

INTRODUCTION TO UNCONTESTED DIVORCE WITH CHILDREN INSTRUCTIONS

WHAT YOU NEED TO KNOW BEFORE STARTING YOUR DIVORCE ACTION

Important Note Before you Begin

If you want to stay out of court and you have parenting or economic issues to work out with your spouse, in appropriate cases where there is no domestic violence or abuse, you may want to consider divorce mediation or collaborative law. These processes can improve communication and reduce the cost, stress, and trauma of divorce.

Visit www.nycourts.gov/adr for more information.

This section will outline:

- The ‘basics’: the important things you will need to know before starting your divorce action. (See pages 1-6)
- The schedule of filing fees for an uncontested divorce. (See page 6)
- The documents and papers needed to obtain an uncontested divorce. (See page 6)
- The instructions for starting the action. (See pages 7-11)
- The instructions for filing the action with the court and placing the case on the court’s calendar. (See pages 10-12)

THE BASICS

There are two requirements that must be met before you can file for a divorce in New York State:

1. You must satisfy the residency requirements as set forth in Domestic Relations Law Section 230. The Domestic Relations Law is the law that governs divorces in New York State.

AND

2. You must satisfy one of the grounds for divorce set forth in Domestic Relations Law Section 170. Note that New York State law was amended effective October 12, 2010 to add a seventh ground for divorce commonly known as “no-fault divorce.” See Grounds For Divorce on the next page.

RESIDENCY

To file for a divorce in New York you must satisfy **one** of the following residency requirements:

1. You or your spouse must have been living in New York State for a continuous period of at least two years immediately before the date you start your divorce action; **OR**
2. You or your spouse must have been living in New York State on the date you start your divorce action and for a continuous period of at least one year immediately before the date you start the divorce action, **and at least one of the following must also be true:**
 - a) Your marriage ceremony was performed in New York State; **OR**
 - b) You lived in New York State with your spouse as married persons; **OR**
3. You or your spouse must have been living in New York State for a continuous period of at least one year immediately before the date you start your divorce action and your grounds for divorce must have happened in New York State. (“Grounds” means a legal reason for the divorce); **OR**
4. You and your spouse must be residents of New York State (no matter how long) on the date you start your divorce action, and your grounds for divorce must have happened in New York State. (“Grounds” means a legal reason for the divorce).

DEFINITION OF PLAINTIFF AND DEFENDANT

Where you are the person seeking the divorce, you are the Plaintiff and your spouse is called the Defendant.

GROUND FOR DIVORCE

In order to file for a divorce in New York State you must have a ground (a legally acceptable reason) for the granting of a divorce by the New York courts. The seven legally acceptable reasons, or grounds for divorce, in New York are described in Domestic Relations Law §170. Listed with the most recently enacted no-fault divorce ground first and then following the order listed in the Domestic Relations Law, they are:

DRL §170 (7) irretrievable breakdown in relationship for a period at least six months (commonly known as “no-fault divorce”);

DRL §170 (1) cruel and inhuman treatment;

DRL §170 (2) abandonment;

DRL §170 (3) imprisonment;

DRL §170 (4) adultery;

DRL §170 (5) living separate and apart pursuant to a separation judgment or decree;

DRL §170 (6) living separate and apart pursuant to a separation agreement.

**THE NEWEST GROUND: COMMONLY CALLED “NO-FAULT DIVORCE”
IRRETRIEVABLE BREAKDOWN IN RELATIONSHIP DRL §170 (7)**

- To get a divorce on this ground, your relationship with the Defendant must have broken down irretrievably (so that it is impossible to repair or reconcile) for a period of at least six months.
- **This type of divorce is not automatic even though it is commonly called “no-fault divorce.” The court will not grant you a divorce based on this ground unless and until:**
 - a) one of the parties has sworn under oath that the relationship has broken down irretrievably for a period of at least six months; **AND**
 - b) you and your spouse have either resolved all the economic issues of distribution of property, spousal support, child support, and counsel and/or experts fees and expenses, and the custody and visitation with the minor children of the marriage **OR** these issues have been decided by the court and incorporated into the final judgment of divorce.

THE OTHER GROUNDS LISTED IN THE DOMESTIC RELATIONS LAW

CRUEL AND INHUMAN TREATMENT DRL §170 (1)

- The treatment of the Plaintiff by the Defendant must rise to the level that the physical or mental well being of the Plaintiff is endangered and making it unsafe or improper for the Plaintiff to continue living with the Defendant.
- You cannot obtain a divorce on this ground simply because you have arguments or because of an isolated act in an otherwise long and peaceful marriage.
- If all or some of the acts occurred more than five years ago and your spouse opposes the divorce, your case may be dismissed.
- In describing the specific acts of cruelty, you must be clear and to the point. You must supply the court with details like dates and places. If you do not remember the exact date, use the words "on or about".
- After describing the acts of cruelty you should conclude with the following language: "The conduct of the Defendant was cruel and inhuman and so endangered the physical or mental well being of the Plaintiff as to render it unsafe or improper for the Plaintiff to cohabit with the Defendant."

ABANDONMENT DRL §170 (2)

- An action for divorce may be maintained where the Defendant abandons the Plaintiff for a period of one year or longer prior to commencing the action and continuing to the present.
- Abandonment may take the form of your spouse physically departing your marital home without any intention of returning for a period of one year or longer prior to commencing the action, and continuing to the present, without any good reason for doing so and without your consent.
- Another form of abandonment is called constructive abandonment, which involves one spouse's refusal to engage in sexual relations with the other spouse continuously for one year or longer prior to commencing the action, and continuing to the present, without consent, good cause or justification and despite your repeated requests.
- Another form of abandonment is called a lock out, which involves one spouse's refusal to allow the other spouse into the home continuously for more than one year prior to commencing the action and continuing to the present.

IMPRISONMENT DRL §170 (3)

- An action for divorce may be maintained by Plaintiff only where the Defendant is imprisoned for a period of at least three consecutive years. The imprisonment must have commenced after the date of the marriage. If your spouse was released more than five years ago and your spouse opposes the divorce, your case may be dismissed.

ADULTERY DRL §170 (4)

- An action for divorce may be maintained based on adultery, which is an act of sexual or deviate sexual intercourse voluntarily performed by the Defendant with a person other than his or her spouse during the course of the marriage.
- The ground of adultery can be difficult and expensive to prove because the testimony of the Plaintiff is not enough and other evidentiary requirements must be satisfied (the Defendant's admission is not enough). A corroborating affidavit of a 3rd party witness or other proof should be attached to the papers you submit to the court. You should keep in mind that acts of adultery may qualify as acts of cruelty and entitle you to maintain a divorce action on the grounds of cruel and inhuman treatment.
- Note: if you found out about the adultery more than five years ago and your spouse opposes the divorce, your case may be dismissed.

CONVERSION OF A JUDGMENT OF SEPARATION DRL §170 (5)

- This ground is not used often. It involves a judgment of separation of the Supreme Court.
- To maintain a divorce action the parties are required to live separate and apart. They must satisfy the terms of the judgment of separation for more than one year after the judgment was granted.

CONVERSION OF A WRITTEN SEPARATION AGREEMENT DRL §170 (6)

- A separation agreement is an agreement between the spouses that sets forth the terms and conditions by which the parties will live apart. The agreement must be signed by the parties before a notary and filed with the County Clerk in the county where one of the parties resides.
- If you and your spouse have lived apart for more than one year according to the terms and conditions of a properly executed separation agreement, you may maintain an action for divorce. It may be advisable to consult an attorney regarding this ground for divorce.

After you have determined that you have met the requirements for residency and grounds for divorce, you may use the forms in this packet to file for a divorce. The instructions in this packet will help you in completing these forms, starting your action and satisfying the other requirements for obtaining a divorce.

SCHEDULE OF FILING FEES

- Index Number - \$ 210.
- Note of Issue - \$ 125 or \$ 30.
- Request for Judicial Intervention - \$ 95 or no fee.
- **Note: \$125 is the total fee for the Note of Issue plus the Request for Judicial Intervention. Please check with your county.**
- Certificate of Dissolution - Check with your local County Clerk's Office
- Certified Copy of Judgment - Approx. \$ 4. - \$ 10.

Check with the County Clerk's Office regarding acceptable forms of payment.

POOR PERSON STATUS

Where an individual lacks the financial resources to pay the costs associated with a divorce action, an application may be made to have these fees waived or forgiven by the court. The Supplemental Appendix of Forms in this booklet (beginning at page 35) contains instructions on how to complete the forms that are required to apply to have the fees waived.

