

(Firm)
BY: (Attorney) CSB#
Address XXXXXXXX
Phone XXXXXXXX
Fax XXXXXXXX

Attorney for (FATHER), FATHER

IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF X
SITTING AS THE JUVENILE COURT

In the matter of:

(MINOR)

Minor.

CASE NO.

NOTICE OF MOTION TO QUASH
NOTICE TO APPEAR;
DECLARATION; POINTS AND
AUTHORITIES

DATE: X, 2005
TIME: 1:30 P.M.
DEPT.: X

TO EACH PARTY AND THE ATTORNEY OF RECORD FOR EACH PARTY:

YOU ARE HEREBY NOTIFIED THAT on X, 2005, at 1:30 p.m. in X Department of this Court, located at X, the father, (Father) will move this court for an order quashing the Notice to Appear in this action on said father. Said motion will be made upon the ground that the Notice to Appear was not served in a timely manner. Said motion will be based on this Notice, the Points and Authorities set forth herein-below, the attached Declaration of (attorney), and the complete files and records of this action.

DATED: _____

Attorney for (FATHER)

(Firm)
BY: (Attorney) CSB#
Address XXXXXXXX
Phone XXXXXXXX
Fax XXXXXXXX

Attorney for (FATHER), FATHER

IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF X
SITTING AS THE JUVENILE COURT

In the matter of:)	CASE NO.
(MINOR))	DECLARATION OF (attorney)
Minor.)	IN SUPPORT OF
)	MOTION TO QUASH NOTICE TO
)	APPEAR
)	DATE: X, 2005
)	TIME: 1:30 P.M.
)	DEPT.: X

I, (attorney), state and declare the following:

1. I am an attorney licensed to practice law in the State of California.
2. I have been appointed to represent the father, (Father), in the above referenced juvenile dependency matter.
3. On X, 2005 my office received what appears to be a Notice to Attend prepared by counsel for the mother. This document indicates in its proof of service that it was served on X, 2005 by first class mail. Consequently this Notice to Attend is untimely.
4. Furthermore, mother's counsel has apparently attempted to serve a notice to appear on my client's, wife. In that my client's wife is not a party to this action, a notice to attend is not the appropriate method for obtaining her presence. Furthermore any such attempt on her would also be late at this time.

DATED: _____

(Attorney)
Attorney for Father

(Firm)
BY: (Attorney) CSB#
Address XXXXXXXX
Phone XXXXXXXX
Fax XXXXXXXX

Attorney for (FATHER), FATHER

IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF X
SITTING AS THE JUVENILE COURT

In the matter of:

(MINOR)

Minor.

CASE NO.

POINTS AND AUTHORITIES
IN SUPPORT OF MOTION
TO QUASH NOTICE TO
APPEAR

DATE: X, 2005
TIME: 1:30 P.M.
DEPT.:

On or about X, 2005 the mother through her counsel, ____ served what appears to be a Notice to Appear with regard to the father. This notice to appear was served by first class mail. This notice to appear is untimely. The law is clear that a Notice to Appear must be served on the attorney of record for the person or party in question at least ten days before trial (or less upon court order). California Code of Civil Procedure Section 1987(b) states as follows:

In the case of the production of a party to the record of any civil action or proceeding or of a person for whose immediate benefit an action or proceeding is prosecuted or defended or of anyone who is an officer, director, or managing agent of any such party or person, the service of a subpoena upon any such witness is not required if written notice requesting the witness to attend before a court, or at a trial of an issue therein, with the time and place thereof, is served upon the attorney of that party or person. The notice shall be served at least ten days before the time required for attendance unless the court prescribes a shorter time.

1 Counsel for the mother apparently is also attempting to serve a notice to appear
2 on the father's current wife. Since the wife is not a party to this proceeding, she is not
3 the appropriate subject of a notice to appear.

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5 As the notice to appear was filed late in this matter, it is respectfully requested
6 that the father's Motion to Quash be granted.

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8 DATED: _____

9 Attorney for (FATHER)

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26 **PROOF OF SERVICE**

27 **Case Name: IN RE: (MINOR)**

28 **Court: COUNTY SUPERIOR COURT; JUVENILE DIVISION**

Case No.:

I am a resident of the United States and of the State of California. I am employed in the County of. My business address is. My business telephone number is ; fax number is. I am over the age of eighteen years. I am not a party to the within action or proceeding. On, X, 2005, I served the following document(s):

1. **DECLARATION OF IN SUPPORT OF MOTION TO QUASH**
2. **P&A IN SUPPORT OF MOTION TO QUASH NOTICE TO APPEAR**
3. **NOTICE OF MOTION TO QUASH NOTICE TO APPEAR**

I am familiar with the practice of X for the collection and processing of correspondence for mailing with the United States Postal Service. In accordance with the ordinary course of business, the above-mentioned document(s) would have been deposited with the United States Postal Service on the same day on which it was placed at X for deposit

X by causing a true copy thereof to be delivered to the person(s) at the addresses set forth below, by and/or through the services of:

1. X FAX (Followed by First Class Mail; Rules of Court §2009 and §2010) Pursuant to Rules of Court §2009(i)(3), this document was sent by facsimile transmission and this transmission was reported as complete and without error.

COUNTY COUNSEL

ATTORNEY FOR MOTHER

ATTORNEY FOR CHILD

X by personally delivering, or causing to be delivered, a true copy thereof to the person(s) at the Courthouse in the mailbox located in Room X of the mail distribution center.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed on X, 2005 at, California.