

For distribution by Brevard County, Florida, Clerk of the Court and other court personnel to all persons who seek a dissolution of marriage (divorce) but are not represented by an attorney.

IN THE CIRCUIT AND COUNTY COURTS OF THE
EIGHTEENTH JUDICIAL CIRCUIT, BREVARD COUNTY,
FLORIDA.

**INFORMATION AND INSTRUCTIONS FOR PRO SE LITIGANTS
FILING NON-SIMPLIFIED DISSOLUTION OF MARRIAGE (DIVORCE) ACTIONS**

This packet is for use by persons seeking a non-simplified dissolution of marriage (divorce). You may qualify for a simplified dissolution of marriage. A filing fee of \$409.00 is payable to the Brevard County Clerk of Courts by cash, check, cashier's check, money order, debit card, American Express, Discover, Master Card or Visa.

Ask the Clerk's Office which procedure is appropriate for you.

Pursuant to Administrative Order (AO) 11-14-B 4th Amended, parties involved in a dissolution of marriage case are **required** to read and become familiar with certain Administrative Orders: 11-37-B; 14-04 Amended; 13-38-B and 11-24-Amended. Furthermore, in cases involving minor children, additional Administrative Orders are **required** to be read: 14-05 and 11-34-B Amended. Upon completion of the above required reading, the Petitioner and Respondent shall submit an Attestation Certificate to the Clerk of Court stating they have read the Administrative Orders **required** by 11-14-B 4th Amended. All of the above named Administrative Orders and the Attestation Certificate (Law 145) can be found on the Clerk of Courts website at www.brevardclerk.us and by selecting the Family category under the **Courts** column. The Clerk's Office cannot give you any advice regarding your legal rights.

NOTE: Forms cited in these instructions may be obtained through the Brevard County Law Library, the Clerk's Office or on the Clerk's Website, <http://www.brevardclerk.us/pages/famforms.htm>.

DEFINITIONS

A "PRO SE" is a person representing his/her own interests without hiring a lawyer. "DISSOLUTION OF MARRIAGE" is the term used by Florida's court system for a "divorce". The "PETITIONER" is the person filing a Petition for Dissolution of Marriage and may be either the Husband or the Wife. The "RESPONDENT" is the Petitioner's spouse, the person who is being "sued for divorce," and may be either the Husband or the Wife. The "CLERK" is the Clerk of the Circuit Court for Brevard County and is the official who receives all of the paperwork to be placed in the court file for the Judge during the dissolution action. The "JUDICIAL ASSISTANT" is the personal staff member to the Judge who has a variety of responsibilities, including scheduling hearings, preparing court orders and correspondence in all divisions of the law. The Judicial Assistant also interacts with other judge's offices, attorneys, the Clerk of Courts, Deputies, State institutions, all administrative/support staff offices, and the general public. An "AFFIDAVIT" is a statement of facts sworn under oath to be true and, if untrue, could subject the person to prosecution for criminal perjury charges if the statements were known to be false when made.

PAPERWORK IN YOUR CASE

1. CONTENTS: Some information must be included in every paper you send to the Court. All papers filed in your case MUST have:

- a. The "STYLE" of the case (for example, "IN RE: The Marriage of JANE DOE, PETITIONER, V. JOHN DOE, RESPONDENT").
- b. The CASE NUMBER.
- c. The NAME, MAILING ADDRESS, and PHONE NUMBER of the party filing the paper, and
- d. Except for the initial Petition, a "CERTIFICATE OF SERVICE" to show that a copy was sent or given to the other person involved in the case on a certain date. The certificate is usually in the following form:

"I HEREBY CERTIFY that a copy of the above paper has been furnished by ___U.S. Mail ___Hand Delivery ___Telefax ___Courier ___E-Mail to (name of other person) at (address of other person), this ___ day of _____, 20___

SAMPLE FORM ONLY

(signature of person submitting paperwork)".

2. WHO GETS WHAT AND HOW:

- a. **ORIGINALS:** The originals of any papers for your case should be either taken in person or sent by U.S. Mail to the Office of the Clerk of Courts at P. O. Box 219, Titusville, FL 32781-0219. Submitting papers to the Clerk is referred to as "FILING" the papers with the Clerk.
- b. **COPIES:**
 - (1) THE OTHER PERSON (RESPONDENT) must receive a copy of any paper you file with the Clerk. How the Respondent receives that copy depends on what the paper is. Providing a copy of the initial Petition to the Respondent is done by "SERVING" them with, or giving them the papers through delivery by a deputy sheriff or process server, or in some cases, by publishing notice in the newspaper. This will be explained in detail below in Section B "NOTIFYING THE RESPONDENT".
 - (2) KEEP A COPY FOR YOUR OWN USE.

