

## INSTRUCTIONS FOR FILING YOUR UNCONTESTED DIVORCE

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 child support, alimony, child custody, property division, and the like. The parties do not ask the judge to settle arguments between them, but rather work 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 might lose custody of your children.
- 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.**

<p>STEP 1: Complete the Complaint for Divorce. STEP 2: Complete the Verification form. STEP 3: Attach other necessary documents (see details later). STEP 4: Financial Documents to be Produced STEP 5: Pay the Filing Fee STEP 6: File the forms. STEP 7: Attend the required seminar. STEP 8: Receive the Final Judgment</p>
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### DETAILED INSTRUCTIONS:

STEP 1: 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: Subject Matter Jurisdiction

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 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

##### Acknowledgement of 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.

##### Waiver of Venue and Jurisdiction and Acknowledgement of Service

Check box b) if:

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

#### Paragraph 3: Date of Marriage

Check box a) if you and your spouse have a marriage certificate. 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 homeplace; 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. List all children born to you and your spouse together, even if the children were born before your marriage. List the child (ren)'s name(s), date(s) of birth(s), and sex(es).

#### Paragraph 6: Other Custody Cases Past or Present

Check this box if there are no other custody actions past or present regarding the children of the marriage.

#### Paragraph 7: Children's Place of Residence

Insert in the space provided the addresses of where the children lived, the dates they lived at each place, and the names of who they lived with.

#### Paragraph 8: Other Custody Actions

Check box a) if there has never been any other custody action concerning your child(ren).

Check box b) if there has ever been or is presently another custody action concerning your child(ren). Insert in the space provided the location of the custody action, the type of action, when it began, and what happened at that action.

#### Paragraph 9: Other Persons with Claims to Children

Check box a) if no one other than you or your spouse has a court order stating what legal rights they have to your child(ren). This means that there is no court order granting anyone else custody or guardianship of your child.

Check box b) if someone other than you or your spouse has any legal rights to your child(ren). Insert in the space provided the name of the person or agency, and what legal rights that person or agency has to your children.

#### Paragraph 10: 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 11: Settlement Agreement

Check the box beside paragraph 11 to indicate that you have signed a settlement agreement with your spouse.

## STEP 2: 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 and many libraries have a notary on staff and will notarize your documents for a small fee.

## STEP 3: Other Court Documents

In addition to the complaint for Divorce and the Verification, you will need to attach the following forms to your complaint (they are in the packet):

1. Completed financial affidavits
2. Separation Agreement
3. Consent to Try within 31 Days
4. Acknowledgement of Service [OR] Acknowledgement of Service, Affidavit of Waiver of Venue and Personal Jurisdiction
5. Final Order

## STEP 4: FINANCIAL DOCUMENTS TO BE PRODUCED

No later than 30 days from the filing of the Complaint, each party shall be required to serve the following documents to the other party, and to file a certificate of service showing that the documents were properly served on the other party, and indicating the date on which the documents were served:

1. Domestic Relations Financial Affidavit (included in this packet)
2. All federal and state income tax returns, gift tax returns and intangible and personal property tax returns filed by the party or on the party's behalf for the past three (3) years.
3. IRS forms, W-2, 1099 and K-1 forms for the past year, if the income tax return for that year has not been prepared. Also, if such income tax return has not been prepared, a year-ending pay stub received from the party's employer should be provided.
4. Pay stubs or other evidence of earned income for the twelve (12) months prior to the filing of the action.
5. A statement by the producing party identifying the amount and source of all income received from all sources during the twelve (12) months preceding the filing of this action if same is not reflected on the pay stubs produced.
6. All loan applications and financial statements prepared or used within the three (3) years preceding the filing date of this action, whether used for the purpose of obtaining or attempting to obtain credit for any other purpose.
7. The most recent statement for any liquid fund assets, including, but not limited to, profit-sharing, 401-K, money market, stock and securities, bonds, accounts, retirement and pension plan.

8. Corporate, partnership and trust tax returns for the last three (3) years, if the producing party has an interest in a corporation, partnership, or trust greater than or equal to thirty (30%) percent.
9. All written pre-marital or marital agreements entered into at any time between the parties to this marriage, whether before or during the marriage.
10. Any court orders directing a party to pay or receive spousal or child support, even if received from a third party.

ANY MATERIALLY FALSE STATEMENT KNOWINGLY MADE IN THESE DOCUMENTS WITH THE INTENT TO DEFRAUD OR MISLEAD SHALL SUBJECT ME TO THE PENALTY FOR PERJURY AND MAY BE CONSIDERED A FRAUD UPON THE COURT.

#### STEP 5: FEES

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 6: FILING 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 7: ATTEND THE REQUIRED SEMINAR

Each of you must attend the you are required to attend and successfully complete a program entitled "Seminar for Divorcing Parents" within thirty-one (31) days after the filing of this action and BEFORE you ask the Court to grant the divorce. A list of approved seminar providers, together with fee requirements and locations, can be found in the Clerk of the Superior Court's office. Seminar attendance by both parties is mandatory. Failure to complete this seminar in a successful manner will result in appropriate action against you by the Court, including denial of the grant of divorce until the class is completed, or the dismissal of your case.

#### STEP 8: 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.