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| --- |
| Parts of this sample form in blue print are instructions to user, not to be included in filed document unless so noted.  ***PRACTICE TIPS***  The motion must comply with the requirements of California Rules of Court, rule 8.252(a)(2) (rule) by stating:  “(A) Why the matter to be noticed is relevant to the appeal;  (B) Whether the matter to be noticed was presented to the trial court and, if so, whether judicial notice was taken by that court;  (C) If judicial notice of the matter was not taken by the trial court, why the matter is subject to judicial notice under Evidence Code section 451, 452, or 453; and  (D) Whether the matter to be noticed relates to proceedings occurring after the order or judgment that is the subject of the appeal.”  The [Fourth Appellate District Electronic Filing Guidelines](https://www.courts.ca.gov/4dca-efile.htm) require any attachments that the party seeks to make part of the appellate record to be electronically submitted as a “separate” pdf. See Special Instructions: [Additional Electronic Filing Guidelines for Submitting Documents to Court of Appeal, Fourth Appellate District](https://live-jcc-appellate.pantheonsite.io/sites/default/files/appellate/default/2023-09/4dca-efiling-additional-efiling-guidelines.pdf).  See also rule 8.252(a)(3) which states: “If the matter to be noticed is not in the record, the party must attach to the motion a copy of the matter to be noticed or an explanation of why it is not practicable to do so. The motion with attachments must comply with rule 8.74 if filed in electronic form.” |

*[Attorney’s name, bar number*

*Address and telephone number*

*Email address and fax number if available]*

Attorney for Appellant *[Client name]*

**IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA**

**FOURTH APPELLATE DISTRICT**

**DIVISION** *[NUMBER]*

|  |  |
| --- | --- |
| In re *[CHILD’S INITIALS]*,    [A] Person[s] Coming Under  The Juvenile Court Law \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  *[SPECIFIC COUNTY & AGENCY*  *TITLE]*,  Plaintiff and Respondent,  v.  *[PARENT’S INITIALS]* [Mother/Father], )  Defendant and Appellant | Court of Appeal  No. *[number]*  Superior Court  No. *[number]* |

**APPEAL FROM THE SUPERIOR COURT OF *[NAME]* COUNTY**

Honorable *[name of trial judge]*, Judge

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**APPELLANT’S REQUEST FOR JUDICIAL NOTICE**

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

TO THE HONORABLE *[NAME]*, PRESIDING JUSTICE, AND TO THE HONORABLE ASSOCIATE JUSTICES OF THE COURT OF APPEAL OF THE STATE OF CALIFORNIA, FOURTH APPELLATE DISTRICT, DIVISION *[NUMBER]*:

Under California Rules of Court, rules 8.252(b) and 8.470, appellant [mother/father], *[name]*, respectfully requests that this court take judicial notice of the following: *[specify]*. (Evid. Code, §§ 452, subd. (d)(1), 453, and 459, subd. (a).)

Code of Civil Procedure section 909 provides that in all cases where trial by jury is not a matter of right, the reviewing court may make factual determinations contrary to or in addition to those made by the trial court. In order to make factual determinations or for any other purpose in the interests of justice, the reviewing court may take additional evidence of facts occurring at any time prior to the decision on appeal. The specific factual determinations requested are as follows:

1. *[specify and cite to exhibit(s)]*.
2. *[specify and cite to exhibit(s)]*.

This request is based upon the present moving papers, the supporting

memorandum of points and authorities, the opening brief filed, and the record on appeal in this proceeding.

Dated: *[date]* Respectfully submitted,

*[Attorney’s name]*

State Bar No. *[number]*

Attorney for Appellant *[name]*

**MEMORANDUM OF POINTS AND AUTHORITIES**

**IN SUPPORT OF JUDICIAL NOTICE**

**I. Statement of Facts Supporting Judicial Notice**

*[Set forth relevant facts with citations to the record.]*

**II. Discussion**

Evidence Code section 459, subdivision (a), specifies that a reviewing court shall take judicial notice of each matter properly noticed by the trial court and each matter that the trial court was required to notice under section 451 or 453. It further provides that a reviewing court may take judicial notice of any matter specified in Evidence Code section 452. Section 452, subdivision (d)(1), permits judicial notice of the records of any court of this state.

Judicial notice should be taken of the requested document. Its inclusion in the record on appeal is necessary to the issue raised on appeal, which concerns *[describe issue]*.

California Rules of Court, rule 8.252(a)(2), requires a showing on:

(A) Why the matter to be noticed is relevant to the appeal;

(B) Whether the matter to be noticed was presented to the trial court and, if so, whether judicial notice was taken by that court;

(C) If judicial notice of the matter was not taken by the trial court, why the matter is subject to judicial notice under Evidence Code section 451, 452, or 453; and

(D) Whether the matter to be noticed relates to proceedings occurring after the order or judgment that is the subject of the appeal.

The document is relevant to the argument in that *[explain relevance]*. The discussion of the document is at pages *[insert page numbers]* of the opening brief.

The matter to be noticed *[was / was not]* presented to the trial court.  *[Cite to record, if available.]* That court *[took / did not take]* judicial notice of it. *[Cite to record, if available. If judicial notice was not taken by the trial court, explain why the matter is subject to judicial notice under Evidence Code section 451, 452, or 453.]*

The matter to be noticed *[relates /does not relate]* to proceedings that occurred after the *[judgment /order]* that is the subject of this appeal.  *[Explain further as necessary.]*

**III. Conclusion**

For the foregoing reasons, appellant requests that the request for judicial notice be granted.

Dated: *[date]* Respectfully submitted,

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

*[Attorney’s name]*

State Bar No. *[number]*

Attorney for Appellant *[name]*

**PROOF OF SERVICE**