTICE! You have been sued. The court may decide against you without your being heard unless you respond within 30 days. Read the information below.

¡AVISO! Usted ha sido demandado. El tribunal puede decidir contra Ud. sin audiencia a menos que Ud. responda dentro de 30 días. Lea la información que sigue.

If you wish to seek the advice of an attorney in this matter, you should do so promptly so that your response or pleading, if any, may be filed on time.

Si Usted desea solicitar el consejo de un abogado en este asunto, debería hacerlo inmediatamente, de esta manera, su respuesta o alegación, si hay alguna, puede ser registrada a tiempo.

1. TO THE PETITIONER RESPONDENT CLAIMANT
 A pleading has been filed under an order joining (*name of claimant*):

as a party in this proceeding. If you fail to file an appropriate pleading within **30** days of the date this summons is served on you, your default may be entered and the court may enter a judgment containing the relief requested in the pleading, court costs, and such other relief as may be granted by the court, which could result in the garnishment of wages, taking of money or property, or other relief.

2. TO THE CLAIMANT EMPLOYEE BENEFIT PLAN
 A pleading on joinder has been filed under the clerk's order joining (*name of employee benefit plan*):

as a party claimant in this proceeding. If the employee benefit plan fails to file an appropriate pleading within **30** days of the date this summons is served on it, a default may be entered and the court may enter a judgment containing the relief requested.

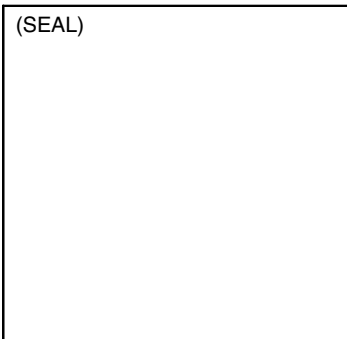
Dated: _____ Clerk, By _____, Deputy

3. NOTICE TO THE PERSON SERVED: You are served

- a. As an individual.
 b. As (or on behalf of) the person sued under the fictitious name of:
 c. On behalf of:

- | | |
|--|--|
| Under: <input type="checkbox"/> CCP 416.10 (Corporation)
<input type="checkbox"/> CCP 416.20 (Defunct Corporation)
<input type="checkbox"/> CCP 416.40 (Association or Partnership)
<input type="checkbox"/> Other: | <input type="checkbox"/> CCP 416.60 (Minor)
<input type="checkbox"/> CCP 416.70 (Incompetent)
<input type="checkbox"/> CCP 416.90 (Individual)
<input type="checkbox"/> FC 2062 (Employee Benefit Plan) |
|--|--|

- d. By personal delivery on (*date*):



PROOF OF SERVICE—SUMMONS (JOINDER)
(Use separate proof of service for each person served)

1. I served the

a. *Summons and* (1) *Request for Joinder of Employee Benefit Plan and Order, Pleading on Joinder-Employee Benefit Plan, blank Notice of Appearance and Response of Employee Benefit Plan*

(2) *Notice of Motion and Declaration for Joinder* (3) *Order re Joinder*

(4) *Pleading on Joinder* (specify title):

(5) *Other:*

b. On *(name of party or claimant):*

c. By serving (1) *Party or claimant.* (2) *Other (name and title or relationship to person served):*

d. *By delivery at* *home* *business* (1) *Date of:*
(2) *Time of:* (3) *Address:*

e. *By mailing* (1) *Date of:* (2) *Place of:*

2. Manner of service: *(check proper box)*

a. **Personal service.** By personally delivering copies. (CCP 415.10)

b. **Substituted service on corporation, unincorporated association (including partnership), or public entity.** By leaving, during usual office hours, copies in the office of the person served with the person who apparently was in charge and thereafter mailing (by first-class mail, postage prepaid) copies to the person served at the place where the copies were left. (CCP 41 5.20(a))