THE PAPERS NEEDED TO OBTAIN AN UNCONTESTED DIVORCE IN NEW YORK STATE:

Notice of Automatic Orders

Notice Concerning Continuation of Health Care Coverage

1) Summons With Notice (Form UD-1) OR 1a) Summons (to be served with Verified Complaint) (Form UD-1a)

2) Verified Complaint (Form UD-2)

3) Affidavit of Service (Form UD-3)

4) Sworn Statement of Removal of Barriers to Remarriage (Form UD-4) and Affidavit of Service (Form UD-4a)

5) Affirmation (Affidavit) of Regularity (Form UD-5)

6) Affidavit of Plaintiff (Form UD-6)

7) Affidavit of Defendant (Form UD-7)

8) Child Support Worksheet (Form UD-8)

8a) Support Collection Unit Information Sheet (Form UD-8a)

8b) Qualified Medical Child Support Order ("QMCSO") (Form UD-8b)

9) Note of Issue (Form UD-9)

10) Findings of Fact/Conclusions of Law (Form UD-10)

11) Judgment of Divorce (Form UD-11)

12) Part 130 Certification (Form UD-12)

13) Request for Judicial Intervention("RJI") (Form UD-13) and Addendum (Form 840M)

14) Notice of Entry (Form UD-14)

Certificate of Dissolution of Marriage

Self-Addressed and Stamped Postcard

UCS-111 (UCS Divorce and Child Support Summary Form)

New York State Case Registry Filing Form

SUPPLEMENTAL APPENDIX OF FORMS

A) Income Deduction Order

B) Notice of Settlement

C) Poor Person Order

D) Affidavit in Support of Application to Proceed as a Poor Person

The instructions for completing each individual form can be found on pages 13-37 of this Packet
A COPY OF EACH COMPLETED FORM SHOULD BE RETAINED FOR YOUR RECORDS.

STARTING THE DIVORCE ACTION:

1. This packet should be filled out either by typing or printing the information. Printing should be legible and in BLACK ink only.
2. If you need additional space on any form, you may use an addendum sheet. Be sure to note on the particular form that an additional sheet is being attached to that form.
3. Attach to your papers any court orders regarding this marriage and child support/custody/visitation. *All unemancipated children of the marriage* are entitled to receive child support. The court must decide custody and visitation of all *minor children of the marriage*. Whenever these instructions and forms refer to:
 - (i) “*children of the marriage,*” they include all children under the age of twenty one born to or adopted by the parties before or during the marriage.
 - (ii) “*unemancipated children,*” they include *all children of the marriage under the age of twenty one* born to or adopted by the parties before or during the marriage and entitled to child support. Upon sufficient proof, a court might consider a child under the age of twenty one “*emancipated*” and therefore not entitled to support if the child marries, enters the military, or is at least eighteen years old and is self-supporting. It is up to the court to decide whether the child is emancipated.
 - (iii) “*minor children of the marriage,*” they include all children under the age of eighteen born to or adopted by the parties before or during the marriage.
4. Please refer to the attached **glossary**, which defines many of the other terms and phrases used in this packet.

IF YOU ARE CONCERNED ABOUT DOMESTIC VIOLENCE AND WISH TO KEEP YOUR ADDRESS CONFIDENTIAL, PLEASE CHECK WITH THE SUPREME COURT CLERK’S OFFICE FOR INSTRUCTIONS ON HOW TO OBTAIN CONFIDENTIALITY. IF CONFIDENTIALITY IS GRANTED BY THE COURT, YOU SHOULD NOT FILL OUT YOUR ADDRESS OR OTHER PRIVATE INFORMATION ON ANY OF THESE FORMS.

FOLLOW STEPS 1-7 TO START THE DIVORCE ACTION

- STEP 1:** Prepare an **original** and **two copies** of the **Summons With Notice (Form UD-1)** or the **Summons and Verified Complaint (Form UD-1a and Form UD-2)**.
- STEP 2:** Purchase an **index number** at the County Clerk's Office and file the original of the Summons With Notice or the original of the Summons and Verified Complaint with the County Clerk. Unless you are granted a poor person's waiver, you will be required to pay \$210 for the index number. Check with the County Clerk regarding acceptable forms of payment. Many County Clerks also will require that you fill out an Index Number Application Form at the time of filing, so be sure to bring with you the names, addresses and telephone numbers of all of the attorneys or, if unrepresented, of the parties themselves.
- STEP 3:** Put the **index number** and the **date of the filing** on the two copies of the Summons With Notice (or the Summons and Verified Complaint) if this is not done by a clerk upon filing the papers.
- STEP 4:** Where the Defendant agrees to the divorce, he or she will need to sign the **Affidavit of Defendant (Form UD-7)**. This may be done by submitting the form to the Defendant together with the Summons With Notice or Summons and Verified Complaint and Notice of Automatic Orders.. The Plaintiff should send the form to the Defendant with a copy of the instructions on how to fill it out. The Defendant must send the completed form back to the Plaintiff prior to having the case placed on the calendar so that the form can be filed with the other forms. If the Defendant does not return the signed form to Plaintiff, follow STEP 5 below.
- STEP 5:** Have the Defendant served with one copy of the Summons With Notice or Summons and Verified Complaint, and both the Notice of Automatic Orders and the Notice Concerning Continuation of Health Care Coverage, by being **personally handed the papers**.
- **If your spouse lives in New York State:** The server must be a resident of New York State, over eighteen years of age, and cannot be a party to the action (this means you may not serve your spouse with the Summons).

- **If your spouse is presently residing outside of New York State:** You must still ensure that he or she is personally served with the summons. If you use a non-New York State resident to serve your spouse outside of New York State, the server must be a person authorized to make service pursuant to the laws of that jurisdiction or a duly qualified attorney in that jurisdiction, and you must submit a copy of the authorization that allows that person to serve the summons. You are encouraged to check with the local sheriff and, if necessary, with a country's Consulate or Embassy as to any local requirements for service.

Service upon the Defendant of the Summons With Notice or Summons and Verified Complaint and Notice of Automatic Orders must be made within 120 days of their filing with the County Clerk's Office. If you do not know where the Defendant is located, you may wish to delay filing the Summons With Notice or Summons and Verified Complaint until he or she is located, so that the 120-day period does not begin running while you search for your spouse.

IMPORTANT: If there are children of the marriage under the age of 21 (see the definition on page 7), you must also serve a copy of the Child Support Standards Chart on the Defendant. The Chart is available at:

https://newyorkchildsupport.com/quick_links.html

STEP 6: If you had to follow STEP 5 above because the Defendant *would not agree* to complete and return the Affidavit of Defendant, the person that served the Defendant must prepare an "**Affidavit of Service**" (Form UD-3), which attests to the service of the Summons With Notice or Summons and Verified Complaint, Notice of Automatic Orders, and any other documents served. This affidavit must be submitted along with the full set of divorce papers when you place your case on the court's calendar. There is a 40-day waiting period from date of service to place the matter on the court's calendar. If the Defendant does not sign Form UD-7 to waive the 40 day period, you must wait the full 40 days.

STEP 7: If the parties were married in a civil ceremony or if the Defendant signs the Affidavit of Defendant (Form UD-7), SKIP THIS STEP. If the parties were married in a religious ceremony, the Defendant must be served with a copy of the **Sworn Statement of Removal of Barriers to Remarriage (Form UD-4)**. The Plaintiff must fill out the original and make a copy of the form. The copy then must be served on the Defendant either by personal service along with the Summons With Notice or the Summons and Verified Complaint, or by mail. If you serve the form by mail, it must be done prior to your placing your action on the court's calendar, because you will need to file the original form with the other required forms. Service by mail must be done by someone other than the Plaintiff who is over the age of 18 and not a party to the action. When you file this form, you must attach to the form the **Affidavit of Service (Form UD-4a)**.

If the Defendant appears and does not consent to this action:

* Then your matter **is no longer an uncontested matrimonial** and you will be unable to obtain an uncontested divorce. You may want to consult an attorney at that point.

STEPS FOR PLACING YOUR DIVORCE CASE ON THE COURT CALENDAR

After you have completed Steps 1-7, you are ready to place your case on the court's calendar. If the Defendant consents to the action by signing the Affidavit of Defendant (Form UD-7), you may place your case on the court's calendar immediately. Otherwise, you will have to wait until 40 days after the date of the service of the summons.

You must complete the following steps to place your case on the calendar:

STEP 8: You must complete **Forms UD-3 through UD-12** (include UD-7 only if signed by the Defendant). Form UD-3 (Affidavit of Service) and Form UD-4 (Sworn Statement of Removal of Barriers to Remarriage) need not be completed, or filed, if the Defendant has signed Form UD-7 (Affidavit of Defendant) and checked Box 6b on the form. Form UD-8 (Child Support Worksheet), Form UD-8a (Support Collection Unit Information Sheet) and Form UD-8b (Qualified Medical Child Support Order) need not be completed, or filed, if there are no unemancipated children of the marriage (see the definition on page 7).

STEP 9: You also must complete the **Request for Judicial Intervention (Form UD-13)** and, if there are children under the age of 18 who are subject to the matrimonial action, the **Addendum Form 840M**.

STEP 10: You also must complete the **Certificate of Dissolution of Marriage**, the **postcard**, and, where applicable, the **UCS 111 (Divorce and Child Support Summary Form)**. If a party is requesting child support payable to a person or entity other than a child support collection unit, the party must complete, as well, the New York State Case Registry Form.

STEP 11: You must file the completed forms, including a copy of the Summons With Notice or the Summons and Verified Complaint, with the County Clerk's Office. Include three (3) copies of the **Note of Issue (Form UD-9)**.

STEP 12: Unless you are granted a poor person's waiver, you must pay a filing fee for filing the Note of Issue (Form UD-9) and the Request for Judicial Intervention (Form UD-13). See page 5 for the schedule of filing fees.

