

**INSTRUCTIONS FOR FILING YOUR UNCONTESTED DIVORCE WITH NO
MINOR CHILDREN**

Free to download; \$6.00 if purchased at the Law Library

In Georgia, if you want to end your marriage, you must file a complaint for divorce in the Superior Court. You can either hire an attorney who will prepare your case and represent you in court, or you can use the sample forms included in this packet and represent yourself in court. After a court issues a final judgment and decree, you can remarry.

An uncontested divorce is one in which the parties work out an agreement regarding issues such as alimony, property division, debt division, and the like. The parties do not ask the judge to settle arguments between them because they have worked things out by themselves. In an uncontested divorce, the judge is only asked to approve the decisions which you have made together with your spouse.

YOU MAY NEED AN ATTORNEY IF:

- The case becomes contested and your spouse has a lawyer.
- You cannot find your spouse to serve him or her with your papers.
- You think you will have difficulty getting information and documents from your spouse regarding income, retirement funds, etc.

Even if it is a friendly divorce, you should talk to a lawyer before you sign any settlement papers or file anything in court.

STEP 1: Complete the Domestic Relations Filing Information and Final Disposition forms
STEP 2: Complete the Complaint for Divorce
STEP 3: Complete the Verification form
STEP 4: Complete the Consent to Trial form
STEP 5: Complete the Acknowledgment of Service form [OR] the Acknowledgment of Service Affidavit of Waiver of Venue and Personal Jurisdiction form
STEP 6: Complete the Settlement Agreement
STEP 7: Pay the Filing Fee
STEP 8: File the forms
STEP 9: Receive the Final Judgment

DETAILED INSTRUCTIONS:

STEP 1: Complete the Domestic Relations Filing Information and Final Disposition forms

These forms are required by Georgia Law, at O.C.G.A. § 9-11-133. They help the Clerk of Court keep statistical information about the number and types of cases decided in our local courts. The clerks use this information to prepare case management reports for the chief judge of each circuit and for the Chief Justice of the Georgia Supreme Court. In short, having this information helps us to run the court system more efficiently for you.

The filing information form

- a. In the top line, fill in the county where you are filing and the date filed.
- b. In the second line, fill in the names of the Plaintiff and Defendant.
- c. Where it says "Plaintiff/Petitioner's Attorney," check the box which says Pro Se. This indicates that you are representing yourself without an attorney.
- d. In the left-hand box, check off what kind of case this is. Since this is a divorce, you will check " Divorce (includes annulment)."
- e. In the right hand box, indicate whether or not you are asking for relief from family violence by checking yes or no in the appropriate boxes.

The final disposition form

The purpose of this form is to tell how your case ends. Since your case is far from over, you should NOT fill in the information in the three big boxes at the bottom of the page. At this point, we do not know how your case will end.

- a. In the top line, fill in only the county where you are filing. We do not yet know the date disposed, since you have not yet received a final order from the judge.
- b. Leave the second line, "Docket #," blank. The clerk will assign this number.
- c. Write your name where it says "Reporting party."
- d. Write down the full names of the Plaintiff and Defendant.
- e. Where it says Plaintiff/Petitioner's Attorney, you will check the box which says Pro Se. This shows that you are representing yourself. Since you are not a licensed attorney, you do not have a Bar #, so leave those blanks empty.

STEP 2: Complete the Complaint for Divorce.

Fill in your full name as the Plaintiff and your spouse's full name as Defendant. **Do not fill in where it says Civil Action File No. The clerk will assign a number to your case when you file your complaint.** Then insert your name in the space provided just before paragraph one (1).

Paragraph 1: Residence Requirement

Check box a) if you have lived in the state of Georgia for at least six months prior to filing your complaint for divorce.

Check box b) if you have lived on a Georgia military post or reservation for at least one year prior to filing your complaint for divorce.

Check box c) if you are not a resident of the state of Georgia, but your spouse has lived in Georgia and in the county where you are filing for at least six months prior to your filing the complaint for divorce. If neither a) or b) applies to you, you cannot file for divorce in this county.