c. **Substituted service on natural person, minor, incompetent, or candidate.** By leaving copies at the dwelling house, usual place of abode, or usual place of business of the person served in the presence of a competent member of the household or a person apparently in charge of the office or place of business, at least 18 years of age, who was informed of the general nature of the papers, and thereafter mailing (by first-class mail, postage prepaid) copies to the person served at the place where the copies were left. (CCP 415.20(b)) **(Attach separate declaration or affidavit stating acts relied on to establish reasonable diligence in first attempting personal service.)**

d. **Mail and acknowledgment service.** By mailing (by first-class mail or airmail) copies to the person served, together with two copies of the form of notice and acknowledgment and a return envelope, postage prepaid, addressed to the sender. (CCP 415.30) **(Attach completed acknowledgment of receipt.)**

e. **Certified or registered mail service.** By mailing to address outside California (by registered or certified airmail with return receipt requested) copies to the person served. (CCP 415.40) **(Attach signed return receipt or other evidence of actual delivery to the person served.)**

f. *Other (specify code section):*
 Additional page is attached.

3. The notice to the person served (item 3 on the copy of the summons served) was completed as follows (CCP 412.30, 415.10, and 474):

a. *As an individual.*

b. *As the person sued under the fictitious name of:*

c. *On behalf of:*

Under: CCP 416.10 (Corporation)
 CCP 416.20 (Defunct Corporation)
 CCP 416.40 (Association or partnership)

CCP 416.60 (Minor)
 CCP 416.70 (Incompetent)
 CCP 416.90 (Individual)
 FC 2062 (Employee Benefit Plan)

d. *By personal delivery on (date):*

4. At the time of service I was at least 18 years of age and not a party to this action.

5. Fee for service: \$

6. Person serving

a. *Not a registered California process server.*

b. *Registered California process server.*

c. *Exempt from registration under Bus. & Prof. Code 22350(b).*

d. *California sheriff, marshal, or constable.*

e. *Name, address, telephone number, and, if applicable, county of registration and number:*

I declare under penalty of perjury that the foregoing is true and correct and that this declaration is executed on *(date):* _____ at *(place):* _____, California.

(For California sheriff, marshal, or constable use only)
I certify that the foregoing is true and correct and that this certificate is executed on *(date):* _____ at *(place):* _____, California.

(Signature)

(Signature)

ATTORNEY OR PARTY WITHOUT ATTORNEY (<i>Name, state bar number, and address</i>): TELEPHONE NO.: _____ FAX NO. (<i>Optional</i>): _____ E-MAIL ADDRESS (<i>Optional</i>): _____ ATTORNEY FOR (<i>Name</i>): _____	FOR COURT USE ONLY
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
MARRIAGE OF PETITIONER: RESPONDENT:	
CLAIMANT:	CASE NUMBER:
PLEADING ON JOINDER—EMPLOYEE BENEFIT PLAN	

TO THE CLAIMANT: You have been joined as a party claimant in this proceeding because an interest is claimed in the employee benefit plan that is or may be subject to disposition by this court. The party who obtained the order for your joinder declares:

1. Information concerning the employee covered by the plan:

- a. Name:
- b. Employer (*name*):
- c. Name of labor union representing employee:
- d. Employee identification number:
- e. Other (*specify*):

2. Petitioner's

- a. Attorney (*name, address, and telephone number*):

- b. Address and telephone number, if unrepresented by an attorney:

3. Respondent's

- a. Attorney (*name, address, and telephone number*):

- b. Address and telephone number, if unrepresented by an attorney:

PETITIONER: _____ RESPONDENT:	CASE NUMBER:
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4. Petition for dissolution and response states

- a. Date of marriage:
- b. Date of separation:

5. Response states

- a. Date of marriage:
- b. Date of separation:

6. Judgment

- a. has not been entered
- b. was entered on *(date)*:
 - (1) and disposes of each spouse's interest in the employee benefit plan.
 - (2) and does not dispose of each spouse's interest in the employee benefit plan.