All of the papers filed with the County Clerk's Office will be submitted to the judge. If the papers are approved, the judge will sign the Judgment of Divorce (Form UD-11).

If you are asking for maintenance, custody, visitation, or distribution of property, the court may require a hearing, even if there is a prior court order or a prior agreement between you and your spouse. If there is no prior court order or agreement, you and your spouse can try to settle these issues by signing a written agreement, but any agreement with your spouse is subject to judicial approval prior to the court issuing a Judgment or an order incorporating the parties' agreement. Prior to making a decision about approval of the agreement, the court may also require a hearing. The court will notify you and your spouse to appear, if a hearing is required.

SUPPLEMENTAL FORMS

This packet contains additional forms that you may be required to file depending upon the special requirements in the county where you are bringing the action.

a. Income Deduction Order

In certain circumstances, the court may direct that the payment of maintenance (spousal support) or child support be made by automatically deducting moneys from the paying spouse's wages through use of an Income Deduction Order. This can occur only where the paying spouse is a salaried employee and, in the case of child support, where the support order is not enforced through a local child support collection unit. If the court notifies you that an Income Deduction Order is required, follow the procedure for completing that order set forth in the Supplemental Appendix of Forms at page 35, and submit the order to the Supreme Court Clerk's Office.

b. Notice of Settlement

In some instances, the court will not sign the Judgment of Divorce until the Defendant is served with a copy of the unsigned Judgment and any other proposed orders and is permitted an opportunity to object to or comment on them. In that situation, the court will notify you that the Judgment and the proposed orders are to be served upon the Defendant with a Notice of Settlement (see Supplemental Appendix of Forms at page 34). Follow the procedure set forth in the Supplemental Appendix of Forms for completing and serving a Notice of Settlement.

AFTER THE JUDGMENT HAS BEEN SIGNED BY THE COURT

The **Judgment of Divorce (Form UD-11)** needs to be filed and entered in the County Clerk's Office. The manner in which this occurs depends upon the procedure of the county in which you brought the action. Consult the Supreme Court Clerk's Office for information regarding your obligations for the retrieval and/or entry of the signed judgment and supporting papers. Should you receive notice that the papers have been filed on your behalf by the court, or if you file the papers, you may go to the County Clerk's Office to obtain a certified copy of the judgment. You must bring identification with you, because matrimonial files are confidential and information will be released only to a party or his or her attorney. The certified copy will cost between \$4.00 and \$10.00, but the fee will be waived if you obtained a poor person waiver.

A copy of the judgment of divorce must be served on the Defendant. To do this, you must mail to the Defendant a copy of the signed and entered **Judgment of Divorce (Form UD-11)**, together with the completed **Notice of Entry (Form UD-14)**.

TURN TO PAGES 13-37 FOR INSTRUCTIONS ON HOW TO COMPLETE THE FORMS

FORMS INSTRUCTIONS

If you have unemancipated children of the marriage under the age of twenty one (see the definition on page 7), please see the Child Support Worksheet (Form UD-8) instructions on page 21 before you prepare the summons, so you can give the Defendant notice of the amount of child support demanded.

1. SUMMONS WITH NOTICE (Form UD-1):

This form is used when commencing an action for divorce without a Verified Complaint. **The Notice of Automatic Orders and Child Support Standards Chart if applicable *must*, and the Notice Concerning Continuation of Health Care Coverage *should*, be served with the Summons with Notice.**

- Field 1: Put the index number in the space provided.
- Field 2: Print the county in which you are bringing this action.
- Field 3: Print the date the summons was filed.
- Field 4: The same as field 2.
- Field 5: Print the Plaintiff's name.
- Field 6: You must state the basis of venue, that is, why this case may be heard in the county you select. You have several options: Plaintiff's residence (Plaintiff lives in the county), Defendant's residence (Defendant lives in the county), or CPLR §509 (any other county so long as the Defendant does not object and the court accepts the case). If you choose a county where neither party resides, you must write in CPLR §509. The court must accept the case if it is brought in the county where either the Plaintiff or the Defendant resides. If you choose CPLR §509 and the other side does not challenge the basis for venue, then the action may go forward in that county, but you should be aware that the court may reject your case based on specific venue rules in the county where you are filing.
- Field 7: Provide where either the Plaintiff or the Defendant resides depending on which party's residence was chosen as the basis of venue. For example, if the Plaintiff's residence is listed as the basis for venue, place the Plaintiff's address in this space. If Defendant's residence is chosen, list the Defendant's address in this space. If CPLR §509 is chosen, list the Plaintiff's address in this space.
- Field 8: Print Defendant's name.
- Field 9: Check the appropriate box.
- Field 10: Print the date you prepared the summons.
- Field 11: Check the appropriate box.
- Field 12: List your attorney's address and telephone number. If you do not have an attorney, list your name, address and telephone number.
- Field 13: Fill in the appropriate subdivision number and the grounds for divorce as indicated at the bottom of the form (see pages 3-5 in this booklet). Check with your local clerk's office if you need additional information on where to learn about the grounds for divorce.

Field 14: If you are asking for other relief in addition to your request for a divorce, this relief must be listed in this section as “ancillary relief.” Examples include but are not limited to custody, visitation, child support, equitable distribution of specific property from the marriage, maintenance, counsel and/or experts fees, orders of protection, pension benefits, use of a former last name, and exclusive occupancy of the marital residence. If there are unemancipated children of the marriage (see the definition on page 7), child support must be listed in this section. You should also list any presently existing court orders (including the docket /case/index number) that you wish to be continued. (Note: when minor children of the marriage reside in New York State, custody must be determined). You should also list any stipulations or agreements that you have made in writing with the Defendant that you wish to become a part of the judgment. If you are waiving the distribution of marital property or if marital property is being distributed pursuant to an agreement/stipulation, check the appropriate box. If you are not requesting ancillary relief, check the appropriate box.

Important Note: *If you do not ask for a type of ancillary relief in this section, you may be giving up your rights to things you may be entitled to.*

1a. SUMMONS (Form UD-1a): This form must be filed and served simultaneously with the Verified Complaint (Form UD-2). The Notice of Automatic Orders and Child Support Standards Chart if applicable *must*, and the Notice Concerning Continuation of Health Care Coverage *should*, be served with the Summons.

- Field 1: Put the index number in the space provided.
- Field 2: Print the county in which you are bringing this action.
- Field 3: Print the date the summons was filed.
- Field 4: The same as field 2.
- Field 5: Print the Plaintiff's name.
- Field 6: You must state the basis of venue, that is, why this case may be heard in the county you select. You have several options: Plaintiff's residence (Plaintiff lives in the county), Defendant's residence (Defendant lives in the county), or CPLR §509 (any other county so long as the Defendant does not object and the court accepts the case). If you choose a county where neither party resides, you must write in CPLR §509. The court must accept the case if it is brought in the county where either the Plaintiff or the Defendant resides. If you choose CPLR §509 and the other side does not challenge the basis for venue, then the action may go forward in that county, but you should be aware that the court may reject your case based on specific venue rules in the county where you file.
- Field 7: Provide where either the Plaintiff or the Defendant resides depending on which party's residence was chosen as the basis of venue. For example, if the Plaintiff's residence is listed as the basis for venue, place the Plaintiff's address in this space. If Defendant's residence is chosen, list the Defendant's address in this space. If CPLR §509 is chosen, list the Plaintiff's address in this space.
- Field 8: Print the Defendant's name.
- Field 9: Check the appropriate box.
- Field 10: Print the date you prepared the summons.
- Field 11: Check the appropriate box.
- Field 12: List your attorney's address and telephone number. If you do not have an attorney, list your name, address and telephone number.

2. VERIFIED COMPLAINT (Form UD-2):

- Field 1: Fill in the county in which the action is brought. Be consistent with other forms.
- Field 2: Print the Plaintiff's name.
- Field 3: Write in the index number assigned to this matter.
- Field 4: Print the Defendant's name.
- Field 5: Write the name of Plaintiff's attorney in the blank space or, if Plaintiff is representing himself or herself, strike the word "by" and leave the space blank.
- Field 6: This section informs the court of whether it has the jurisdiction (authority) to hear your case. Check the appropriate box or boxes.
- Field 7: Insert the date that you and your spouse were married as listed on a marriage license and the city, town or village; and the state or country of the marriage.
- Field 8: Check the appropriate box. If you had a religious ceremony, you must strike the word "not" in the first line and you must check one of the three options below as to your removing barriers to remarriage. If you had a civil ceremony, leave the word "not" in place and do not check any of the three options below. A Barriers to Remarriage Affidavit (Forms UD-4 and UD-4a) must be filed with proof of service unless the Defendant waives the filing of the Affidavit.
- Field 9: Check the appropriate box. List the number of children of the marriage (see the definition on page 7). List the names, dates of birth and addresses for each.
- Field 10: List the Plaintiff's and Defendant's addresses.
- Field 11: Fill in the required information about Plaintiff's and Defendant's insurance coverage. Make sure to include the type of coverage. Examples include, but are not limited to, medical, dental and optical coverage. If either party has more than one insurance plan, you must list the additional coverage. Strike this section if child support is not an issue.
- Field 12: You must state and describe the grounds for divorce. In addition to selecting the section (be specific as possible) of the Domestic Relations Law that applies, you should fill in the date where appropriate and also give a brief description as to how you meet New York State's grounds requirements. (Refer to **Grounds for Divorce** on pages 2 through 5 of these instructions).
- Field 13: This section requires no response on your part. If a judgment of divorce was already entered in this state or another state between you and your spouse and/or there is another action for divorce pending between you and your spouse, you may not be permitted to maintain this action. You should seek legal assistance as noted in the Foreword.

