

**OFFICIAL FORM APPLICATION AND ORDER FOR
APPOINTMENT OF GUARDIAN AD LITEM—CIVIL (CIV-010)**

**Cal. Civ. Proc. Before Trial Ch. 2 ¶2:80 ff.—Capacity to Sue
Cal. Civ. Proc. Before Trial ¶2:85 ff.—Procedure for Appointment of
Guardian Ad Litem**

ATTORNEY OR PARTY WITHOUT ATTORNEY NAME: Anna Maria Ortiz FIRM NAME: Wilkes, Chu & Ortiz STREET ADDRESS: 3344 Morton Street, Suite 200 CITY: Atlantis TELEPHONE NO.: (777) 687-6868 EMAIL ADDRESS: wilkeschuortiz@server.net ATTORNEY FOR (name): Plaintiffs		STATE BAR NUMBER: 233233 STATE: CA ZIP CODE: 98988 FAX NO.: (777) 687-6869	CIV-010/FL-935 FOR COURT USE ONLY CASE NUMBER: CIV 54321
SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN SIMEON STREET ADDRESS: 5566 Main Street MAILING ADDRESS: P.O. Box 555 CITY AND ZIP CODE: Atlantis, CA 98989 BRANCH NAME:			
PLAINTIFF/PETITIONER: Margaret Portman, et al. DEFENDANT/RESPONDENT: Dante Divine, et al. OTHER PARENT/PARTY: Ralph Portman as Guardian ad Litem for Priscilla Portman			
APPLICATION FOR APPOINTMENT OF GUARDIAN AD LITEM—CIVIL AND FAMILY LAW ☒ EX PARTE			
<i>This form is for use in a civil or family law proceeding in which a party is a minor, a person who lacks legal capacity to make decisions, or a person for whom a conservator has been appointed. A person who seeks the appointment of a guardian ad litem in a proceeding under the Probate Code—other than a proceeding under Probate Code sections 3500–3613 for approval of a compromise, settlement, or disposition of judgment proceeds—should use form DE-350/GC-100. NOTE: A person may not act as a guardian ad litem unless the person is represented by an attorney, is an attorney, or, in an action under the Uniform Parentage Act (Family Code, §§ 7600–7730), is an adult relative of a minor party.</i>			

- I (applicant's name): Margaret Portman
am (check all that apply):
 - ☒ the parent of (name): Priscilla Portman
 - ☐ the guardian of (name):
 - ☐ the conservator of (name):
 - ☒ a party to the suit.
 - ☐ the minor to be represented (if the minor is 14 years of age or older).
 - ☐ another interested person (specify capacity):
 - I am asking the court to appoint the following person as guardian ad litem (name, address, phone number, and email address):
 Ralph Portman
 1919 S. Elm Street, Atlantis, CA 98988
 (777) 554-5544
 - The guardian ad litem will represent the interest of (name, address, and, if applicable, phone number and email address):
 Priscilla Portman
 1919 S. Elm Street, Atlantis, CA 98988
 (777) 554-5544
 - The person named in item 3 is a party and is (check all that apply):
 - ☒ a minor (date of birth): March 24, 20XX
 - ☐ a person who lacks legal capacity to make decisions (explain the basis for claiming lack of capacity):
- ☐ Continued on Attachment 4b.
- ☐ a person for whom a conservator has been appointed (provide the details of the appointment):

☐ Continued on Attachment 4c.

[FORM 2:1]