Paragraph 2: Venue and Service

Check box a) if your spouse will sign an Acknowledgement of Service. You will need to give your spouse a copy of your completed Complaint for Divorce and have him/her sign the Acknowledgement of Service. By signing this form, your spouse is letting the court know that he/she has received a copy of your petition and, therefore, will not need to be served with a copy of your petition by the sheriff. The Acknowledgement of Service form is on page seven (7) of the divorce packet.

Check box b) if one of the following statements is true:

- Your spouse lives in Georgia but does not live in the county where you are filing;
- your spouse lives in another state and will consent (agree) to let you file for divorce in Georgia.

By signing the Waiver of Venue and Jurisdiction and Acknowledgment of Service (which is on page eight {8} of this packet), your spouse is allowing you to sue for divorce in this county even though this is normally not the correct place (venue) for you to sue for divorce.

Paragraph 3: Date of Marriage

Check box a) if you and your spouse have a marriage certificate and went through a ceremonial marriage. Insert the date you were married in the space provided.

Check box b) if you and your spouse are common law married. Insert the date you and your spouse entered into your marriage in the space provided. You were common law married if the following statements are true:

1. You and your spouse were able to enter into a contract at the time you established a common law marriage. You were over age sixteen and mentally competent.
2. You and your spouse actually entered into a contract of marriage meaning that you and your spouse agreed that you were married.
3. You and your spouse have had sexual intercourse.
4. All of the above were done before January 1, 1997.

Paragraph 4: Date of Separation

Insert in the space provided the date you and your spouse separated. It is not essential that the husband or wife leave the marital home place; separation can occur when one spouse moves into another room with the intent and purpose of suspending conjugal rights. The suspended conjugal rights include the company, cooperation, assistance, aid and intimacy of the other spouse in every conjugal way. See Hosford v. Hosford, 58 Ga.App 188, 199, 198 S.E. 289 (1938); Blasingame v. Blasingame, 249 Ga. 791, 294 S.E. 34 (1982).

Paragraph 5: Children

Check the box underneath paragraph 5 if you have no children together and the wife is not now pregnant. If a child was born during the marriage that was not the husband's child, that child is still the legal child of the husband. The only way to end the husband's legal relationship and duty of child support is for the husband to file a Paternity lawsuit or for the child's biological father to file a Legitimation lawsuit. This must be cleared up before you can do your divorce.

Paragraph 6: Grounds for Divorce

This uncontested divorce packet uses the most common ground for divorce, that the marriage is “irretrievably broken.” This means that you and your spouse are unable to live together, and there is no hope that the two of you will get back together again. This is what is commonly called a “no fault” divorce.

Paragraph 7: Settlement Agreement

Check the box beside paragraph 7 to indicate that you have signed a settlement agreement with your spouse.

STEP 3: Verification

Complete the Verification form. Insert your name as Plaintiff and your spouse’s name as Defendant. Do not fill in where it says Civil Action File No. The clerk will assign a number to your case when you file your complaint. You will need to sign this Verification in the presence of a Notary Public. Most banks, some courthouses and some libraries have a notary on staff and will notarize your documents for a small fee.

STEP 4: Complete the Consent to Trial form

Insert your name as Plaintiff and your spouse’s name as Defendant. Do not fill in where it says Civil Action File No. The clerk will assign a number to your case when you file your complaint. By signing this form in the presence of a notary, you are showing that you do not want a jury trial, and that you want a final order from the judge as soon as possible.

STEP 5: Complete the Acknowledgment of Service form [OR] the Acknowledgment of Service, Affidavit of Waiver of Venue and Personal Jurisdiction form

If you are suing for divorce in the county where the Defendant lives, then the Defendant needs to sign the Acknowledgment of Service form in the presence of a notary public. This form is on page seven (7) of your forms packet. In this situation, you would have checked off box 2(a) under the Venue paragraph in the Complaint for Divorce.