7. The following relief is sought:

- a. An order determining the nature and extent of both employee and nonemployee spouse's interest in employee's benefits under the plan.
- b. An order restraining claimant from making benefit payments to employee spouse pending the determination and disposition of nonemployee spouse's interest, if any, in employee's benefits under the plan.
- c. An order directing claimant to notify nonemployee spouse when benefits under the plan first become payable to employee.
- d. An order directing claimant to make payment to nonemployee spouse of said spouse's interest in employee's benefits under the plan when they become payable to employee.
- e. Other *(specify)*:

f. Such other orders as may be appropriate.

Dated: _____

 (SIGNATURE OF ATTORNEY FOR)

 PETITIONER RESPONDENT

 (TYPE OR PRINT NAME)

JOINDER OF EMPLOYEE PENSION PLAN

INFORMATION FOR SERVICE OF PROCESS ON THE PLAN

1. You may not serve your own documents. Someone who is over 18 years old and not a party to the case must serve the documents for you and complete the Proof of Service of Summons (Joinder) on the back of the Summons (Joinder) (FL-375.)
2. Include a Notice and Acknowledgement of Receipt –Civil (POS-015) so the plan can accept service of the documents. The person who serves the documents on the plan signs the Notice and Acknowledgement of Receipt.
3. The person who serves the documents mails a copy of each of the following filed forms to the plan:
 - Request for Joinder of Employee Benefit Plan and Order (FL-372)
 - Pleading on Joinder – Employee Benefit Plan (FL-370)
 - Notice of Appearance and Response of Employee Benefit Plan (FL-374) – serve a BLANK copy
 - Copy of Summons (Joinder) (FL-375). The person who mails the documents to the Plan must complete Proof of Service of Summons (Joinder) on page 2 of the Summons (Joinder) (FL-375) and include a copy in the packet of forms to be served on the plan. **Do not serve the original Summons on the plan.**
 - Notice and Acknowledgement of Receipt –Civil (POS-015)
4. After the documents are mailed, file the original Summons (Joinder) (FL-375).

ATTORNEY OR PARTY WITHOUT ATTORNEY <i>(Name, State Bar number, and address):</i> <hr/> TELEPHONE NO.: _____ FAX NO. <i>(Optional)</i> : _____ E-MAIL ADDRESS <i>(Optional)</i> : _____ ATTORNEY FOR <i>(Name)</i> : _____	FOR COURT USE ONLY
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
PLAINTIFF/PETITIONER: DEFENDANT/RESPONDENT:	
NOTICE AND ACKNOWLEDGMENT OF RECEIPT—CIVIL	CASE NUMBER:

TO *(insert name of party being served)*: _____

NOTICE

The summons and other documents identified below are being served pursuant to section 415.30 of the California Code of Civil Procedure. Your failure to complete this form and return it within 20 days from the date of mailing shown below may subject you (or the party on whose behalf you are being served) to liability for the payment of any expenses incurred in serving a summons on you in any other manner permitted by law.

If you are being served on behalf of a corporation, an unincorporated association (including a partnership), or other entity, this form must be signed by you in the name of such entity or by a person authorized to receive service of process on behalf of such entity. In all other cases, this form must be signed by you personally or by a person authorized by you to acknowledge receipt of summons. If you return this form to the sender, service of a summons is deemed complete on the day you sign the acknowledgment of receipt below.

Date of mailing:

_____ _____
(TYPE OR PRINT NAME) (SIGNATURE OF SENDER—MUST NOT BE A PARTY IN THIS CASE)

ACKNOWLEDGMENT OF RECEIPT

This acknowledges receipt of ***(to be completed by sender before mailing)***:

1. A copy of the summons and of the complaint.
2. Other *(specify)*:

(To be completed by recipient):

Date this form is signed:

_____ _____
(TYPE OR PRINT YOUR NAME AND NAME OF ENTITY, IF ANY, ON WHOSE BEHALF THIS FORM IS SIGNED) (SIGNATURE OF PERSON ACKNOWLEDGING RECEIPT, WITH TITLE IF ACKNOWLEDGMENT IS MADE ON BEHALF OF ANOTHER PERSON OR ENTITY)