

**INSTRUCTIONS FOR MOTION TO PLACE DOCUMENTS UNDER SEAL
UNDER CODE OF CIVIL PROCEDURE SECTION 367.3 (SAFE AT HOME)**

(Note: This form may be used only in cases in which one or more parties are enrolled in the Safe at Home program and using a pseudonym under Code of Civil Procedure section 367.3.)

1. **Applicable Law.** The Safe At Home program is an address confidentiality program run by the Secretary of State. Active participants in that program who are parties in a civil court proceeding (a civil court case - any court case or proceeding that is not a criminal case) may use a pseudonym (Jane Doe, John Doe, or Doe) in place of the party's true name in the civil court proceeding. Pseudonymous parties (parties using a Doe name in a civil court proceeding) may exclude or redact (black out) their true names and identifying characteristics (defined below) from documents they file in court, as provided in Code of Civil Procedure section 367.3 by using the *Confidential Information Form* (SH-001) to provide the information to the court confidentially.
2. **Purpose of Motion to Seal.** The purpose of the *Motion to Place Documents Under Seal Under Code of Civil Procedure Section 367.3 (Safe at Home)* (form SH-020) is to enable a person who is an active participant in the Safe at Home address confidentiality program and who wishes to appear under a pseudonym (a Doe name) in a civil court case - any court case or proceeding that is not a criminal case - but whose name is already in the case files, to have the person's name and identifying characteristics removed from the public record by sealing documents that have already been filed in that case. If the court grants the motion, documents that were previously filed with the court and that disclose the Safe at Home participant's name and identifying characteristics will be replaced by versions of those documents with that information redacted (blacked out).

Important: Form SH-020 and related papers are not to be used when a party is filing the party's own documents, because the party can redact the party's name and other information from the documents to be included in the public file and use a *Confidential Information Form* (form SH-001) to provide the information in confidence to the court and keep it out of the public files. If at the time the pseudonymous party is filing documents, the party wants to have such documents sealed as well (as permitted under the statute), the party must follow the procedures stated in California Rules of Court, rules 2.550 and 2.551. Form SH-020 and related papers are to be used only when a pseudonymous party wants the court to seal documents that were *previously* filed.

3. **What Documents Should Be Sealed.** Documents that may have already been filed in court and that are likely to disclose the pseudonymous party's name and identifying characteristics may include any or all of the following:
 - l Complaint or petition
 - l Summons
 - l Civil cover sheet
 - l Order or notice from the court
 - l Proof of service

This list gives only some possible examples of documents that could be in the public court file and disclose your true name and identifying characteristics. There may be other documents also, not listed here, that fit this description and so should be sealed. "Identifying characteristics" that the party using the pseudonym may keep confidential include, but are not limited to, name or any part thereof, address or any part thereof, city or unincorporated area of residence, age, marital status, relationship to another party, race or ethnic background, telephone number, email address, social media profiles, online identifiers, contact information, or any other information, including images of the party using a pseudonym, from which that party's identity can be discerned. (Code Civ. Proc., § 367.3(a)(1).) (See Code Civ. Proc., § 367.3(a)(2) for a list of "online identifiers.")

4. **How to Ask the Court to Seal the Documents.** To ask the court to seal the documents, the pseudonymous party needs to complete the following:
 - l *Confidential Information Form* (form SH-001). The pseudonymous party will write on this form the party's true name and any identifying characteristics that the party is redacting (blacking out) on any of the other forms or documents to be filed because the party wishes to keep that information confidential.
 - l *Motion to Place Documents Under Seal Under Code of Civil Procedure Section 367.3 (Safe at Home)* (form SH-020). The pseudonymous party should use the pseudonym (Doe name) and should not include any identifying characteristics on this form, including when identifying the plaintiff/petitioner or the defendant/respondent at the top of the form. The party should sign the form using the pseudonym.
 - l *Declaration in Support of Motion to Place Documents Under Seal Under Code of Civil Procedure Section 367.3 (Safe at Home)* (form SH-022). The pseudonymous party should use the pseudonym (Doe name) and should not include any identifying characteristics on this form, including when identifying the plaintiff/petitioner or the defendant/respondent at the top of the form. The party should sign the form using the pseudonym.
 - l *Redacted versions of the documents.* The pseudonymous party must create copies of the documents the party wants the court to seal because they disclose identifying characteristics, including the party's true name. On these copies, the party must redact (black out) identifying characteristics, including the party's true name. If the court grants the motion to seal, the redacted versions of the documents submitted by the party will be substituted in the court's file for the original versions of those documents. The original versions of the documents that disclose the party's identifying characteristics will be confidential and will not be available to the public.