If the Defendant lives out-of-state or in a county other than the one where you are suing for divorce, then the Defendant will sign the Acknowledgment of Service, Affidavit of Waiver of Venue and Personal Jurisdiction form. This form is on page eight (8) of your forms packet. In this situation, you would have checked off box 2(b) under the Venue paragraph in your Complaint for Divorce

Acknowledgment of Service

Insert your name as Plaintiff and your spouse’s name as Defendant. Do not fill in where it says Civil Action File No. The clerk will assign a number to your case when you file your complaint. Sign your name while you are in front of a notary public.

Affidavit of Waiver of Venue and Personal Jurisdiction

Caption: Insert your name as Plaintiff and your spouse's name as Defendant. Do not fill in where it says Civil Action File No. The clerk will assign a number to your case when you file your complaint.

Paragraph: Insert the Defendant's name in the first space. In the second and third spaces, insert the name of the county and state where the Defendant lives. In the fourth space, write down the name of the county where the Plaintiff lives.

Notarization: Below the paragraph, write down the date on which this form was signed. Sign your name while you are in front of a notary public

STEP 6: Complete the Settlement Agreement

Fill in your full name as the Plaintiff and your spouse's full name as Defendant. **Do not fill in where it says Civil Action File No. The clerk will assign a number to your case when you file your complaint.** Fill in the Wife's name in the first blank, and the Husband's name in the second blank which is above paragraph 1.

Paragraph 1: Separation

Check the box to indicate your desire to live as single people free from one another's interference.

Paragraph 2: Alimony

Check box a) if you want to include Alimony payments in your divorce settlement.

Check box b) if you do not ever want Alimony payments.

Paragraph 3: Division of Property

*(Marital property is anything you buy while married, no matter whose name is on the title.)**

Choose box a) if you have no marital property.

Choose box b) if you have already divided up your marital property.

Choose box c) if you wish to divide up marital property. Be sure to include property of every type: real estate, cars, bank accounts, retirement accounts, investments, etc.

Paragraph 4: Division of Debts

(Marital debts are any debts that are taken on while you are married, no matter whose name is listed as the debtor.)

Check box a) if you have no outstanding debts.

Check box b) if you have debts to divide. Place each creditor's name in the left column of the chart. In the middle column, insert the amount owed to each creditor. In the right column, write the name of the party who will be responsible for that debt.

Paragraph 5: Name Restoration

Check this box if you want your former name restored to you. Insert in the space provided the name you want restored. You cannot change your last name to a different name if it was not your

name in the past. For example, you can return to your maiden name or the surname of a former spouse if you had that name.

Paragraph 6: Binding Agreement

Check this box to indicate that you have entered into this agreement of your own free will, and that there are no agreements in addition to this written agreement.

Paragraph 7: Agreement Enforceable with or without divorce

Check this box to show that you intend for this agreement to be enforceable while the divorce is pending, after the divorce is final, or even if you choose not to divorce. This paragraph also shows that you can get back together with your spouse if you can work things out.

STEP 7: Pay the Filing Fee

Unless you are able to have your filing fee waived, there is an \$80.00 filing fee in Dougherty County. You must pay this fee when you file your Complaint for Divorce unless you also file a Poverty Affidavit.

STEP 8: File your forms

You should make two copies of all of your documents. Give the clerk your original and the two copies. The clerk will assign a number to your case and will write in the number on your documents. The clerk will then stamp the documents to show that your complaint has been filed and will give you your copy for your records. The original will remain with the court. The other copy will be given to your spouse.

STEP 9: Receive the Final Judgment

If the judge approves your settlement agreement, you should receive a copy of your final judgment in the mail. If the judge has questions about matters contained in your documents, you may have a hearing. Your divorce is not final until the judge signs the final order in the case. According to Georgia Superior Court Rule 24.6 (a), "by written consent of both parties to a hearing a divorce may be granted any time 31 days after service or filing acknowledgment of service.