Field 14: If you are asking for other relief in addition to your request for a divorce, this relief must be listed in this section as “ancillary relief.” Examples include but are not limited to custody, visitation, child support, equitable distribution of specific property from the marriage, maintenance, counsel and/or experts fees, orders of protection, pension benefits, use of a former last name, and exclusive occupancy of the marital residence. If there are unemancipated children of the marriage (see the definition on page 7), child support must be listed in this section. You should also list any presently existing court orders (including the docket/case/index number) that you wish to be continued. (Note: when minor children of the marriage reside in New York State, custody must be determined). You should also list any stipulations or agreements that you have made in writing with the Defendant that you wish to become a part of the judgment. If you are waiving the distribution of marital property or if marital property is being distributed pursuant to an agreement/stipulation, check the appropriate box. If you are not requesting ancillary relief, check the appropriate box.

Important Note: *If you do not ask for ancillary relief in this section, you may be giving up your rights to things you may be entitled to.*

Field 15: Insert the date that you prepared the document.

Field 16: Check the appropriate box. The attorney for the Plaintiff must sign this line and print his or her name, address and telephone number. If the Plaintiff does not have an attorney, the Plaintiff must sign at that line and put in his or her address and telephone number.

Field 17: The Plaintiff must sign this section in the presence of a notary public, who then must notarize the document. That individual will fill in the remaining information.

3. AFFIDAVIT OF SERVICE (Form UD-3):

This affidavit must be filled out by the person that serves the summons with notice or the summons and verified complaint on your spouse (the Defendant). You need not file this form if Defendant executes the **Affidavit of Defendant (Form UD-7)**, which satisfies the proof of service requirement.

Field 1: Insert the county in which the action is brought as on prior forms.

Field 2: Print the Plaintiff's name.

Field 3: Insert the index number.

Field 4: Print the Defendant's name.

Field 5: Insert the state and county where the process server signed this document before a notary public.

Fields 6,7: The process server must fill in his or her name and address.

Field 8: The process server must fill in the details of when and where the Defendant was served, and must check the appropriate boxes as to the documents that were served. If there are children of the marriage under the age of 21 (see the definition on page 7), the Child Support Standards Chart must also be served on the Defendant. The chart is available at:

https://newyorkchilddiscovery.com/quick_links.html.

- Field 9: The process server must check the option that specifies how he or she identified the Defendant and check all the applicable identifying characteristics of the Defendant. If the first option is checked, the process server must describe how he or she became acquainted with the Defendant. If you provided the process server with the Defendant's picture, or pointed out the Defendant to the process server, you must address this in the Affidavit of Plaintiff (Form UD-6).
- Field 10: The process server must ask the Defendant whether he or she is a member of the military of this state or any other state or this nation. The process server should check box 6a if the Defendant states that he/she is not in the military. The process server should check box 6b if the Defendant says he/she is in the military and also complete the information as to the type of service in box 6b. If the Defendant does not answer the question as to military service, then the process server should check box 6c.
- Field 11: The process server must sign the document when completed before a notary public

4. SWORN STATEMENT OF REMOVAL OF BARRIERS TO REMARRIAGE (Form UD-4):

- Field 1: Insert the county where you are bringing the action.
- Field 2: Print the Plaintiff's name.
- Field 3: Print the index number assigned to the case.
- Field 4: Print the Defendant's name.
- Field 5: Insert the state and county in which Plaintiff signed the statement.
- Field 6: You must select either of the italicized statements by placing a check mark in the appropriate box. If you select the second box, attach a copy of Defendant's waiver. If you checked the box in the Verified Complaint or Affidavit of Plaintiff that you "will" be taking these steps, you must have completed the steps before you file your papers.
- Field 7: The Plaintiff must sign the form, which must be sworn to before a notary public.

4a. AFFIDAVIT OF SERVICE (Form UD-4a): This form must be attached to and filed with the Sworn Statement of Removal of Barriers to Remarriage (Form UD-4)

- Field 1: Insert the county where you are bringing the action.
Field 2: List the name and address of the individual serving the form on the Defendant.
Filed 3: Insert the date that the form was served. Fill in either the location where the party was personally served or the address to which the form was mailed.
Field 4: The server must sign before a notary public.
Field 5: If service of Sworn Statement of Removal of Barriers to Remarriage is acknowledged by your spouse, he or she must sign the Affidavit of Service.

5. AFFIRMATION (AFFIDAVIT) OF REGULARITY (Form UD-5):

- Field 1: Insert the county where you are bringing the action.
Field 2: Print the Plaintiff's name.
Field 3: Insert the index number assigned to the case.
Field 4: Print the Defendant's name.
Field 5: List the state and county where either the Plaintiff or the attorney for the Plaintiff signed this document.
Field 6: Check the appropriate boxes.
Field 7: Check the appropriate box.
Field 8: Insert the date that the document was completed if signed by an attorney. If the Plaintiff is self-represented, the document must be signed and notarized before a notary public.

6. AFFIDAVIT OF PLAINTIFF (Form UD-6):

- Field 1: Insert the county in which you are bringing the action.
Field 2: Print the Plaintiff's name.
Field 3: Insert the index number for the action.
Field 4: Print the Defendant's name.
Field 5: Insert the state and county where Plaintiff signed this document.
Field 6: Insert the Plaintiff's name.
Field 7: Print where the Plaintiff resides, the Defendant resides and their social security numbers.
Field 8: Address the residency requirements as explained on page two of this instruction booklet by checking the appropriate box or boxes.
Field 9: Insert the date the parties were married and the city, town or village; the county; and the state where they were married. Strike the italicized word "not" in the following sentence if the parties were married by a clergyman, minister or by a leader of the Society for Ethical Culture.
Field 10: If the word "not" is deleted, you must check one of the three options.

[Do not complete Fields 11-13 if there are no children of the marriage (see page 7)]

- Field 11: List the number and names (if any) of the children of the marriage, their social security numbers, their dates of birth and the present address of each child as well as any other addresses they may have had for the previous five (5) year time period. You must also list the name and present address of the person that each child has lived with for the past five (5) years.
- Field 12: Check the boxes as appropriate. If you check "yes", you must attach a statement explaining the circumstances, and if a Family Court order was issued, you must provide the court with a copy.
- Field 13: Fill in the required information about Plaintiff's and Defendant's insurance coverage. Make sure to include the type of coverage, such as medical, dental or optical coverage. If either party has more than one insurance plan, you must list the additional coverage. Check the not applicable box if child support is not an issue or if there is no health insurance available to either party for the benefit of the child(ren) of the marriage.
- Field 14: List the grounds for divorce, filling in any relevant facts to prove the grounds alleged. Refer to Grounds for Divorce on pages 2 through 5 of these instructions. See the bottom of the Summons With Notice (Form UD-1), which lists the different grounds for divorce, or if you filed a Summons and Verified Complaint, refer to paragraph 12 of the Complaint.
- Field 15: List any additional relief that you are requesting as "ancillary relief." Refer back to p. 14 of these Instructions for the Summons with Notice and p.16 of these Instructions for the Verified Complaint forms. If you are waiving the distribution of marital property or if marital property is being distributed pursuant to an agreement/stipulation, check the appropriate box. You should also list any existing court orders (with the case/index/docket number) that you want to be continued or any stipulations or agreements that you have made in writing with the Defendant that you wish to become a part of the judgment.
- Field 16: Check the appropriate box as to the Defendant's status in the military. Strike the language that does not apply within the section that you choose.
- Field 17: Strike the word "not" where appropriate.
- Field 18: This section remains unchanged if there are no other matrimonial actions pending and you are still married. If there are other matrimonial actions pending, then you should seek legal assistance as noted in the Foreword.
- Field 19: Leave this section unchanged if you have supplied a photograph of the Defendant to the process server. Strike or delete it if you have not.
- Field 20: Check the appropriate box or boxes. If you are not the custodial parent, check Section 11A. If you are the custodial parent, check Section 11B and one of the following four statements [boxes (1),(2),(3), or (4)]. One of the four statements must be selected. If (1),(2) or (3) is selected in this Affidavit or in the Affidavit of Defendant, then you must check "Applicable" on the opening sentence (Field 8) of Form UD-11 (Judgment of Divorce).

Field 21: Insert the Plaintiff's and/or the Defendant's surname before the marriage if different from the current surname.

Complete the rest of this section (D.R.L. §240 1 (a-1) Records Checking Requirements) only if there are minor children of the marriage (see the definition on page 7). Check the appropriate boxes and list any required information.

Field 22: The Plaintiff must sign the form before a notary public.

7. AFFIDAVIT OF DEFENDANT (Form UD-7): To be Filled out by Defendant

Field 1: Insert the county in which the action is brought.

