

CAO FL INSTRUCTION 3-3
FAMILY CASE RESPONSE (WITH CHILDREN)

Talk to an attorney, if possible.

WARNING: These instructions are not a substitute for legal advice. The laws and court rules are complex. Following these instructions will not guarantee you get what you want. We always recommend you talk to a lawyer about your problem before filing your paperwork. If you cannot afford to hire an attorney to represent you, you may be able to pay a lawyer to give you advice and review your paperwork for a lower cost. Contact the Idaho State Bar Lawyer Referral Service (208-334-4500) for the name of an attorney in your area who will provide an initial half-hour consultation for \$35. Contact the Court Assistance Office for information about resources for low-income people, or visit the Idaho Supreme Court's Self-Help Center at <http://www.courtselfhelp.idaho.gov/>.

You will be signing a sworn statement that you have read the Response, know what it says and believe it's true. Be sure to read the entire completed form.

You may be responding to (answering) a Complaint, Petition, Motion to Modify, or a document with some other name. The procedure for responding is the same. To simplify these instructions, the term "Petition" refers to the document you are answering.

If you want other things not requested in the Petition, you will need to file a Response and Counterclaim. You will not use this form.

Fill in the forms by typing or by printing neatly and legibly in **black ink**. Fill in "N/A" or "none" if a section doesn't apply. The documents have a boldface "**or**" at the start of optional sections. If the section does not contain a boldface "**or**" it is necessary and you should fill in the appropriate information (which might be the word "none"). Always keep a copy of the completed form for your records.

At the top left-hand corner of page 1, fill in your full legal name, mailing address and telephone number.

The Court Heading. Fill in the county and judicial district in the court heading the same way they are on the Petition you were served.

The Caption. Fill in the names of Petitioner and Respondent exactly as they are in the Petition.

The Case No. Write in the case number shown on the Petition.

The **Court Heading, Caption** and **Case Number** will be the same on all documents you prepare for this case.

Review the Petition carefully. You must admit or deny each paragraph in the Petition individually, using paragraphs 1-5 of the Response form. If you only agree with some of the facts in any paragraph, you must state specifically which facts you admit and which facts you deny. There is a **prayer** portion of the Petition that you do not have to specifically answer. It usually starts with "Wherefore Petitioner prays for judgment as follows:" You **do not** have to respond to any of the numbered paragraphs in the prayer of the Petition.

After filling in your name, complete the next blank by filling in the name of the document you are answering.

Note: There are several options for answering the document.

Paragraph 1: Decide the numbered Petition paragraphs you completely agree with. Fill in those paragraph numbers, letters, or Roman numerals (as used in the Petition). If you can only admit some of the facts in any numbered paragraph, you must use paragraphs 2 and 3.

Paragraphs 2 & 3: If you disagree with only a portion of a paragraph in the Petition, state the paragraph number, letter or Roman numeral (as used in the Petition) plus specifically what you admit.

Paragraph 4: Decide the paragraphs of the Petition you don't have enough information to answer. Fill in those paragraph numbers, letters, or roman numerals (as used in the Petition). If the information is something you can easily find out, you should try to find out before you deny it.

Paragraph 5 is a general denial of any statements made in the Petition that you did not specifically admit.

Paragraph 6 is where you list information about the minor children involved in the case.

Paragraph 7 is for listing the places the child/ren has lived for the past 5 years, plus anyone a child has lived with.

Paragraphs 8-10 are where you let the court know if there are other court cases involving the children, or other people who claim rights with the children.

Paragraph 11 gives you the option of asking that the Petition be dismissed. Check the box if that is what you want.

Affirmative Defense(s) Paragraph: Rule 208(C) I.R.F.L.P. lists the following affirmative defenses: accord and satisfaction, arbitration and award, assumption of risk, contributory or comparative negligence, discharge in bankruptcy, duress, estoppel, failure of consideration, fraud, illegality, injury by fellow servant, laches, license, payment, release, res judicata, statute of frauds, statute of limitations, waiver and any other matter constituting an avoidance or affirmative defense. You can use a legal dictionary to find out what the terms mean. You should talk to an attorney to determine whether any of these affirmative defenses are available to you. Fill in those affirmative defenses that apply to your case, listing each as a separate numbered paragraph.

Locate a Notary Public who can watch you sign the Response. Sign the Response and have your signature notarized.

Certificate of Service:

- Fill in the name and address for each other party or his/her attorney. (This information appears in the upper left corner of page one of the Petition.) You are required to deliver a copy of any document you file in this case to each party (or her/his attorney if s/he is

represented by an attorney). When the other party has already "appeared" in the case by filing the Petition, you can serve him/her your response by mailing, hand-delivery or fax. If you are going to serve the Response by fax or personal delivery, write in the address you will use.

- Check the box to indicate how you are getting a copy to each other party or his/her attorney.
- Fill in the date and sign the Certificate of Service.

NOTE: Every time you file a document in this case you must send a copy to each other party or parties (if there are more than two parties to the case), either directly or through the attorney if s/he has an attorney. You must also file a Certificate of Service indicating how you furnished the copy. You can include the Certificate of Service with any document, or file a completely separate Certificate of Service (which you would also copy to each other party.

Make the copies you need: one for yourself and one for each other party.

Serve the person(s) named by the method specified in your Certificate of Service.

File your Response. Take the original (the one you signed) and your copy, with the required filing fee, to the court clerk. The original will be kept in the court's file and you can ask that the clerk conform your copy. (See CAO D Instruction 3-1, Responding to Divorce Petition).