A. FILING THE PETITION

1. REQUIRED STATEMENTS: The Petition for Dissolution of Marriage must outline what you, the Petitioner, want to get from the Respondent or what you want the Judge to do. It must always contain the following:
 - a. The Respondent's full name and address;
 - b. Your full name and address;
 - c. The date and place the parties were married;
 - d. A statement that the Petitioner OR the Respondent has been a continuous resident of Florida for at least six (6) months before the Petition was filed; and
 - e. A statement that the marriage is "irretrievably broken".
2. CHILDREN: If a child was born to or adopted by the parties during the marriage and the child is still a minor OR if the wife is pregnant, additional statements should be made in the Petition. A "MINOR" child is a child who is under the age of 18 years when the Petition is filed. The Petition should include the following:
 - a. The names, date of birth of any minor child(ren) born to the parties during the marriage; the name, date of birth and date of adoption of any minor child(ren) adopted by either or both of the parties during the marriage. If no child has yet been born of the marriage but the wife is pregnant, a statement of that fact should be included;
 - b. A statement of which party should have parental responsibility of the child(ren) (shared or sole parental responsibility) and that the best interests of the child(ren) will be served by placing the child(ren) with that party;
 - c. A statement that the other party is entitled to reasonable timesharing rights, or if not, what restrictions on timesharing should apply and the FACTUAL reasons why timesharing should be denied, restricted, or supervised;

- d. If parental responsibility is requested by the Petitioner, a statement that the Petitioner needs child support, as well as medical and dental insurance for the child(ren), from the Respondent; and
 - e. An affidavit listing the addresses where each child has lived and with what persons during the last 5 years, stating whether each child has been involved in a request by any other person for parental responsibility or timesharing rights, naming any other person having parental responsibility or timesharing rights with the child(ren), and asserting whether there is a dependency proceeding concerning the child(ren) pending in any court. Uniform Child Custody Jurisdiction Act Affidavit [Florida Supreme Court Form 12.902(d)].
 - f. There is no dependency action pending in the State of Florida or any other state involving the minor child(ren). Affidavit Regarding Juvenile Dependency [Law 1100].
3. **SPOUSAL SUPPORT (ALIMONY):** If you are requesting spousal support (Alimony), the Petition should include the following:
- a. A statement that you need alimony or support from the other party;
 - b. A statement that the Respondent has the ability to pay alimony or support for you; and A Financial Affidavit [Florida Supreme Court Form 12.902(b) or 12.902(c)] must be filled out and served on or given to the Respondent along with the Petition.
4. **MISCELLANEOUS MATTERS:** The Petition may also contain statements concerning the following:
- a. The change of your married name back to a maiden or other last name, if you are a female.
 - b. Property acquired by you and/or your spouse during the marriage, whether land, houses, buildings, etc., or personal property such as cars, stocks, furniture, bank accounts, pension funds, etc., which should be divided fairly between the parties. This includes gifts you have given to each other.
 - c. Any special interest you might claim to have in any property as a result of (1) your contribution of money from a source outside the marriage for that property or (2) money or services contributed by your for that property over and above that of the other party. **FACTS** must be stated to tell why you should be given a special interest in the property.
 - d. Debts and liabilities incurred during the marriage and who should pay them following the dissolution of marriage.
 - e. Any agreement signed by the parties for an uncontested divorce. If you and the Respondent have signed an agreement, it should be attached to the Petition as an exhibit. The agreement must be signed by both parties. Even if the divorce will be uncontested, both parties are required to file financial affidavits.
 - f. Any Temporary Injunction for Protection which is still good (active). The Injunction's case number should be provided in the Petition.
 - g. Notice of Related Cases [Florida Supreme Court form 12.900(h)].

NOTE: At the time of filing the initial Petition, the Clerk of the Courts will charge a fee for filing the Dissolution of Marriage action. This filing fee must be paid or waived by the Clerk before the Petition is filed. If you ask for a waiver, you must file an Affidavit of Indigency [Form Law 929 – Application for Determination of Civil Indigent Status] with the Clerk. An Affidavit of Indigency requires you to swear under oath that you are unable to pay the charges, costs, or fees charged by the Clerk or Sheriff for this action. The affidavit will require you to specifically list your income, assets, and financial obligations. Making false statements under oath is a criminal act, a felony, which could mean criminal prosecution and a jail term in convicted.