Field 2: Print the Plaintiff's name.

Field 3: Insert the index number assigned to the action.

Field 4: Print the Defendant's name.

Field 5: Insert the state and county in which the Defendant signed this affidavit.

Field 6: Print the Defendant's name.

Field 7: Print the Defendant's address.

Field 8: Defendant must check the appropriate box(es). The date of service and the grounds for divorce listed on the Summons With Notice or in the Verified Complaint also must be inserted.

Field 9: This section remains unchanged.

Field 10: Check the appropriate box.

Field 11: Check Section 4A if the Defendant waives service of all further papers in the action except for the final Judgment of Divorce. Check Section 4B if the Defendant wants to be served with all papers required to be served. The Defendant may strike any individual documents that the Defendant does not wish to be served with.

Field 12: Strike the italicized words if you are not seeking equitable distribution.

Field 13: Strike section 6a in totality except where Plaintiff requests a divorce by the conversion of a separation agreement and the marriage was performed by a clergyman, minister or by a leader of the Society for Ethical Culture. Check box 6b if you waive the Plaintiff's requirement to file the Sworn Statement of Removal of Barriers to Remarriage (Form UD-4).

Field 14: If Defendant is not the custodial parent, check Section 7A. If Defendant is the custodial parent, check Section 7B and check one of the statements in [boxes (1),(2),(3), or (4)], that applies to your individual situation. One of the four statements must be selected. If (1), (2) or (3) is selected in this Affidavit or in the Affidavit of Plaintiff, then you must check "Applicable" on the opening sentence (Field 8) of Form UD-11 (Judgment of Divorce). **Complete the rest of this section (D.R.L. §240 1(a-1)Records Checking Requirements) only if there are minor children of the marriage (see the definition on page 7) .** Check the appropriate boxes and list any required information.

Field 15: Defendant must sign the document and have it notarized before a notary public.

8. CHILD SUPPORT WORKSHEET (Form UD-8):

The Plaintiff **must** submit this document where there are unemancipated children of the marriage (see the definition on page 7). It lists the amount of child support that must be paid to the custodial parent by the non-custodial parent. If you have a Family Court order that directs the payment of a specified amount of child support, you do not have to fill in this worksheet. A copy of that order must be submitted with your papers.

This form requires you to list financial information. You may use a tax return, pay stub, W- 2 or any financial document that will assist you in completing the form. You may also use other information that you have to assist you. For example, if the Defendant was earning \$20,000 per year at the time you separated or if you know someone with the same job making \$20,000, you should list that amount and state the source of your information in Field 7 or Field 8.

If you do not know the Defendant's income at present, write the number 0 in all relevant sections with the word "unknown" next to that amount. Fill out the remainder of the form to the best of your ability. When you reach Field 35, you will be receiving \$300 per year, the statutory minimum. You may return to this Court or the Family Court should you learn Defendant's income at a later date. The Defendant may also return to court to show that he/she cannot pay this minimum amount.

Although this document looks complicated, a careful, step-by-step approach should help you complete it properly and without too much trouble. When things become complicated, examples will be given. You should complete this form before your prepare the summons, so that you can give the Defendant the required notice as to the amount of child support demanded or offered, as the case may be. It may help to read through the form before you begin. All statutory references in the form are to Domestic Relations Law § 240(1-b).

- Field 1: Insert the county in which you are bringing the action.
- Field 2: Print the Plaintiff's name.
- Field 3: Insert the index number assigned to the action.
- Field 4: Print the Defendant's name.
- Field 5: Insert the Plaintiff's name. Please note that in some cases the Defendant prepares this form; if so, put the Defendant's name here.
- Field 6: Check the appropriate box to show whether the Plaintiff or the Defendant is signing this document. This check will correspond to field 6.
- Field 7: Insert the Plaintiff's annual gross income (before taxes) in Item number 1. If the Plaintiff has income listed in Items 2-14 that he does not include in Item number 1, then put that yearly dollar amount next to the appropriate numbered category. Add up all of the items to get the "total mandatory income". Here are two examples:

*** Example One:** The Plaintiff is a truck driver who earns \$30,000 per year, which is his total income. Put \$30,000 in the blank next to number 1. Put -0- in the blanks next to numbers 2-14. The total mandatory income is \$30,000.

*** Example Two:** The Plaintiff is a teacher and earns \$30,000 per year but also receives a \$10,000 pension from a prior profession. Put \$30,000 in the blank next to number 1; put \$10,000 in the blank next to number 8, and put -0- in all the other blanks. The total mandatory income is \$40,000.

- Field 8: List the Defendant's total income in the same way that the Plaintiff's income was stated.
- Field 9: Insert the Plaintiff's non-mandatory income. The form designates various kinds of non-mandatory income. If there is any income of this nature, you must list it. If there is none, the total is -0-.
- Field 10: List the Defendant's total non-mandatory income.
- Field 11: This is the total of Field 7 and Field 9.
- Field 12: This is the total of Field 8 and Field 10.
- Field 13: List the Plaintiff's total deductions. These deductions are itemized in numbers 19 to 27. The deductions used most often are: number 26 (New York City or Yonkers income tax) and number 27 (Social Security taxes). Read each item to see which deductions apply, then total all the Plaintiff's deductions and put that figure in line D (Total Deductions). Remember, these figures are yearly totals.
- Field 14: List the Defendant's total deductions.
- Field 15: List the Plaintiff's adjusted income - his total gross income from field 11 minus his total deductions from field 13.
- Field 16: List the Defendant's adjusted income - her total gross income from field 12 minus her total deductions from field 14.
- Field 17: Insert the combined income of both the Plaintiff and the Defendant. Add field 15 and Field 16.
- Field 18: Insert the combined child support of the Plaintiff and the Defendant. To find the correct amount, multiply the combined income in field 17 by the appropriate percentage listed in field 18. (If the combined income in field 17 is over \$136,000, then disregard the amount exceeding \$136,000 for now and multiply the appropriate percentage by \$136,000).
- * **For Example:** If the Plaintiff's adjusted income is \$30,000 (field 15) and the Defendant's adjusted income is \$20,000 (field 16), then their combined income is \$50,000 (field 17). Suppose there is one child. Looking at field 18, you see: For 1 child...17%. You multiply $\$50,000 \times 17\% = \$8,500$. You now have the combined child support of \$8,500; this number will be put in field 18.
- Field 19: Insert the non-custodial parent's income. To do this, take the adjusted income of the person who does not have the child and insert this (either field 15 or field 16) in field 19.
- Field 20: Insert the combined income. Whatever is in field 17 will be repeated in field 20.
- Field 21: This amount is the result of simple division. Divide the non-custodial income (field 19) by the combined parental income (field 20) to arrive at a percentage - sometimes called "the prorated share".
- * **For Example:** Suppose the Plaintiff is the non-custodial parent; his adjusted income is \$30,000, and the Defendant's income is \$20,000. The combined income is \$50,000. You divide $\$30,000$ [non-custodial parent's income] by $\$50,000$ [Combined income]. $\$30,000 / \$50,000 = .60$ or 60%. Put this percentage in field 21. This percentage is important, because it will be used later to determine obligations of the non-custodial parent.

- Field 22: Multiply the combined child support (field 18) times the non-custodial parent's percentage [prorated share] (field 21) and insert the result in field 22. This is the non-custodial parent's share of the total child support.
- * **For Example:** Using the figures in the last two examples, $\$8,500 \times 60\% = \$5,100$.
- Field 23: Insert the amount of child support on the amount over \$136,000. Look at Step 11 of the Child Support Worksheet to see what factors might affect the child support on amounts over \$136,000. Some people decide to simply use the same formula that was used in field 22 and hope the court goes along with that.
- Field 24: Insert the sum of field 22 and field 23.
- Field 25: Insert the cost of child care for certain items. If you pay for any of those items, put a check in the appropriate box and place the total annual expense in field 25.
- Field 26: Insert the non-custodial parent's share of the child care check in field 25. To do this, multiply the total child care expense (field 25) by the non-custodial parent's prorated share (field 21), and put the number in field 26.
- * **For Example:** If field 21 is 60% and field 25 is \$1,000 then field 26 would be $\$1,000 \times 60\% = \600 .
- Field 27: Insert the amount for future annual health care expenses not covered by insurance.
- Field 28: Insert the non-custodial parent's share of the health care as listed in field 27. To do this, multiply the total future health care expenses in field 27 by the percentage in field 21.
- Field 29: List the annual amount for educational expense. Use Step 11(b) as a guide to decide if it is appropriate to put any amount in field 29.
- Field 30: Insert the non-custodial parent's income. This is the same amount as in field 19.
- Field 31: Insert the total amount of support, child care, future health care and educational expense attributable to the non-custodial parent. This field is the addition of field 24 + field 26 + field 28 + field 29.
- Field 32: Field 32 = field 30 - field 31. This amount is used to determine whether or not the low income exemptions apply to this case. If the deduction from the non-custodial parent's income of child support, child care, future health care and educational expense brings his income below poverty level or below the self-support reserve, then a different formula, as determined by fields 33-36, is used to determine the appropriate child support.