CIV-010/FL-935

PLAINTIFF/PETITIONER: Margaret Portman, et al. DEFENDANT/RESPONDENT: Dante Divine, et al. OTHER PARENT/PARTY: Ralph Portman as Guardian ad Litem for Priscilla Portman	CASE NUMBER: CIV 54321
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5. ☒ The person named in item 3 is a minor and is *(check one)*:
- a. ☒ a plaintiff or petitioner in this action and the summons has not been issued.
- b. ☐ a defendant or respondent in this action. More than 10 days have passed since service of the summons, and no one has applied for the appointment of a guardian ad litem.
6. I am asking the court to appoint a guardian ad litem because the person named in item 3 *(check all that apply)*:
- a. ☐ is a minor who is a party to an action under the Uniform Parentage Act (Family Code, §§ 7600–7730).
- b. ☐ is a minor who is requesting or opposing a request for an injunction or restraining order described in Code of Civil Procedure sections 372(b)(1) and 374(a). *(If the minor is 12 years of age or older, check one of the following):*
The minor ☐ does ☐ does not object to the appointment of the person named in item 2.
☐ I don't know whether the minor objects to the appointment of the person named in item 2.
- c. ☒ has no guardian or conservator of the estate.
- d. ☐ has a guardian or conservator of the estate, but the guardian or conservator is inadequate to represent the person's interest in this action or proceeding because *(explain)*:

☐ Continued on Attachment 6d.
The guardian or conservator of the estate is *(name, address, telephone number, and email address)*:

(After filing this application, you must give notice and a copy of the application to the guardian or conservator above.)

7. The proposed guardian ad litem is fully competent and qualified to understand and protect the rights of the person named in item 3.

Anna Maria Ortiz
(TYPE OR PRINT NAME) (SIGNATURE OF ATTORNEY)

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

Date: April 10, 20XX

Margaret Portman
(TYPE OR PRINT NAME) (SIGNATURE OF APPLICANT)

DISCLOSURES AND CONSENT TO ACT AS GUARDIAN AD LITEM

8. I have the following relationship with the person named in item 3 *(check one)*:
- a. ☐ No relationship
- b. ☒ A familial relationship *(specify):* father
- c. ☐ An affiliate (nonfamilial) relationship *(specify)*:
9. I am *(check one)*:
- a. ☒ not aware of any actual or potential conflicts of interest that would or might arise from the appointment.
- b. ☐ aware of the following actual or potential conflicts that would or might arise from the appointment *(describe the actual or potential conflicts of interest and explain why the proposed guardian should still be appointed)*:

☐ Continued on Attachment 9b.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. I consent to act as guardian ad litem in this action or proceeding. If I become aware that a potential conflict of interest has become an actual conflict, or that a new potential or actual conflict exists, I will promptly disclose the conflict of interest to the court.

Date: April 10, 20XX

Ralph Portman
(TYPE OR PRINT NAME) (SIGNATURE OF PROPOSED GUARDIAN AD LITEM)

CIV-010/FL-935 [Rev. January 1, 2024]

APPLICATION FOR APPOINTMENT OF
GUARDIAN AD LITEM—CIVIL AND FAMILY LAW

Page 2 of 2

**MOTION TO DISMISS FOR FAILURE TO JOIN
INDISPENSABLE PARTY AND PROPOSED ORDER DISMISSING
ACTION**

Cal. Civ. Proc. Before Trial Ch. 2 ¶2:150 ff.—Joinder of Parties Cal. Civ. Proc. Before Trial ¶2:188 ff.—Motion to Dismiss Cal. Civ. Proc. Before Trial Ch. 9(l) ¶9:19 ff.; 9:28 ff.—Rules Governing Form and Content of Motion Papers

[Name; state bar number]
[Firm name]
[Firm address]
[City; State; Zip Code]
[Telephone number/Fax number]
[Email address]

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF _____**

_____	)	CASE NO. _____
_____	)	
_____	)	NOTICE OF MOTION AND MOTION
Plaintiff(s),	)	TO DISMISS FOR FAILURE TO
vs.	)	JOIN INDISPENSABLE PARTY;
_____	)	MEMORANDUM IN SUPPORT; AND
_____	)	DECLARATION OF _____
_____	)	Hearing Date/Time: _____
Defendant(s)	)	Dept. No. _____
_____	)	Hearing Judge: _____ [if known]
_____	)	Date action filed: _____
_____	)	Trial date: _____ [if set]

**TO EACH PARTY AND TO COUNSEL OF RECORD FOR EACH
PARTY:**

YOU ARE HEREBY NOTIFIED THAT on [date] at [time], in Department [number] of this Court located at [address], defendant(s) [name(s)] will move the Court, pursuant to the provisions of Code of Civil Procedure §389(a), for an order dismissing the action for failure to join [name] as a party in this action. This motion is made on the ground that [state basis for joinder, e.g., [name] is an indispensable party to this action in that complete relief cannot be accorded to the existing parties in his absence] [and/or e.g., [name] is an indispensable party in that any judgment issued in the absence of [name] will expose this moving defendant to a substantial risk of additional liability.]

