

PETITIONER: RESPONDENT:	CASE NUMBER:
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APPLICATION FOR SEPARATE TRIAL    OR     RESPONSE TO APPLICATION FOR SEPARATE TRIAL

Attachment to     **Notice of Motion (form FL-301)**     **Responsive Declaration to Order to Show Cause or Notice of Motion (form FL-320)**

1. I am the  petitioner  respondent, and  request  oppose the request that the court sever (bifurcate) and grant an early and separate trial on the following issue or issues:

- a.  Permanent custody and visitation of the children of the marriage
- b.  Date of separation of the parties
- c.  Alternate valuation date for property
- d.  Validity of agreement entered into before or during the marriage or domestic partnership
- e.  Dissolution of the status of the marriage or domestic partnership
  - (1) I will serve with this application or response my preliminary *Declaration of Disclosure* (form FL-140) and completed *Schedule of Assets and Debts* (form FL-142) and *Income and Expense Declaration* (FL-150) unless they have been previously served or the parties have stipulated in writing to defer service.
  - (2) All pension or retirement plans in which the community has an interest are listed below or on attachment 1e(2):

(3) All pension or retirement plans listed in 1e(2) have been joined as a party to this proceeding, unless joinder is precluded or made unnecessary as a matter of law. (*See Retirement Plan Joinder—Information Sheet* (form FL-318-INFO) to determine if a joinder is required.)

(4) I understand that the court may make the orders specified or requested on pages 2 and 3 if the motion is granted to bifurcate the status of the marriage and the marriage is ended.

(5)  I request that the court make the orders indicated on pages 2 and 3 and any attachments.

*NOTE: A request for an early termination of your marital or partnership status may have a significant impact on your rights or responsibilities in your case. If you do not understand this form, you should speak with an attorney.*

f.  Other (specify):

2. a.  I request that the court conduct this separate trial on the hearing date.

b.  I will, at the hearing, ask the court to set a date for this separate trial.

3. The reasons in support of this request are (specify):

Memorandum attached.     Supporting declarations attached.

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4. Conditions relating to bifurcation of the status of the marriage or partnership:

- a. I understand that the court must enter an order to preserve the claims of each spouse or domestic partner in all retirement plan benefits upon entry of judgment granting a dissolution of the status of the marriage or domestic partnership.
- b. I request that the court order the following as a condition of granting the bifurcation and ending the marriage upon an early and separate trial:

**Division of property**

- (1)  The  petitioner  respondent and his or her estate must indemnify and hold me harmless from any taxes, reassessments, interest, and penalties that I have to pay in connection with the division of the community estate that I would not have had to pay if we were still married or in a domestic partnership at the time the division was made.

**Health insurance**

- (2)  Until a judgment has been entered and filed on the remaining issues, the  petitioner  respondent must maintain all existing health and medical insurance coverage for me and any minor children as named dependents as long as he or she is eligible to do so. If at any time during this period, he or she is not eligible to maintain that coverage, he or she must, at his or her sole expense, provide and maintain health and medical insurance coverage that is comparable to the existing health and medical insurance coverage to the extent it is available.

To the extent that coverage is not available, the  petitioner  respondent must be responsible to pay, and demonstrate to the court's satisfaction the ability to pay, for health and medical care for me and the minor children to the extent that care would have been covered by the existing insurance coverage but for the dissolution of marital status or domestic partnership, and must otherwise indemnify and hold me harmless from any adverse consequences resulting from the loss or reduction of the existing coverage.

**Probate homestead**

- (3)  Until a judgment has been entered and filed on all remaining issues, the  petitioner  respondent must indemnify and hold me harmless from any adverse consequences if the bifurcation results in a termination of my right to a probate homestead in the residence in which I am residing at the time the severance is granted.

**Probate family allowance**

- (4)  Until a judgment has been entered and filed on all remaining issues, the  petitioner  respondent must indemnify and hold me harmless from any adverse consequences if the bifurcation results in the loss of my right to a probate family allowance as the surviving spouse or surviving domestic partner.

**Retirement benefits**

- (5)  Until a judgment has been entered and filed on all remaining issues, the  petitioner  respondent must indemnify and hold me harmless from any adverse consequences if the bifurcation results in the loss of my rights with respect to any retirement, survivor, or deferred compensation benefits under any plan, fund, or arrangement, or to any elections or options associated those benefits, to the extent that I would have been entitled to those benefits or elections as the spouse or surviving spouse or the domestic partner or surviving domestic partner.

**Social security benefits**

- (6)  The  petitioner  respondent must indemnify and hold me harmless from any adverse consequences if the bifurcation results in the loss of rights to social security benefits or elections to the extent that I would have been entitled to those benefits or elections as the surviving spouse or surviving domestic partner.

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**Beneficiary designation—nonprobate transfer**

- (7)  The  petitioner  respondent must maintain the beneficiary designation specified for each Nonprobate Transfer Asset (Probate Code section 5000) identified on the attached list in the percentage indicated. *(See attachment 7 (not a form) which lists each asset and proposed percentage.)* This designation must stay in effect until judgment has been entered with respect to the community ownership of that asset and until my interest in it has been distributed to me.

**Individual Retirement Accounts**

- (8)  To preserve the ability of the nonowner to defer the distribution of an Individual Retirement Account or (IRA) Annuity upon the death of the owner, the court should make the attached orders assigning and transferring the community interest of  petitioner  respondent in each listed IRA to that party. *(See attachment 8 (not a form) which lists names of IRAs, account numbers and amount to be awarded.)*

**Enforcement of community property rights**

- (9)  Because it will be difficult to enforce either of our community property rights if one of us dies before the division and distribution or compliance with any court-ordered payment of any community property interest, the court should make the attached order to provide enforcement security for  petitioner  respondent. *(See attachment 9 (not a form) which specifies the security interest to be ordered as provided by Family Code section 2337(c)(9).)*

**Other conditions that are just and equitable**

- (10)  The court makes the following additional orders:

5. Number of pages attached after this page: \_\_\_\_\_

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

Date:

\_\_\_\_\_  
 (TYPE OR PRINT NAME)

▶

\_\_\_\_\_  
 (SIGNATURE OF DECLARANT)