B. NOTIFYING THE RESPONDENT OF YOUR PETITION

The Judge cannot enter a Final Judgment or any other orders unless your spouse, the Respondent, is given notice that you have filed a Petition for Dissolution of Marriage. There are three (3) ways to give the Respondent notice of the Petition:

1. **BY SHERIFF OR PROCESS SERVER:** The Clerk of Court will issue a Summons [Florida Supreme Court Form 12.910(b) and 12.910 (a)] at the time the Petition for Dissolution of Marriage is filed. There is a \$10.00 processing for each summons issued, payable to the Clerk of Courts. The summons will instruct the Respondent that within 20 days after the Petition is given to the Respondent, an Answer or some response to the Petition must be filed with the Clerk for the court file and that a copy of the answer or response must be given to you.

The Summons and Petition must be given to, or “served” on the Respondent by a deputy sheriff or special process server. The Sheriff’s Office or special process server will charge you a fee for doing this. The Clerk will advise you where the Sheriff’s Office is located and you may have that office serve the summons and a copy of the Petition on the Respondent. Or, you may know a person specially appointed by law to serve summons and petitions. In either case, you must give the summons and a copy of the Petition (and a copy of a financial affidavit if child support or alimony is requested) to the Sheriff or process server, along with the Respondent’s address, place of work, or other whereabouts. The Sheriff or process server will attempt to serve the papers on the Respondent and will then file a form with the Clerk to show whether the Respondent was served or not. If the Respondent is not found the process server will have to try again. The Summons and Petition must be left with the Respondent or a member of the Respondent’s household over the age of 15 years for it to be proper service. For the Judge to have personal jurisdiction over the Respondent, the Respondent must be found.

NOTE: The Judge must have personal jurisdiction over the Respondent by personal service to be able to order child support, alimony, and in most cases, divide the property and debts.

2. **BY PUBLICATION:** If you do not know where the Respondent lives or works, you can still give notice of your Petition to the Respondent through what is called “constructive service of process”. To do this you must file an Affidavit of Diligent Search and Inquiry for Service by Publication [Florida Supreme Court Form 12.913(b) if there are no children or financial support or 12.913(c) if there are children and/or you are asking for financial support.] stating that you have tried to find out where the Respondent lives. In the affidavit, you must list all the things you did to find the Respondent such as asking friends and relatives; checking telephone directory information; checking with the office of voter’s registration or the tax assessor; or any other source of information to locate Respondent’s residence. The affidavit must be signed by you, under oath, and you must swear to the truth of the facts stated in it before a notary public or Deputy Clerk. The Judge will ask you questions about your affidavit and search, and if the Judge decides you did not try hard enough to locate the Respondent, the Judge may not grant you the divorce.

Once the Affidavit is filed, a Notice of Action must then be sent to a newspaper to be published once a week for four (4) consecutive weeks. It must be a newspaper published in Brevard County. You may either give the Notice, along with a stamped envelope addressed to the newspaper of your choice, to the Clerk of Court to be delivered to the newspaper, or you may deliver the Notice of Action to the newspaper yourself. You **MUST** pay for the publication at the time you ask it to be published if required to do so by the newspaper. After publication of the Notice for four (4) weeks, the newspaper will give you an Affidavit of Publication which **MUST** be filed with the Clerk of the Court.

NOTE: If you serve the Respondent only by publication, the Judge does not have personal jurisdiction of the Respondent, which means that the Respondent cannot be ordered to pay alimony or child support or divide property and debts. The Judge can normally only give the divorce and determine parental responsibility of the child(ren) living with the Petitioner in cases where the Respondent was not personally served.

BY AGREEMENT: If there is a signed agreement between the parties to settle the case, the Respondent may voluntarily accept the Petition from you. In a case with an agreement, an Answer and Waiver [Florida Supreme Court Form 12.903(a)] to the Petition may be filed by the Respondent. With an Answer and Waiver you can set a final hearing on your Dissolution of Marriage without having the Respondent appear at the hearing. You must file the Answer and Waiver with the Clerk before you call the Judicial Assistant of the assigned Judge to schedule your case for a final hearing. Again, both parties are still required to file their respective financial affidavits.