[FORM 2:2]

This motion will be based upon this notice, the memorandum [attached] [or] [filed herewith], the declaration of [name], the files and records in this action, and any further evidence and argument that the Court may receive at or before the hearing.

Date: _____

[Firm name]

By _____

[Attorney name]

Attorneys for _____

Prepare and file **MEMORANDUM IN SUPPORT OF MOTION FOR ORDER TO DISMISS ACTION FOR FAILURE TO JOIN INDISPENSABLE PARTY**

Cal. Civ. Proc. Before Trial Ch. 9 ¶9:64 ff. – Points and authorities

Prepare and file **DECLARATION OF [name of declarant] IN SUPPORT OF MOTION FOR ORDER TO DISMISS ACTION FOR FAILURE TO JOIN INDISPENSABLE PARTY**

Cal. Civ. Proc. Before Trial Ch. 9 ¶9:46 ff. – Form of Declarations

Cal. Civ. Proc. Before Trial Ch. 10 ¶10:107 ff. – Declarations

¶—. *[State capacity of declarant, e.g., I am the attorney for defendant Oscar Du Pont. Add recital indicating personal knowledge, e.g., and I have personal knowledge of each fact stated in this declaration.]*

¶—. *Plaintiff has sued defendant Du Pont for dissolution of a partnership. The partnership was formed in 20XX by plaintiff, defendant and John Jones. Jones has not been named in this action and defendant cannot secure Jones's presence in this action because he is not subject to service of process in this state.*

¶—. *If this action is adjudicated in the absence of Jones, complete relief cannot be accorded to the existing parties and there is a significant risk that defendant [name] will be exposed to inconsistent obligations.*

¶—. *[If defendant wants the action to proceed to adjudication consider adding the following:] I am informed and believe and on that basis state that John Jones is subject to personal jurisdiction in the State of Nevada. This is based upon my investigation of Jones's property and business holdings. Defendant would agree to be subject to special jurisdiction in Nevada for the sole purpose of adjudicating the dissolution of the partnership.*

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

Date: _____

[Name of declarant]

[Name; state bar number]
 [Firm name]
 [Firm address]
 [City; State; Zip Code]
 [Telephone number/Fax number]
 [Email address]

Attorneys for _____

SUPERIOR COURT OF THE STATE OF CALIFORNIA
 COUNTY OF _____

_____	)	CASE NO. _____
	)	
	)	[PROPOSED] ORDER
	)	DISMISSING ACTION
Plaintiff(s),	)	WITHOUT PREJUDICE
	)	FOR FAILURE TO
vs.	)	JOIN INDISPENSABLE
	)	PARTY
_____	)	
	)	
Defendant(s).	)	
	)	
_____	)	

The motion of defendant(s) [name(s)] for an order dismissing action for nonjoinder of [name] came on for hearing in Department [number] of this Court on [date]. [Name of counsel] appeared on behalf of defendant(s) [name(s)]. [Name of counsel] appeared on behalf of plaintiff(s) [name(s)].

Having read the motion, the memoranda and declarations filed by the parties, and having heard argument of counsel, this Court finds that [complete relief cannot be accorded in the absence of [name] [and/or] there is a significant risk that defendant [name] will be exposed to additional liabilities or inconsistent obligations if [name] is not joined]. The Court further finds [name] cannot be made a party to this action because [state reason, e.g., [he/she/it] is not subject to service of process in this state.]

As a matter of good conscience and equity, this action cannot proceed in the absence of [name], who is an indispensable party, and plaintiff has an adequate remedy to pursue [his] [her] claim in another forum.

