



SUPERIOR COURT OF CALIFORNIA
COUNTY OF AMADOR

GRANDPARENT VISITATION

Only visitation orders can be obtained with the filing of a **Complaint for Grandparent Visitation**. This packet will not give you “custody”. You can seek grandparent visitation if you are the natural or adoptive grandparents or great grandparents of the child(ren), and you want to get a court order allowing you visitation with the child(ren).

A grandparent may petition for visitation with his or her grandchild(ren) when one or both parents are not allowing any visitation to occur. There are two ways for this to occur:

- (1) If there is an existing family law case, the grandparent must join that action; or
- (2) If there is no open family law action, the grandparent may file a Complaint for grandparent visitation. Both procedures are discussed herein. Only visitation orders can be made using either process. If a grandparent wishes to obtain custody of a grandchild, a guardianship action may be a more appropriate course of action. Parties are encouraged to consult an attorney or the self-help center if custody of a grandchild is desired.

HOW TO FILE A PETITION FOR VISITATION

The action may be filed in Amador County if the child resides in Amador County and has resided here for at least six (6) months. If the child does not reside in Amador County or has not lived in Amador County the full six (6) months, Amador County does not have jurisdiction over the action. In that case, the action must be filed where the child resides.

If Amador County is the proper Court, then the following forms will need to be completed and filed with the Court:

- (1) **Summons (FL-210)** (2 copies of the form are required)
- (2) **Petition for Grandparent Visitation (Local Form FCS-081)**
- (3) **Order to Show Cause (FL-300)**
- (4) **UCCJEA Declaration (FL-105)**
- (5) **Income and Expense Declaration (FL-150)** (*If applicable. See Income and Expense Declaration below*)

In completing the above paperwork, please note that you will be the “petitioner” and the parents of the grandchild will be the “respondent.”

The **Summons and Petition** will open a new Court case. However, in order to have the matter heard by a judge, you must complete and file the **Order to Show Cause packet**.

The **Order to Show Cause** will result in a hearing date being set. At that hearing, the judge will decide whether visitation is appropriate. Please follow the instructions on the Order to Show Cause forms. If you need assistance in completing the forms, you may wish to consult with an attorney or with the self-help center. The **UCCJEA Declaration** must be filed with the Order to Show Cause form.

An **Income and Expense Declaration** is required if you cannot afford to pay for the travel and the other costs associated with visitation. You may ask the Court to order the parents to pay for the travel expense and other costs at the Order to Show Cause Hearing. A request for travel and other costs associated with the visitation must be made on the OSC form. The **Income and Expense Declaration (FL-150)** must be filed at the same time you file the rest of your documents for Grandparent Visitation.

Filing Your Petition and Fees

Take all of the completed forms, packets and copies to the Clerk's Office, 500 Argonaut Lane. The Clerk's Office hours are from 9:30 am-4:00 pm, Monday-Friday. You will need to bring the original completed forms and three (3) copies with you. You will need three (3) copies, so you can serve a copy on each parent and keep a copy for yourself.

You will be asked to pay a filing fee at the time of filing. If you cannot afford the filing fees, you may be able to have your filing fees waived by the Court. To learn more about Fee Waiver guidelines and waiving Court cost and fees, please ask the clerk for a fee waiver application packet.

Serving the Documents

Once the Clerk's Office has filed stamped the documents, and assigned a hearing date, you must personally serve copies of the **Summons, Complaint for Grandparent Visitation, Order to Show Cause the UCCJEA Declaration, and Income and Expense Declaration** (*if applicable*), on the parents. The documents must be served by someone, other than you, who is not a party to the action and is over the age of eighteen. You must have the person serving the documents complete a **Proof of Service** form. You will file the Proof of Service form with the Court. When serving the Order to Show Cause, you must include blank copies of **Responsive Declaration to Order to Show Cause** and a **Proof of Service**.

HOW TO FILE A PETITION FOR JOINDER:

A petition for joinder is used when a grandparent wishes to participate in an existing family law case in order to obtain custody or visitation orders.

In order to complete a petition for joinder, you will need to file the following forms:

- (1) Summons (Joinder) (FL-375)**
- (2) Petition for Joinder (Local Form FCS-080)**
- (3) Notice of Motion and Declaration for Joinder (FL-371)**
- (4) Proof of Service by Mail (FL-335)**
- (5) Proof of Personal Service (FL-330)**

You will need to find out the case information for the case you are attempting to join. You may find the party and case information on the Court's website, by calling the Court during business hours, or by coming to the Courthouse in person. Some cases, such as paternity cases are confidential. If you wish to join a confidential case, you must obtain the information pertaining to the case from a party, i.e. the parents of the child.

You will be referred to as the "claimant" in all of the joinder paperwork.

The **Notice of Motion and Declaration for Joinder** is essential to your request, as it basis for the Court to determine whether joinder is necessary. Make sure and answer the questions on the form as thoroughly as possible so the Court has as much information as possible before it when considering your request.

There is a two step process involved in having your request for visitation heard.

- (1) You must file a Notice of Motion and Declaration for Joinder. Take your completed Motion to the Clerk's Office for filing. You will need an original and three (3) copies, one copy to keep and a copy to serve on each parent. When you take your paperwork to the clerk's office, you must ask the clerk for a hearing on your Motion for Joinder. Once you file your motion and obtain a hearing date, you must have someone else, who is over the age of eighteen and not a party to this action, serve the motion by mail on the parties. You must include a blank Responsive Declaration to Motion for Joinder, blank Proof of Service by Mail, and Mediation Notice with your paperwork. The person serving the documents must complete a Proof of Service as to each party served. These Proofs of Service are then filed with the Court. You then must attend the hearing date on your Motion. At the hearing, the Court will determine whether you should be allowed to join the case.

- (2) If your Motion is granted, the Court will file your Summons and Complaint for Joinder. You must have the parties served personally with the Summons and Petition for Joinder. Again, have a person who is not a party to the action and over the age of eighteen serve the paperwork. They must complete a Proof of Service for each person served, which is then filed with the Court. Once the Proofs of Service are filed, you are officially a party to the action and may file paperwork, attend hearings and mediations, and otherwise participate in the action.