To see whether you have to use that different formula in fields 33-36, you first have to determine what are the poverty level and the self-support reserve. Every April 1st the poverty level as well as the self support reserve changes. You may obtain the most current figures from the Child Support Standards Chart, which is available at https://newyorkchildsupport.com/quick_links.html

Now you can see whether any of the low income exemptions apply. There are three possibilities. First -- If the figure you get in field 32 is larger than the self-support reserve, then you are finished with this form except for signing and notarization. Second -- If the figure you get in field 32 is less than the poverty level, then you must complete field 33 and field 34 before you are finished. Third -- If the figure you get in field 32 falls between the poverty level and the self-support reserve, skip field 33 and field 34 and move on to field 35 and field 36.

- Field 33: List the adjusted income of the non-custodial parent as set forth in field 30, but only when field 32 is below the poverty level. Otherwise, skip this field.
- Field 34: Insert the amount of the self-support reserve, as calculated using the instructions in the footnotes at the bottom of page four of the form.
- Field 35: This amount is the remainder after subtracting the self-support reserve (field 34) from the non-custodial parent's income (field 33). If the amount on field 34 is greater than \$300, then the correct child support is field 34. If the amount in field 34 is \$300 or less, then the correct child support is \$300 per year unless the Court decides this amount is "unjust or inappropriate" based on the non-numerical factors in Step 11 of the form. Keep in mind that the amount on field 34 may be less than \$0, which occurs when the non-custodial parent's income is less than the self support reserve. Treat any figure below \$0 as \$0. As noted, that will result in child support of \$300 per year unless the Court decides this amount is "unjust or inappropriate" based on the non-numerical factors in Step 11 of the form.
- Field 36: List the adjusted income of the non-custodial parent as set forth in field 30, but only when field 32 was below the self support reserve and above the poverty level. Otherwise skip this field.
- Field 37: Insert the amount of the self-support reserve, as calculated using the instructions in the footnotes at the bottom of page four of the form.
- Field 38: Insert the remainder after subtracting the self-support reserve (field 37) from the non-custodial parent's income (field 36). If the amount in field 36 is greater than \$600, then the correct child support is field 36. If the amount in field 36 is \$600 or less, then the correct child support is \$600 per year. In addition, the Court has discretion to award child care expenses, health care expenses, and college, post - secondary private, special or enriched education expenses pursuant to Step 9 of this form.

It is strongly advised that you attach to this document the latest income tax returns, W-2's, 1099's, pay stubs -- or whatever documentation you have -- to confirm the amounts you state in this form.

- Field 39: Plaintiff must sign this document. If the defendant prepared this document, then the defendant signs it. This form must be signed and sworn to before a notary public. Check the applicable box for the signature.

8a. SUPPORT COLLECTION UNIT INFORMATION SHEET (Form UD-8a):

The Plaintiff must submit this document where the services of the Support Collection Unit are requested. The Support Collection Unit is a state agency that assists litigants in obtaining the child support that has been ordered by the court. You may utilize the service or decline the service. If you decline the service you may apply to the Support Collection Unit in the future to assist you in obtaining the child support that the court has ordered to be paid.

- Field 1: Fill in the county in which the action is brought.
- Field 2: Print the Plaintiff's name.
- Field 3: Write in the index number assigned to this case.
- Field 4: Print the Defendant's name.
- Field 5: Fill in the Plaintiff's name, address, date of birth and social security number.
- Field 6: Fill in the Defendant's name, address, date of birth and social security number.
- Field 7: Fill in the date and the place of marriage.
- Field 8: Check the appropriate box.
- Field 9: Indicate the name(s) and date(s) of birth of the unemancipated child(ren). List the amount of support for each child and check the appropriate box for either per week or per month.
- Field 10: Indicate who will be receiving the support payments by checking the appropriate box.
- Field 11: Fill in the name and address of the third-party person if this person is receiving the support payments.
- Field 12: Fill in the non-custodial parent's employer's name and address.
- Field 13: Fill in the date the form is completed.

8b. QUALIFIED MEDICAL CHILD SUPPORT ORDER (Q.M.C.S.O.) (Form UD-8b):

A certified copy of this signed order must be served on the employer of the person legally responsible to provide health insurance.

- Fields 1-4: The court will fill in these sections.
- Field 5: Print the Plaintiff's name.
- Field 6: Insert the index number.
- Field 7: Print the Defendant's name.
- Field 8: Insert the name, date of birth, social security number and mailing address of each unemancipated child of the marriage.
- Field 9: Insert the name of the party who must enroll the child(ren) in the health insurance plan available through his or her employment.
- Field 10: Insert the name of the party that has custody of or is the legal guardian of the child(ren).
- Field 11: Insert the name, address and identification number (if any) of the health plan.
- Field 12: Insert the name and address of the administrator of the plan (if any).
- Field 13: Describe the type of coverage provided by the plan. Give a detailed description.
- Field 14: Leave this section unchanged.
- Field 15: Insert the date the parties agree that coverage is to be effective. If not filled in, the court will enter the date the order is signed.
- Field 16: The court will fill in this section.

9. NOTE OF ISSUE (Form UD-9):

- Field 1: Insert the county where you are bringing the action.
- Field 2: Print the Plaintiff's name.
- Field 3: Insert the index number that you will receive from the clerk's office in this space. Leave the space for calendar number empty; the clerk's office will fill in that section.
- Field 4: Print the Defendant's name.
- Field 5: The words "no trial" appear here. You do not need to write anything here.
- Field 6: This section must indicate who is placing this matter on the calendar. Check the appropriate box. Only one (1) box should be checked.
- Field 7: Insert the date that the summons was filed with the County Clerk.
- Field 8: Insert the date that the summons was served on your spouse.
- Field 9: Because this an uncontested divorce, the term "NOT JOINED" appears. You must indicate whether this case is going forward due to a default (your spouse fails to appear in the action), due to a waiver (your spouse is agreeing to proceed to divorce by completing an Affidavit of Defendant), or due to a stipulation (both parties agree by written document). Check the appropriate box.
- Field 10: The divorce is not being contested. You do not need to write anything in this space.

- Field 11: You are asking for an absolute divorce. You do not need to write anything in this space.
- Field 12: Check the appropriate box. Fill in the name, address, telephone number and fax number of the attorney for the Plaintiff here. If the Plaintiff does not have an attorney, put the Plaintiff's name, address, telephone number and fax number in this space.
- Field 13: Check the appropriate box. Fill in the name, address, telephone number and fax number of the attorney for the Defendant. If the Defendant does not have an attorney, put the Defendant's name, address, telephone number and fax number in this space.

10. FINDINGS OF FACT AND CONCLUSIONS OF LAW (Form UD-10):

- Fields 1-4: Do not fill in these sections. The court will fill in these fields.
- Field 5: Print the Plaintiff's name.
- Field 6: Print the index number assigned to the case. Do not fill in the calendar number.
- Field 7: Print the Defendant's name.
- Field 8: If you are submitting the papers to obtain a divorce based solely on signed affidavits, check the appropriate box or boxes. If you had an inquest/hearing before a judge, check that box. If you do not know whether the court will sign your divorce (you may want to inquire at the clerk's office as to the procedure in the county where you are filing), do not strike either provision or insert the Part where the documents will be signed. The Part will be filled in by court employees. You must, however, insert the name of the county where you are filing for divorce and the date of the inquest/hearing if you had one. Otherwise leave the date section blank so that the the court can fill in the information.
- Field 9: This section remains unchanged. If either the Plaintiff or the Defendant was under the age of 18 when this action was commenced, then a divorce action may not be filed and the Plaintiff should consult with an attorney as noted earlier.
- Field 10: This section establishes residency for purposes of obtaining a divorce. The beginning of this filing instruction packet explains the requirements for residency. Check the appropriate box or boxes. This section should be consistent with the earlier instructions given as to residency and any other form where you addressed residency.
- Field 11: Fill in the date and place that the parties were married, and indicate the type of ceremony by checking the appropriate box.
- Field 12: Do not fill anything in this section unless there is another action pending elsewhere. If so, consult an attorney as noted in the Foreword.
- Field 13: Check the appropriate box as to the papers served on Defendant to start the action. Indicate how defendant was served by placing a check mark in the appropriate box. If service was made pursuant to court order, fill in the date of such order. Indicate whether defendant appeared in the action by placing a check in the appropriate box.