IT IS THEREFORE ORDERED that this action be dismissed, without prejudice.

Date: _____

 Judge of the Superior Court

ORDER DENYING MOTION TO DISMISS

Cal. Civ. Proc. Before Trial Ch. 2 ¶2:193 ff.—Order for Dismissal Cal. Civ. Proc. Before Trial Ch. 9(l) ¶9:300 ff.—Preparation of Order Cal. Civ. Proc. Before Trial ¶9:320 ff.—Notice of Ruling Cal. Civ. Proc. Before Trial Ch. 11 ¶11:281—Procedure on Motions to Dismiss
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[Name; state bar number]
 [Firm name]
 [Firm address]
 [City; State; Zip Code]
 [Telephone number/Fax number]
 [Email address]

Attorneys for _____

SUPERIOR COURT OF THE STATE OF CALIFORNIA
 COUNTY OF _____

_____	)	CASE NO. _____
	)	
Plaintiff(s),	)	[PROPOSED] ORDER
vs.	)	DENYING MOTION
_____	)	TO DISMISS
	)	
Defendant(s).	)	
_____	)	

The motion of defendant(s) [name(s)] for an order dismissing action for nonjoinder of [name] came on for hearing in Department [number] of this Court on [date]. [Name of counsel] appeared on behalf of defendant(s) [name(s)]. [Name of counsel] appeared on behalf of plaintiff(s) [name(s)].

The court finds [name] cannot be made a party to this action because [state reason, e.g., [he/she/it] is not subject to service of process in this state.] Plaintiff would have no adequate remedy to pursue [his/her/its/their] claims if this action were dismissed for failure to join an indispensable party.

The Court further finds that, although complete relief cannot be accorded in the absence of [name], the judgment rendered will be adequate in that [state reason, e.g., the interests of [name] are contingent and relatively small in comparison to the interests of the joined parties.]

[or]

The Court further finds that, although judgment rendered in this action in the absence of [name] may expose defendant(s) to a risk of additional liability or inconsistent obligations, that risk is not substantial and the judgment will nevertheless be adequate because [state reason, e.g., the judgment can include provisional orders directed to the parties that address the relatively minor interests of [name] to further reduce the risks to defendant(s).]

[FORM 2:3]

Accordingly, as a matter of good conscience and equity, this action should be allowed to proceed in the absence of *[name]*.

IT IS SO ORDERED.

Date: _____

Judge of the Superior Court

**MOTION FOR ORDER COMPELLING JOINDER OF PARTY AND
PROPOSED ORDER**

Cal. Civ. Proc. Before Trial Ch. 2 ¶2:150 ff.—Joinder of Parties
Cal. Civ. Proc. Before Trial ¶2:190 ff.—Motion to Compel Joinder
Cal. Civ. Proc. Before Trial Ch. 9(l) ¶9:19 ff.; 9:28 ff.—Rules
Governing Form and Content of Motion Papers

[Name; state bar number]

[Firm name]

[Firm address]

[City; State; Zip Code]

[Telephone number/Fax number]

[Email address]

Attorneys for _____

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF _____**

_____	)	CASE NO. _____
	)	
Plaintiff(s),	)	NOTICE OF MOTION AND
	)	MOTION FOR ORDER
vs.	)	COMPELLING JOINDER OF
	)	PARTY; MEMORANDUM
	)	IN SUPPORT; AND
	)	DECLARATION OF _____
_____	)	Hearing Date/Time: _____
	)	Dept. No. _____
Defendant(s).	)	Hearing Judge: _____ [if known]
	)	Date action filed: _____
_____	)	Trial date: _____ [if set]

**TO EACH PARTY AND TO THE COUNSEL OF RECORD FOR EACH
PARTY:**

YOU ARE HEREBY NOTIFIED THAT on [date] at [time], in Department [number] of this Court located at [address], defendant(s) [name(s)] will move the Court, pursuant to the provisions of Code of Civil Procedure section 389 subd. (a), for an order compelling the joinder of [name] as a party in this action. This motion is made on the ground that [state basis for joinder, e.g., [name] is an indispensable party to this action in that complete relief cannot be accorded to the existing parties in his absence.] [and/or, e.g., [name] is an indispensable party in that any judgment issued in the absence of [name] will expose this moving defendant to a substantial risk of additional liability.]