C. ANSWER, DEFAULTS, COUNTERPETITIONS AND DISCOVERY

1. ANSWER: This is the written statement made and filed by the Respondent in answer to your Petition. The Answer may admit some of your statements and deny others, or it may admit or deny all of your statements. The Respondent should file the Answer with the Clerk and send a copy of it to you.
2. DEFAULTS: If an Answer, Motion, or some other response is not filed by the Respondent within 20 days after the Respondent is served with the Summons and Petition by the Sheriff or process server, or by the date listed in the Notice of Action, you may file a Request to Enter Default [Florida Supreme Court Form 12.922(a) and 12.922(b)] asking the Clerk of the Court to enter a Default against the Respondent in your case. A Default, if given, means that the basic statements in the Petition are deemed admitted by the Respondent and no defenses are made, except that the Judge will decide what is in the best interest of the child(ren) on the issues of child parental responsibility, timesharing, and support regardless of what the Petition states. Even after a Default is entered, the Respondent must still be given notice of any hearings and the final hearing concerning those issues and may appear and present evidence or testimony on those issues.

To have the Default entered, you MUST file a notarized Non-Military Affidavit [Florida Supreme Court Form 12.912(b)]. The Non-Military Affidavit states that the Respondent is not an active member of the Armed Forces of the United States. Unless you file the Affidavit of Non-Military service, the Clerk will not enter a Default.

If the Respondent is in the Armed Forces, a Default cannot be entered by the Clerk. In that case you would then file a Motion for Entry of Default [Form Law 452] by the Judge, schedule a hearing through the assigned Judge's Judicial Assistant, and send a Notice of Hearing [Florida Supreme Court Form 12.923] to the Respondent. At the hearing, the Judge may enter the Default.

3. COUNTERPETITIONS: The Respondent may file with the Clerk and serve on you through the mail a Counterpetition for Dissolution of Marriage asking for a divorce, parental responsibility of the child(ren), or other things. You will then need to file and serve an Answer to the Counterpetition with the Clerk within 20 days of receiving the Counterpetition and send a copy to the Respondent. If you fail to do this, the Respondent may ask for a default against you.
4. MANDATORY DISCLOSURE: In a contested petition for dissolution of marriage, Rule 12.285 of the Florida Family Law Rules of Procedure requires you to produce certain documents and information to the other party. Failure to do so can result in the Court imposing sanctions against you. A copy of this rule may be obtained in the Law Library. It is important that you read the rule and fully comply with its provisions.

5. **DISCOVERY:** In a contested dissolution of marriage case, the Florida Family Law Rules of Procedure also give you the right to request information from the other party, including taking the deposition of the other party (or other witnesses), prior to trial, under oath, and in the presence of a court reporter. (This procedure is called a deposition.) You should strongly consider retaining an attorney in a contested case to assist you in asking for discovery from the other party, witnesses, employers, etc., concerning the issues of the case. The judge or the Clerk's Office cannot help you prepare your contested case.

D. **UNCONTESTED FINAL HEARING**

WARNING: If there is a minor child of the marriage, you will not be given a hearing date until both you and the Respondent attend a 3 ½ hour seminar on "Helping Children Cope With Divorce". The Clerk will provide you with a list of organizations offering the seminars to call and schedule your attendance.

If it has been twenty (20) days since you served the Respondent with the Petition for Dissolution of Marriage, both parties have attended the "Helping Children Cope With Divorce Seminar" (if there are minor children of the marriage), and you have an Answer and Waiver from the Respondent, you may set a final hearing by calling the assigned Judge's Judicial Assistant.

If a Default has been entered against the Respondent and there are children involved OR a Marital Settlement Agreement and an Answer and Waiver has been filed, you may set a final hearing but you MUST still send the Respondent a Notice of Hearing - General [Florida Supreme Court Form 12.923]. The Judge WILL NOT be able to hear the case until after the Respondent is given notice of when and where it will be held and given the right to appear and be heard on issues of child parental responsibility, timesharing, or support. Please note that this hearing may be set before the General Magistrate or a Judge.

You must bring ONE of the following to the final hearing to prove that you are a resident of Florida:

- a. A witness, 18 years of age or older, who can testify that the witness, by his/her own personal knowledge, knows that either you OR the Respondent are presently a resident of the State of Florida and that you have been a resident of Florida for at least six (6) months continuously before the Petition was filed.
- b. An Affidavit of Corroborating Witness [Florida Supreme Court Form 12.902(I)], properly filled out by someone 18 year of age or older and notarized. The person signing it must have personal knowledge that you or the Respondent have lived in Florida at least six (6) months before you filed your Petition for Dissolution of Marriage.
- c. A valid Florida Driver's License or Florida Voter's Registration card.

If you cannot prove that you or the other party is a resident of Florida and have been a resident for at least six (6) months before the Petition was filed, the Judge cannot give you a divorce.