- Field 14: Check the appropriate box. If defendant is a member of the military indicate the branch of service. If defendant is in the military and does not consent, it is suggested you retain counsel.
- Field 15: Check the appropriate box. Insert the total number of children of the marriage (see the definition on page 7). List their names, social security numbers, dates of birth and addresses.
- Field 16: Indicate the grounds upon which the divorce is to be granted by checking the appropriate box. Where a date is required, fill in the appropriate date. When using Cruel and Inhuman Treatment (DRL §170(1)) as grounds for divorce, make sure the specific allegations listed demonstrate Cruel and Inhuman Treatment as defined on the form. Repeat the same facts as set forth in the Verified Complaint and in the Plaintiff's Affidavit.
- Field 17: Check the appropriate box.
- Field 18: If you have asked for maintenance payments (“alimony”) from your spouse in your divorce papers and you and your spouse have come to a written agreement on the amount and timing of the payments, complete the box in paragraph “A)”. If there is no agreement for maintenance and you asked the court for maintenance payments in the divorce papers that you served on your spouse, you may be required to attend a court hearing to provide proof of the need for maintenance. Leave Paragraph “B)” blank. You will receive further instructions from the court. If there is already a court order about maintenance regarding you and your spouse, and you either want that court order to continue after the divorce or you and your spouse have a written agreement stating that the court order will continue, fill in the information requested in paragraph “C)”. If maintenance was not awarded, check the appropriate box in paragraph “D)” as to the reason.
- Field 19: This section addresses the children of the marriage (see the definition on page 7).
Check the appropriate box so that the court can see which party the children reside with and which party, if any, is entitled to visitation with the children away from the custodial residence (the place where the children reside). If the children live with a third party, fill in the name. Leave the paragraph regarding domestic violence for the court to complete.
- Field 20: If there are other issues (i.e., support, custody, marital home, etc.) being settled or decided by the court, place a check mark in the appropriate box.
- Field 21: Check the appropriate box.: **Paragraph (A):** You must fill out this paragraph if there are children of the marriage (see the definition on page 7). List the names and the dates of birth of the unemancipated children of the marriage. **Paragraph (B):** You must fill in either subparagraph 1, 2 or 3 to show how the amount of child support was determined. Much of this information can be taken from the Child Support Worksheet. It is recommended that you use the Child Support Standards Chart in calculating the support obligation. The Chart is available at:

https://newyorkchildsupport.com/quick_links.htm

* **Instructions for subparagraph (1):** Fill in subparagraph (1) if there is already in existence a court order that has set the amount of child support and such order is to be continued by the Judgment of Divorce.

* **Instructions for subparagraph (2):** Fill in subparagraph (2) if you are requesting an order of the court for child support. Fill in the adjusted gross income (after deductions) of each party. Circle the applicable child support percentage. The percentages are 17% for one child, 25% for two children, 29% for three children, 31% for four children and 35% for five or more children. Multiply the child support percentage by the combined income to \$136,000 and do the same for combined income over \$136,000, if any. Fill in the amounts. Divide each party's income by the total income to obtain each party's pro rata share percentage of the combined income. Fill in the percentage. Multiply the basic child support obligation on income to \$136,000 by the non-custodial parent's pro rata percentage share and do the same for income over \$136,000. Fill in the amounts. Fill in the non-custodial parent's pro rata share of health care expenses not covered by insurance, child care, educational, or extraordinary expenses.

* **Instructions for subparagraph (3):** Fill in subparagraph (3) if the parties entered into a stipulation/agreement as to child support, or if the court rendered its decision in open court on the record. Fill in the date the parties entered into the stipulation/agreement and the amount of child support agreed to be paid. Check the appropriate boxes as to who will pay and who will receive child support. Check the appropriate box as to whether the parties are applying or waiving the application of the Child Support Standards Act (Guidelines) to the total combined income over \$136,000 a year. If issues regarding health care, child care, educational, or extraordinary expenses were agreed to, fill in the dollar amount to be paid or the percentage of said expenses agreed to be paid. Fill in the presumptive amount of child support attributable to the non-custodial parent pursuant to the Child Support Standards Act (Guidelines). Refer to the Child Support Standards Chart or Child Support Worksheet for this presumptive amount. Check the appropriate box that indicates whether the agreed-upon amount of support conforms with or deviates from the non-custodial parent's basic child support obligation. If there is a deviation, whether it be higher or lower, give specific reasons why the court should approve of such deviation. The reasons for deviations must be in the stipulation/agreement.

Field 22: List the Plaintiff's and Defendant's addresses and social security numbers.

Field 23: If there are no unemancipated children of the marriage or if child support is not an issue or if the parties do not have health coverage provided by their employer, check the appropriate box. If either party's employer offers health insurance, check that box and fill in the required information about Plaintiff's and Defendant's insurance coverage. Make sure to include the type of coverage. Examples include but are not limited to medical, dental and optical coverage. If either party has more than one insurance plan, you must list the additional coverage on a separate sheet of paper. Form UD-13 must be submitted if there is health insurance coverage available to either party through their employer.

* Check the appropriate box as to whether both parties have agreed or stipulated as to which party will cover the unemancipated children on their health insurance policy. If there is no agreement, check the box indicating that the court has determined the party who will cover the children and indicate whether Plaintiff or the Defendant will cover the children under a group health plan. Strike out any inapplicable language.

- Field 24: List any court orders, by the index number or docket number and the date entered, that the parties wish to be continued.
- Field 25: Check the appropriate box and list prior surname.
- Field 26: Check box A) if the parties entered into a Stipulation of Settlement/Agreement and fill in the date of the agreement. Check appropriate box 1 or 2.
Check box B) if there is no Stipulation of Settlement/Agreement. Leave box 1 or 2 to be completed by the court.
- Field 27: Check the appropriate box.
- Field 28: Check the appropriate box and insert the Domestic Relations Law subdivision for the grounds for divorce. Be consistent with prior forms.
- Field 29: This section will be filled in by the court.

11. JUDGMENT OF DIVORCE (Form UD-11):

- Fields 1-4: Do not fill in these sections. The court will fill in these fields.
- Field 5: Print the Plaintiff's name.
- Field 6: Print the index number assigned to the case. Do not fill in the Calendar Number. Fill in the Social Security Number of the person who will be obligated to pay child support (if any).
- Field 7: Print the Defendant's name.
- Field 8: Check the appropriate box. If you are receiving child support and want payments to be made to the Support Collection Unit, check the "Applicable" box. If there are no unemancipated children of the marriage, check the "Not Applicable" box.
- Field 9: If you had an inquest/hearing before the court, check that box and fill in the date of the inquest. If you did not have an inquest, then the court will fill in the date.
- Field 10: Check the appropriate box as to the method of service and whether service was made in New York State or outside of New York State.
- Field 11: Check the appropriate box.
- Field 12: Check the appropriate box and fill in the date of the stipulation, if any.
- Field 13: Check the appropriate box.
- Field 14: List the Plaintiff's and Defendant's addresses and social security numbers in the spaces provided.
- Field 15: Fill in the name of the person submitting the judgment and check the appropriate box identifying this person.
- Field 16: Leave this section unchanged.
- Field 17: Insert the names of the parties and check the box(es) of the section(s) of the Domestic Relations Law pertaining to your grounds for divorce. You may obtain the information pertaining to the grounds of divorce from the Affidavit of Plaintiff (Form UD-6) or Verified Complaint (Form UD-2).
- Field 18: Check the appropriate box as to who shall have custody of the minor children of the marriage (see the definition on page 7) and print the name of the person in the space provided. If there are no minor children of the marriage, check that box in Field 19.

- Field 19: List the names and dates of birth and Social Security numbers for the children of the marriage. If there are no minor children of the marriage, check that box. (See the definitions on page 7)
- Field 20: Check the appropriate box. If visitation is to be ordered after a hearing or by decision, set forth the schedule. If visitation is not applicable, check that box.
- Field 21: If there are existing orders from any other court that are to be continued by this court, other than child support orders, list the County and Index Numbers or Docket Numbers of the order(s), and check the appropriate boxes. A copy of any order to be continued must be submitted to this court. If there are no other court orders with regard to custody, visitation or maintenance, check that box.
- Field 22: Fill in this section if there is to be continued an award of child support by a court order issued by a court other than this court. Check all appropriate boxes. If there is to be no award of child support by continuing another court's order, check that box.
- Field 23: If you have a written Settlement Agreement for maintenance, check Box A and then check the box next to the words "agreement of the parties." Immediately to the right of this, and on the next line, check the appropriate box ("Plaintiff" or "Defendant") depending on whether you are going to receive maintenance or pay it. On the line next to the words "the sum of __," write the amount of maintenance you will receive or pay in each payment period and check the box next to the payment period. Since these payments are from a Settlement Agreement, check the box next to the words "payments to be made as set forth..." Check the box that tells whether you want the maintenance payments to be made directly or by an Income Deduction Order. (If you check the box for an Income Deduction Order, you will have to obtain and complete an Income Deduction Order, which is available on the court's web site and/or from the Supreme Court Clerk's Office.) Check Box B if there is to be no award of maintenance or none was requested.
- Field 24: Check the appropriate box and insert all requested information or check the "Not applicable" box if payment of child support is not to be made by these means. This section applies where child support is to be paid directly by one spouse to the other or through the NYS Child Support Processing Center.
- Field 25: Fill in this section, and check the appropriate boxes if child care expenses are to be paid. If not, check the "Not applicable" box.
- Field 26: Fill in this section, and check the appropriate boxes if health care expenses are to be paid. If not, check the "Not applicable" box.
- Field 27: Fill in this section and check the appropriate boxes if educational expenses are to be paid. If not, check the "Not applicable" box.
- Field 28: If an award of exclusive occupancy of the marital residence is to be ordered, insert the appropriate terms, including the address of the marital residence and any other provisions regarding exclusive occupancy. If there is no issue of exclusive occupancy, check the "Not applicable" box. **Note:** A hearing may be held for the court to determine exclusive occupancy unless you and your spouse agree that one of you will remain exclusively in the marital residence.