5. **How to Ask the Court to Seal the Documents as Soon as Possible.** To remove the name and identifying characteristics from the public record as quickly as possible, the pseudonymous party should ask the court to schedule a hearing sooner than is normally done. To do so, the party should file an *Ex Parte Application for Order Shortening Time for Hearing on Motion to Place Documents Under Seal Under Code of Civil Procedure Section 367.3 (Safe at Home)* (form SH-030) asking the court to set an early date for a hearing on the motion to place the documents under seal. Steps for filing the ex parte application to shorten time are as follows:

- i The ex parte application to shorten time must be filed in the court where the case has been filed. The applicant can determine which court this is from the documents that have already been filed in the case.
- i The applicant must check with that court for local rules as to when and where the applicant must appear for the court to consider the ex parte application for an order shortening time.
- i The applicant must follow the rules relating to ex parte applications that are set out in California Rules of Court, rules 3.1203--3.1207. These rules describe the following requirements:
 - i **Notice of the ex parte application to shorten time.** The applicant must let the other party or parties in the civil court proceeding know that the applicant is filing an ex parte application to shorten time for a hearing on the *Motion to Place Documents Under Seal Under Code of Civil Procedure Section 367.3 (Safe at Home)* (form SH-020). Notice to the other party or parties may be given in person or by phone, fax, overnight mail, or email (if emailed notice is permitted in the case already). The other party or parties must be informed by 10 a.m. the day before the court is to consider the ex parte application to shorten time, unless there is a good reason such notice could not or should not be given.
 - i **Service of papers.** Copies of the ex parte application to shorten time and all related papers must be given to the other party or parties in the civil court proceeding as soon as reasonable, and before the ex parte court appearance, if possible.
 - i **Appearance at court.** The applicant must appear in court at the time and place specified in the court's local rules for ex parte applications.

6. **Forms to Complete for Ex Parte Application.** Before the time the court is scheduled to hear the ex parte application to shorten time, the pseudonymous party must complete and file the following forms with the court:

- i *Ex Parte Application for Order Shortening Time for Hearing on Motion to Place Documents Under Seal Under Code of Civil Procedure Section 367.3 (Safe at Home)* (form SH-030); and
- i *Declaration Regarding Notice and Service of Ex Parte Application for Order Shortening Time for Hearing on Motion to Place Documents Under Seal Under Code of Civil Procedure Section 367.3 (Safe at Home)* (form SH-032).

Wherever the forms ask for the pseudonymous party's name, the party should use the pseudonym (Doe name) and should not include any identifying characteristics--including the party's true name. If the pseudonymous party is not represented by an attorney, the party should sign the forms using the pseudonym.

7. **Filing With the Court.** The completed ex parte application forms should be filed with the court clerk. When filing the ex parte application forms, the applicant may (but is not required to) attach the completed forms requesting sealing of documents (listed in instruction 4) to the ex parte documents described in instruction 6. (The court will not file the forms requesting sealing until after the court has scheduled a hearing on the motion to seal (form SH-020).)

There will be a filing fee unless the party is eligible for a fee waiver. (If the party cannot afford the fee and has not already received a fee waiver, the party may file a *Request to Waive Court Fees* (form FW-001) with the other forms.)

The applicant should take the original of each of the forms to be filed to the court clerk, along with two extra copies of each form. The clerk will file the original forms and will stamp and give back the copies.

8. **What to Do After Court Makes an Order.** When the court decides on the applicant's ex parte application to shorten time for a hearing on the motion to place previously filed documents under seal (form SH-030 and related papers), the court will usually make a written order.
- i **If the court's order sets a hearing date.** If the parties to the case are present at the ex parte application hearing, the order and copies of all the documents for the motion to place documents under seal (forms SH-020, SH-022, and SH-025) may be given to them at that time. If some or all parties are not present at the ex parte hearing, the applicant must arrange for another person to serve (deliver to) the absent parties a copy of the court's written order and the papers listed in instruction 4. The person serving the documents must be over 18 years old and cannot be a party to the court proceeding. The person serving the documents must fill out and sign a proof of service, which may be done using the form *Proof of Service - Civil* (form POS-040). The proof of service must be filed with the court, typically by the applicant.
 - i **If the court's order does not set a hearing date.** The court's order may not set a hearing date on the motion to seal documents (form SH-020 and related papers). If this is the case, the pseudonymous party will have to ask the court clerk's office for a date, time, and location on the court's regular law and motion hearing calendar for a hearing on the motion to place documents under seal (form SH-020). The pseudonymous party will also need to prepare a notice of hearing in accordance with California Rules of Court, rule 3.1110, and arrange to have someone serve the notice of hearing on the other parties in the case, along with the other documents listed in instruction 4. Finally, the pseudonymous party will need to arrange for someone else to serve these documents on (deliver them to) the other parties. The person serving the documents must be over 18 years old and cannot be a party to the court proceeding. The person serving the documents must fill out and sign a proof of service, which may be done using the form *Proof of Service - Civil* (form POS-040). The proof of service must be filed in court, typically by the pseudonymous party.
 - i On the date the court sets for the hearing on the motion to place documents under seal (form SH-020), the pseudonymous party should appear at the hearing either in person or by phone. If by phone, notice must be given in advance to the court and the other side. There are different ways to give that notice:
 - i In civil and probate cases, serve on all parties (as described above) and file with the court a completed *Notice of Intent to Appear by Telephone* (form CIV-020) at least two work days before the hearing.
 - i In child support cases in which a governmental agency is involved, serve on all parties (as described above) and file with the court a completed *Request for Telephone Appearance* (form FL-679) at least 12 work days before the hearing (you must ensure that it is delivered to the other parties no later than the day after you file it).
 - i In all other family law cases, parties should check the court's local rules to see what type of notice is required to appear by telephone.
 - i Once the court makes an order on the motion to place documents under seal (form SH-025 or an order prepared by the court), the pseudonymous party should arrange for someone to serve the other parties with this order as soon as possible.
 - i If the court determines that the pseudonymous party is not an active participant in the Safe at Home program and denies the motion to place documents under seal, then those documents and the name of the party who made the motion to place documents under seal will be available in the public record.