When you come for the final hearing you will also need to bring with you:

- (1) A Final Disposition Form [Law 161];
- (2) A Final Judgment for the Judge to sign;
- (3) A Vital Statistics Form #HRS 513

You and your witnesses should be dressed appropriately at the time of your appearance. Shorts, cut off jeans, halter tops, no shoes, etc., show disrespect for the Judge. Unless you are appropriately dressed, you may not be allowed to have your hearing at that time.

E. **CONTESTED FINAL HEARING/TRIAL**

WARNING: If there is a minor child of the marriage, you will not be given a trial date until both you and the Respondent attend a 3 ½ hour seminar on "Helping Children Cope With Divorce". The Clerk will provide you with a list of organizations offering the seminars to call and schedule your attendance. If the Respondent cannot be found to perfect personal service, the Judge may not require the seminar for the Respondent if you ask the Judge not to require it.

1. SETTING THE TRIAL DATE: When the Respondent files an Answer to the Petition stating that he/she does not agree with what you have asked for in the Petition, and you have filed an Answer to any Counterpetition filed against you, the case is “at issue” and can be set for trial. Either an Answer or a Default MUST be in the court file for the Petition, and for the Counterpetition if one has been filed, before a trial date may be set. The procedure for requesting a Default is discussed in detail above in subsection (C)(2) “DEFAULTS”.

Setting a trial date is done by filing a Notice of Non-Jury Trial [Florida Supreme Court Form 12.924], stating that the case is ready for trial, that it is an original non-jury action, and giving your estimate on how much time you think will be needed for the parties and any witnesses to testify and present evidence. (Any action filed with the Clerk that does not attempt to modify the result of an earlier judgment in the case is an original action, and dissolution cases are all tried without juries.) The original Notice of Non-Jury Trial must be filed with the Clerk of the Court, and copies of it must be sent to the other party and to the Judge assigned to the case.

After the Notice of Non-Jury Trial is filed and both parties, if required, have attended the “Helping Children Cope With Divorce” seminar, the Family Court Coordinator will then set your case on a trial docket with the Judge’s other cases and you will receive a notice in the mail of the trial period during which your case will be heard by the Judge. Make sure you read the notice so as to be able to know when in the trial period your case will be tried. Different judges have different procedures with regard to the order in which they try cases.

You must bring any witnesses you need with you to the trial. It is best to have necessary witnesses subpoenaed to ensure their attendance at trial. The Clerk’s Office will issue you a Subpoena [Form Law 1020 and Law 277] for your witnesses, but you will need to arrange for service of the subpoena by the Sheriff, a process server, or any other person who is not a party but is 18 years of age or older. A written statement or “proof of service” that one of the above people has actually served the subpoena on the witness must then be filed in the court file.

A subpoenaed witness is entitled to witness fees and mileage. You must provide the person serving the subpoena on the witness with a check or money order to pay the fees and mileage at the time the subpoena is served. You must also pay the person serving the subpoena. The witness fee is \$5.00 plus 6 cents per mile for the actual distance from the witness’ house to the courthouse and back home. (These charges are subject to change.) If you do not give the witness these amounts, the witness may not come to the trial and, if not, will not be punished by the Judge.

2. AT THE TRIAL: At the trial you, the Respondent, and all of the witnesses will be sworn to tell the truth. If any party or witness tells a lie during the trial or any other court proceeding, they could either be held in contempt by the Judge and punished or be prosecuted by the State Attorney’s Office for a felony called perjury.

You must bring all papers, cancelled checks, and other evidence you want the Judge to see with you to the trial. The Judge will make rulings on all of the issues and direct that a Final Judgment be prepared on the rulings. The marriage is NOT dissolved (you are not divorced) until the Final Judgment is SIGNED by the Judge and RECEIVED by the Clerk of the Court. You must bring a Final Judgment form with you or prepare one after the trial. You may need help in preparing the final Judgment form. The Judge does not prepare it for you. You should see an attorney to help you prepare it so your divorce can be finalized quickly.

You must bring with you to trial ONE of the following to prove that you are a resident of Florida:

- a. A witness, 18 years of age or older, who can testify that the witness, by his/her own personal knowledge, knows that either you OR the Respondent are presently a resident of the State of Florida and that you have been a resident of Florida for at least six (6) months continuously before the Petition was filed.

- b. An Affidavit of Corroborating Witness [Florida Supreme Court Form 12.902(l)], properly filled out by someone 18 years of age or older and notarized. The person signing must have personal knowledge that you or the Respondent have lived in Florida at least six (6) months before you filed your Petition for Dissolution of Marriage.
- c. A valid Florida Driver's License, or Florida Voter's Registration card.

If you cannot prove that you or the other party is a resident of Florida and have been a resident for at least six (6) months before the Petition was filed, the Judge cannot give you a divorce.