[FORM 2:4]

The motion will be based upon this notice, the attached memorandum in support and declaration of [name], the files and records in this action, and any further evidence and argument that the Court may receive at or before the hearing.

Date: _____

[Firm name]

By _____

[Attorney name]

Attorneys for _____

Prepare and file **MEMORANDUM IN SUPPORT OF MOTION FOR ORDER COMPELLING JOINDER OF PARTY**

Cal. Civ. Proc. Before Trial Ch. 9 ¶9:64 ff.—Points and Authorities

Prepare and file **DECLARATION OF [name of declarant] IN SUPPORT OF MOTION FOR ORDER COMPELLING JOINDER OF PARTY**

Cal. Civ. Proc. Before Trial Ch. 9 ¶9:46 ff.—Form of Declarations

Cal. Civ. Proc. Before Trial Ch. 10 ¶10:107 ff.—Declarations

I, [name of declarant], **declare:**

[¶]—. [State capacity of declarant, e.g., *I am the attorney for defendant [name].* [or] *I am one of the defendants in this action.* Add recital indicating personal knowledge, e.g., [and] *I have personal knowledge of each fact stated in this declaration.*]

[¶]—. [State essential facts to support motion, e.g., *Plaintiff [name] and defendant [name] are partners in the professional partnership of Atlantis Dental Office. Jack Jones is an additional partner in this partnership. On [date], plaintiff filed a complaint for breach of contract, declaratory relief, dissolution of the partnership and for an accounting. Defendant [name] was sued as the sole defendant; Jones, the third partner, has not been named in this action.*]

[¶]—. *If this action is adjudicated in the absence of Jones, complete relief cannot be accorded to the existing parties and there is a significant risk that defendant [name] will be exposed to inconsistent obligations to Jones.*

[¶]—. *Jones resides in California and his joinder will not deprive the court of jurisdiction over the subject matter of this action.*

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

Date: _____

[Name of Declarant]

Cal. Civ. Proc. Before Trial Ch. 2 ¶2:192—Order Compelling Joinder
Cal. Civ. Proc. Before Trial Ch. 9(I) ¶9:300 ff.—Preparation of Order
Cal. Civ. Proc. Before Trial ¶9:320 ff.—Notice of Ruling

[Name; state bar number]
[Firm name]
[Firm address]
[City; State; Zip Code]
[Telephone number/Fax number]
[Email address]

Attorneys for _____

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF _____**

_____,) **CASE NO. _____**
)
Plaintiff(s),)
vs.) **[PROPOSED] ORDER**
) **COMPELLING JOINDER**
 _____,) **OF PARTY**
)
Defendant(s).)
 _____)

The motion of defendant(s) [name(s)] for an order compelling joinder of [name] as an indispensable party in this action came on for hearing in Department [number] of this Court on [date]. [Name of counsel] appeared on behalf of defendant(s) [name(s)]. [Name of counsel] appeared on behalf of plaintiff(s) [name(s)].

Having read the motion, the memoranda and the declarations filed by the parties, and having heard argument of counsel, this Court finds that *[complete relief cannot be accorded in the absence of [name]] [and/or] [there is a significant risk that defendant [name] will be exposed to additional liabilities or inconsistent obligations if [name] is not joined.]* Accordingly, *[name]* is an indispensable party to this action.

IT IS THEREFORE ORDERED THAT:

- 1. [Name] be made a party defendant in this action;**
- 2. Plaintiff(s) amend the complaint to include [name] as a defendant;**
- 3. Summons be issued on the amended complaint forthwith;**
- 4. [Name] be served with a copy of the summons and complaint within thirty days of notice of this order.**

Date: _____

Judge of the Superior Court