- Field 29: If there is an agreement or stipulation between the parties, this section must be filled out. Fill in the date the agreement or stipulation was entered. If you have other wishes regarding the survival of this agreement, please notify the court.
- Field 30: A Qualified Medical Child Support Order (Q.M.C.S.O.) must be issued where child support is an issue. The Q.M.C.S.O. is included in the forms booklet as Form UD-8b. Check the box if not applicable.
- Fields 31&32: Complete if you have a separation agreement or a decision of the court. If not, check the "Not applicable" box.
- Field 33: Leave this provision unchanged.
- Field 34: Insert Plaintiff's and/or Defendant's surname before the marriage if different from the current surname.
- Field 35: Fill in this section, and check the appropriate boxes if an award of counsel and/or expert fees is to be made. If not, check the "Not applicable" box.
- Field 36: The court will fill in this section.
- Field 37: The court will fill in this section.

12. PART 130 CERTIFICATION (Form UD-12):

Part 130 of the Rules of the Chief Administrator of the Courts [22 NYCRR] requires that you, or your attorney if you have one, must certify, by signing the form, that every document relating to the divorce action which is served, filed or submitted to the court, is not frivolous as defined in subsection (c) of section 130-1.1. Be sure to type or print your name beneath your signature.

13. REQUEST FOR JUDICIAL INTERVENTION (Form UD-13):

A Request for Judicial Intervention (RJI) form must be completed and submitted with the balance of the divorce papers being filed with the County Clerk's office (see **STEP 9** on page 10). This form requests selected information and is used to assign your case to a judge for review and disposition. When there are children under the age of 18 who are subject to the matrimonial action, you must also complete and submit the Request for Judicial Intervention Addendum Form 840M. Fill out as indicated on the form(s).

14. NOTICE OF ENTRY (Form UD-14):

- Field 1: Insert the county where you brought the action.
- Field 2: Print the index number assigned to the case.
- Field 3: Print the Plaintiff's name.
- Field 4: Print the Defendant's name.
- Field 5: Insert the county where you brought the action.
- Field 6: Print the date the judgment of divorce was entered. You can find this date by looking at the entry stamp on the judgment. If there is no stamp on the document, you must bring it to the County Clerk's Office and have it entered.
- Field 7: List the date you prepared this document.
- Field 8: List your name.
- Field 9: Write in your address.
- Field 10: Write in Defendant's name and address, or, if Defendant has an attorney, the attorney's name and address. Check the appropriate box. You will be sending this Notice of Entry with the Judgment of Divorce to the Defendant as noted on page 12 of the instructions booklet under the heading "After the Papers are Approved".

CERTIFICATE OF DISSOLUTION OF MARRIAGE:

This form is required by the Department of Health. You must fill out the form, although you need not complete the section entitled "Confidential," and submit it to the County Clerk's Office with the filed papers.

POSTCARD:

The forms packet contains a postcard that must be submitted with the filed papers. That postcard must contain the Plaintiff's name, address and the proper postage. It also must contain the name of the case and the index number. The court will use this postcard to notify you of the status of the case, including whether there are any problems with the papers filed.

UCS 111 (DIVORCE & CHILD SUPPORT SUMMARY FORM):

The Unified Court System is required by law to collect various data concerning divorce proceedings involving child support. This form must be completed by the Plaintiff and submitted to the Supreme Court Clerk's Office upon submission of the filed papers. The information reported on the form is confidential and will be used for statistical purposes only. It will not be retained in the permanent case file.

NEW YORK STATE CASE REGISTRY FILING FORM:

This form must be completed if a party is requesting child support that will be payable to another party or entity other than a child support collection unit (for example, the child support will be paid by the defendant directly to the plaintiff). The "payor" is the party who pays the support; the "payee" is the party who receives the support payment.

SUPPLEMENTAL APPENDIX OF FORMS INSTRUCTIONS

A. INCOME DEDUCTION ORDER:

To complete the order, you must include the name, address and social security number of the parties; the name and address of the employer; the amount to be withheld; and the date upon which payments are to end. If you are the person receiving the payment, you are the creditor and your spouse is the debtor. If the income deduction order is for spousal support (maintenance) only, you may insert the address of the person who is to receive the monies or the following address where payments are to be forwarded:

Office of Temporary and Disability Assistance
P.O. Box 15365
Albany, New York 12212-5365

If the income deduction order is for child support, or child and spousal support combined, insert the name and address of the person who is to receive the monies. Make sure to check the appropriate box that indicates whether the payments are to be made by either direct payment (to the party receiving the support payment) or forwarded payment (to the Office of Temporary and Disability Assistance, formerly known as the Department of Social Services).

You should speak to your local child support enforcement unit to find out the services it provides in collecting and enforcing child support payments.

B. NOTICE OF SETTLEMENT:

If required by the court, or requested by the Defendant, fill out this form and serve it on the Defendant together with a copy of the orders and/or judgment being settled.

- Field 1: Insert the county in which you are bringing the action.
- Field 2: Insert the index number.
- Field 3: Print the Plaintiff's name.
- Field 4: Print the Defendant's name.
- Field 5: Check the appropriate box or boxes as to the documents that are being noticed for settlement. Specify any other order(s) being submitted.
- Field 6: Insert the address of the court in which the action is pending. Select a date that the Proposed Judgment of Divorce, Qualified Medical Child Support Order or any other order will be presented to the court, and insert that date. Note: the date that is selected must be at least 5 days after you serve the other party personally with a copy of the Proposed Judgment of Divorce, Qualified Medical Child Support Order or any other order; or at least 10 days after the day you serve the other party by mail with a copy of the Proposed Judgment of Divorce, Qualified Medical Child Support Order or any other order.
- Field 7: Insert the date the form is being prepared.
- Field 8: Check the appropriate box as to who prepared the form and fill in the name, address and telephone number of that person.
- Field 9: Check the appropriate box as to the person whom the Notice of Settlement is being served upon and fill in the name, address and telephone number of that person.

POOR PERSON STATUS / WAIVER OF FILING FEES:

The State of New York recognizes that some individuals may lack the financial resources needed to pay the filing fees and court costs associated with filing for an uncontested divorce. The law permits an application for poor person status, thus relieving the person of the obligation to pay those fees, costs and expenses required. You will not be allowed an exemption from the obligation to pay merely because your circumstances are difficult. Rather, you must fill out an affidavit that indicates you are unable to pay the fees and costs associated with the lawsuit and as such will not be able to proceed in the absence of an order granting an exemption.

To request poor person status, you must fill out the Affidavit in Support of Application to Proceed as a Poor Person and the Poor Person Order and file these papers with the County Clerk's Office when you file the summons with notice or summons and verified complaint. Before you file the papers, check with the County Clerk's Office or Supreme Court clerk's office for further instructions and to see if any additional papers are needed to obtain poor person status. Be sure to make and retain copies of the papers. You may be required to serve a copy of each set of papers upon the County Attorney (outside of New York City) or Corporation Counsel (within the City of New York) and your spouse or his/her attorney. You are allowed to serve these papers by mail.

NOTE: If you are incarcerated, you cannot submit the poor person's waiver forms included in this packet. You will need to submit an application pursuant to C.P.L.R. 1101(f).

C. POOR PERSON ORDER:

- Field 1: Insert the county in which you are bringing this action.
- Field 2: Fill in the address of the courthouse where you are submitting the papers.
- Field 3: Leave this section blank. The court will fill in.
- Field 4: Leave this section blank. The court will fill in.
- Field 5: Insert the index number.
- Field 6: Print the Plaintiff's name.
- Field 7: Print the Defendant's name.
- Field 8: Insert the Plaintiff's name.
- Field 9: Insert the Plaintiff's name.
- Field 10: Fill in the appropriate subdivision number and the ground for divorce.
- Field 11: Insert the Plaintiff's name.
- Field 12: Insert the Plaintiff's name.
- Field 13: Insert the Defendant's name.
- Field 14: Leave this section blank. The Judge will sign here.

D. AFFIDAVIT IN SUPPORT OF APPLICATION TO PROCEED AS A POOR PERSON:

- Field 1: Insert the county in which this action is brought.
- Field 2: Print the Plaintiff's name.
- Field 3: Insert the index number.
- Field 4: Print the Defendant's name.
- Field 5: Insert the county in which the Plaintiff signed this document.
- Field 6: Insert the Plaintiff's name.
- Field 7: Fill in the address of Plaintiff, the village where the Plaintiff resides and the county where the Plaintiff resides. In addition, indicate the number of years that the Plaintiff resided in New York State.
- Field 8: Fill in the appropriate subdivision number and the grounds for divorce as indicated at the end of the form.
- Field 9: Plaintiff must list all sources of income including any amounts earned on a weekly, monthly or yearly basis and submit proof. For example, Plaintiff may attach a pay stub, W-2 form or social services identification.
- Field 10: Plaintiff must list any property that he or she has and the value of this property. This must include bank accounts and the amounts in those bank accounts.
- Field 11: Leave this section unchanged.
- Field 12: Leave this section unchanged.
- Field 13: Indicate whether prior requests were made for similar relief.
- Field 14: Plaintiff must sign this document before a notary public.