A Court Reporter is not required for a contested dissolution of marriage case, but you may still request one if you wish a record of the testimony at the trial. If you think you may wish to appeal the Final Judgment ordered by the Judge, you MUST have a transcript of the trial testimony and proceedings to submit to the appeals court. A transcript of the trial is the only opportunity for the appellate court to "hear" the parties' and witness' testimony.

You and your witnesses should be dressed appropriately at the time of your appearance. Shorts, cut off jeans, halter tops, no shoes, etc., show disrespect for the Judge. Unless you are appropriately dressed, you may not be allowed to have your hearing at that time.

F. EMERGENCY HEARINGS

If any kind of Court ruling is needed before the Respondent answers your petition, such as temporary child support or alimony, temporary parental responsibility to protect the child(ren), or a restraining order or Relocation, a Motion For Temporary Relief [Florida Supreme Court Form 12.947(a) or 12.947(c) and/or 12.950(e)] asking for that relief can be filed with the Clerk of the Court. In the motion you must state the exact action you want the Judge to take and the FACTS which you believe will prove why your motion should be granted. A copy of the motion must be served on the Respondent by either the Sheriff or any other process server, or if the Respondent has already been served with the Petition, by U.S. Mail.

To have the Judge hear your motion, you must call the office of the Judge assigned to the case and ask the Judicial Assistant for a date and time to have the hearing. After obtaining a date and time for a hearing, you must then write out a Notice of Hearing [Florida Supreme Court Form 12.923] stating the Judge's name and the date, time, and place of the hearing. You must file the original Notice of Hearing with the Clerk and send a copy of it to the Respondent.

You MUST bring your witnesses to the hearing. If you think the witnesses will not come voluntarily, you can ask the Clerk of the Court to issue a subpoena. The subpoena must be served on the witness to make the witness appear and testify. You will need to arrange for service of the subpoena by the Sheriff, a process server, or any other person who is not a party but is 18 years of age or older. A written statement of "proof of service" that one of the above people has actually served the subpoena on the witness must then be filed in the court file.

A subpoenaed witness is entitled to witness fees and mileage. You must provide the person serving the subpoena on the witness with a check or money order to pay the fees and mileage at the time the subpoena is served. You must also pay the person serving the subpoena. The witness fee is \$5.00 plus 6 cents per mile for the actual distance from the witness' house to the courthouse and back home. (These charges are subject to change.) If you do not provide the witness with these amounts, the witness may not come to the trial and, if not, will not be punished by the Judge.

G. CONCLUSION

If you have any other questions, seek the advice of an attorney. You may get advice on certain things without the attorney appearing for you in court. By getting an attorney's advice you will protect yourself more effectively than if you fail to talk with an attorney.

FILING FOR DISSOLUTION OF MARRIAGE

Uncontested Divorce: The divorce is uncontested if **both** parties **agree on everything** and have a Marital Settlement Agreement signed by both parties, a notarized Answer and Waiver signed by the Respondent, along with the other required documents signed by each party and notarized.

Contested Divorce: The divorce is a contested divorce if **both** parties **do not agree on everything**.

1. Forms can be obtained from the Clerk's Website <http://brevardclerk.us/index.cfm/family-domestic-relations1> or one of the Clerk's Office locations

NORTH BREVARD SERVICE COMPLEX

400 South Street, 2nd Floor
Titusville, Florida

MELBOURNE COURTHOUSE

51 S. Nieman Avenue
Melbourne, Florida

MOORE JUSTICE CENTER

Viera Complex

2825 Judge Fran Jamieson Way
Viera, Florida

MERRITT ISLAND OFFICE

2575 North Courtenay Parkway
Room 129
Merritt Island, FL

PALM BAY OFFICE

450 Cogan Drive S. E.
Palm Bay, FL

For Uncontested Divorce the Petitioner needs:

- a. Petition for Dissolution of Marriage
- b. Financial Affidavit, [Florida Supreme Court Form 12.902(b) or 12.902(c)] (both parties *must* complete a financial affidavit)
- c. Certificate of Mandatory Disclosure [Florida Supreme Court Form 12.932] (can be waived by affidavit in an uncontested divorce only)
- d. Marital Settlement Agreement (parties complete together and both sign and notarize)
A Marital Settlement Agreement is not needed in the "D" Packet.
- e. Notice of Social Security Number [Florida Supreme Court Form 12.902(j)]
- f. Affidavit of Corroborating Witness [Florida Supreme Court Form 12.902(i)]
- g. Civil Cover Sheet Form [Law 181]
- h. Final Disposition Form [Law 161]
- i. Vital Statistics Form [HRS 513]
- j. Notice of Related Cases Form [Florida Supreme Court Form 12.900(h)]
- k. Attestation Certificate [Law 145]

If dependent children are involved add:

- l. Affidavit Regarding Juvenile Dependency [Law 1100]
- m. UCCJA [Florida Supreme Court Form 12.902(d)]
- n. Child Support Guidelines [Florida Supreme Court Form 12.902(c)]
- o. Parenting Plan [Florida Supreme Court form 12.995(a)] or Supervised/Safety-Focused Parenting Plan [Florida Supreme Court form 12.995(b)] or Relocation/Long Distance Parenting Plan [Florida Supreme Court form 12.995(c)]
- p. Agreement for Relocation with Minor Children (Parties to complete together and both sign and notarize) [Florida Supreme Court form 12.950(a)]

For Uncontested Divorce the Respondent needs:

Petitioner *will obtain* all papers *and provide the* Respondent the following to complete:

- q. Answer & Waiver [Florida Supreme Court Form 12.903(a)] (Respondent to complete and no summons is then needed)
- r. Financial Affidavit, [Florida Supreme Court Form 12.902(b) or 12.902(c)] (both parties need to complete a financial affidavit)
- s. Certificate of Mandatory Disclosure [Florida Supreme Court Form 12.932] (can be waived by affidavit)
- t. Notice of Social Security Number [Florida Supreme Court Form 12.902(j)]
- u. Marital Settlement Agreement (parties complete together and both sign and notarize)
- v. Attestation Certificate [Law 145]

When you file all of the original paperwork, obtain:

- w. Notice of Hearing [Form Law 1018 *and* Law 12.923]
- x. Proposed Final Judgment [Florida Supreme Court form 12.990(b)(1) OR 12.990.(b)(2) OR 12.990(b)(3)].

2. *If this is an uncontested divorce and all the listed paperwork is signed, notarized and filed, simply set a hearing before the county judge assigned to your case and proceed according to the printed instructions for hearing before a county judge".* [Form Law 1018 *and* Florida Supreme Court Form 12.923]

3. *If the matter is filed as an uncontested divorce, but the Respondent changes his/her mind and does not agree with the Marital Settlement Agreement and does not sign the Agreement or the Answer and Waiver, this may become contested. The above listed Petitioner's papers will need to be copied and served on the Respondent along with a Summons [Form Law 1008 *and* Florida Supreme Court Form 12.910(a)].*

For Contested Divorce the Petitioner needs:

- a. Petition for Dissolution of Marriage
- b. A Financial Affidavit, [Florida Supreme Court Form 12.902(b) or 12.902(c)]
- c. Certificate of Mandatory Disclosure [Florida Supreme Court Form 12.932]
- d. Notice of Social Security Number [Florida Supreme Court Form 12.902(j)]
- e. Summons [Form Law 1008 & Florida Supreme Court Form 12.910(a)]
- f. Affidavit of Corroborating Witness [Florida Supreme Court Form 12.902(i)]
- g. Civil Cover Sheet Form [Law 181]
- h. Final Disposition Form [Law 161]
- i. Vital Statistics Form [HRS 513]
- j. Notice of Related Cases Form [Florida Supreme Court Form 12.900(h)]
- k. Attestation Certificate [Law 145]

If dependent children are involved add:

- l. Affidavit Regarding Juvenile Dependency [Law 1100]
- m. UCCJA form [Florida Supreme Court Form 12.902(d)]
- n. Child Support Guidelines [Florida Supreme Court Form 12.902(e)]
- o. Parenting Plan [Florida Supreme Court form 12.995(a)] or Supervised/Safety-Focused Parenting Plan [Florida Supreme Court form 12.995(b)] or Relocation/Long Distance Parenting Plan [Florida Supreme Court form 12.995(c)]

If address of Responding party is unknown do not use the Summons [Form Law 1008 & Florida Supreme Court Form 12.910(a)], obtain and use:

- p. Affidavit of Service by Publication [Florida Supreme Court Form 12.913(b) or 12.913(c)]
- q. Notice of Action [Florida Supreme Court Form 12.913(a)]

If you need a hearing for temporary support/parental responsibility/restraining order, etc. add:

- a. Motion for Temporary Relief [Florida Supreme Court Form 12.947(a) **or** 12.947(c)]
- b. Notice of Hearing [Form Law 1017, Supreme Court Form 12.920(b) **and** 12.920(c) **or** Law 1018 **and** Florida Supreme Court Form 12.923]
- c. Proposed Temporary Order [Florida Supreme Court Form 12.947(b) **or** 12.947(d)]

Once served by process server, the Respondent needs:

- a. Answer to Petition [Florida Supreme Court Form 12.903(b) **or** Answer and Counter-Petition 12.903(c)(3) **or** 12.903(c)(2) **or** 12.903(c)(1)]
- b. Financial Affidavit [Florida Supreme Court Form 12.902(b) **or** 12.902(c)]
- c. Certificate of Mandatory Disclosure [Florida Supreme Court Form 12.932]
- d. Notice of Social Security Number [Florida Supreme Court Form 12.902(j)]
- e. Attestation Certificate [Law 145]

4. If this is a contested divorce, the Respondent must be served with a copy of all paperwork filed by the Petitioner and a Summons. (It is usually better to have the Respondent served at their place of residence unless that address is unknown or there is a **good** reason for serving Respondent elsewhere. The better the parties treat each other, the easier the whole divorce process will be on everyone, especially children.) When the Respondent is served with the Petition, the Proof of Service should immediately be filed with the Clerk of Court to show the Judge the Respondent received a copy and knows about the divorce. Respondent then has 20 days to answer the Petition. If the Respondent fails to answer the petition within 20 days a Motion for Default [Florida Supreme Court Form 12.922(a) and 12.922(b)] should be obtained from the Clerk or the Clerk of Courts web-site, completed and filed with the Clerk. A copy of the Motion for Default **must** also be sent to the Respondent and you should also keep a copy. Once the Clerk enters the Default a Final Hearing can be set according to the printed instructions for the final hearing before the General Magistrate [Form Law 1017, Florida Supreme Court Form 12.920(b) **and** 12.920(c)].

Everything filed with the Court **must** be copied to the other party, even correspondence. Always, keep a copy for your own records.

5. If this is a contested divorce, and the Respondent files an Answer to Petition he/she can also file a Counter-Petition. *If a Counter-Petition is filed the Petitioner then has 20 days to answer it or a Motion for Default [#LAW 452] can be requested against him/her.* However, this Motion for Default **must** be signed by the assigned judge, The judge **must** enter this Default.

6a. If either party's annual income or expenses is more than \$50,000, that party **must** answer the Standard Interrogatories contained in Fla.Fam.L.R.P. Florida Supreme Court Form 12.930(b).

6b. *If* either party's income or expenses is less than \$50,000, that party **must** answer the Standard Interrogatories [Florida Supreme Court Form 12.930(b)] **only if** the interrogatories are served on them. (Service can be by U.S. mail.) A notice of filing these interrogatories [Florida Supreme Court Form 12.930(a)] **must** be filed with the Clerk and you **must** send a copy of the notice to the other party. Retain a copy for your records. After answering the interrogatories, complete, copy and file a Certificate of Service [Florida Supreme Court Form 12.914] stating you have sent the answered interrogatories back to the initiating party.

7. In a contested divorce mediation [Form Law 1029] is automatically scheduled. Parties will receive an order setting date, time and location for mediation. This happens after Petitions are answered. Family mediation is **mandatory**, not voluntary.

8. When Petitions are answered and all motions taken care of the matter can be noticed for trial according to the printed instructions for non-jury trial before a circuit judge [Form Law 1018]. A copy of this notice [Florida Supreme Court Form 12.924] **must** be sent to the other party and again, retain a copy for your records.

9. The Clerk will send a copy of the Notice for Trial to the Family Court Coordinator for review. If all the paperwork is in order, if there are minor children and both parties have completed the "Helping Children Cope With Divorce Seminar", she will then set the matter for trial. All parties will receive a copy of the signed order setting trial. Please **read** the trial order **and be prepared to file your Pre-Trial compliance, Law 1083, when required by the order.**

10. Should the parties enter into, sign and notarize a Marital Settlement Agreement and file the signed, notarized Agreement before the trial date, the Petitioner ***needs to contact*** the Judicial Assistant for the assigned judge to cancel the trial. The Judicial Assistant will pull the file and verify there is a signed, notarized agreement in the file and remove the case from the trial docket. Petitioner may then proceed to set the matter for a hearing before the General Magistrate [Form Law 1017, Florida Supreme Court Form 12.920(b) and 12.920(c)], set an earlier hearing before the assigned Circuit Judge [Florida Supreme Court Form 12.923] or, if the trial date is near, contact the judge's office and request the trial be changed to an uncontested hearing. Unless the trial is within a few weeks, ***you will receive the quickest hearing date before the General Magistrate [Form Law 1017, Florida Supreme Court Form 12.920(b) and 12.920(c)].***