

**SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF _____**

1

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2

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Plaintiff,

Index No.: _____

-against-

AFFIDAVIT OF PLAINTIFF

4

Defendant.

-----X

5

STATE OF _____ }

ss:

COUNTY OF _____ }

6

_____ being duly sworn, says:

7

1. The Plaintiff's address is _____,
and social security number is _____. The Defendant's address is _____
_____, and social security number is _____.

8

2. A) The *Plaintiff*
 Defendant has resided in New York State for a continuous period of at least
two years immediately preceding the commencement of this divorce action.

===== **OR** =====

B) The *Plaintiff*
 Defendant resided in New York State on the date of commencement of this
divorce action and for a continuous period of one year immediately preceding the
commencement of this divorce action:

AND:

a. the parties were married in New York State.

or

b. the parties have resided as married persons in New York State.

===== **OR** =====

C) The cause of action occurred in New York State and *Plaintiff*
 Defendant resided in New
York State for a continuous period of at least one year immediately preceding the
commencement of this divorce action.

===== **OR** =====

D) The cause of action occurred in New York State and both parties were residents
at the time of commencement of this divorce action.

9 3. I married the Defendant on _____, in the City, Town or Village of _____, County of _____, State or Country of _____. The marriage was *not* performed by a clergyman, minister or by a leader of the Society for Ethical Culture.

10 (If the word “not” is deleted, check one of the following below:)

- To the best of my knowledge I have taken all steps solely within my power to remove any barrier to the Defendant’s remarriage. OR*
- I will take prior to the entry of final judgment all steps solely within my power to the best of my knowledge to remove any barrier to the Defendant’s remarriage. OR*
- The Defendant has waived in writing the requirements of DRL §253 (Barriers to Remarriage).*

11 4. There is (are) _____ child(ren) of the marriage under the age of 21 (see definition on page 7 of the Instructions)

<u>Name & Social Security Number</u>	<u>Date of Birth</u>
_____	_____
_____	_____
_____	_____
_____	_____

The present address of each minor child of the marriage under the age of 18 (see definition on page 7 of the Instructions) and all other places where each child has lived within the last five (5) years is as follows:

<u>Child</u>	<u>Present Address</u>
_____	_____
_____	_____
_____	_____

<u>Child</u>	<u>Other Address Within Last 5 years</u>
_____	_____
_____	_____
_____	_____

The name(s) and present address(es) of the person(s) with whom each minor child of the marriage under the age of 18 (see definition on page 7 of the Instructions) has lived within the last five (5) years is:

_____	_____
_____	_____
_____	_____

12 I have participated in other litigation concerning the custody of the minor child(ren) of the marriage (see definition on page 7 of the Instructions) in this or another state. Yes No

I have information of a custody proceeding concerning the minor child(ren) of the marriage (see definition on page 7 of the Instructions) pending in a court of this or another state. Yes No

I know of a person who is not a party to this proceeding who has physical custody of the minor child(ren) of the marriage (see definition on page 7 of the Instructions) or claims to have custody or visitation rights with respect to such child(ren). Yes No

13 The parties are covered by the following group health plans:

Plaintiff

Group Health Plan: _____
Address: _____
Identification Number: _____
Plan Administrator: _____
Type of Coverage: _____

Defendant

Group Health Plan: _____
Address: _____
Identification Number: _____
Plan Administrator: _____
Type of Coverage: _____

OR

Not Applicable.

No health plans are available to the parties through their employment

14 5. The grounds for dissolution of the marriage are as follows:

Cruel and Inhuman Treatment (DRL §170(1)):

At the following times Defendant committed the following act(s) which endangered the Plaintiff's physical or mental well being and rendered it unsafe or improper for Plaintiff to continue to reside with Defendant.

(State the facts that demonstrate cruel and inhuman conduct giving dates, places and specific acts. Conduct may include physical, verbal, sexual or emotional behavior.)

(Attach an additional sheet, if necessary)

Abandonment (DRL 170(2)):

- That commencing on or about _____, and continuing for a period of more than one (1) year immediately prior to commencement of this action, the Defendant left the marital residence of the parties located at _____, and did not return. Such absence was without cause or justification, and was without Plaintiff's consent.
- That commencing on or about _____, and continuing for a period of more than one (1) year immediately prior to commencement of this action, the Defendant refused to have sexual relations with the Plaintiff despite Plaintiff's repeated requests to resume such relations. Defendant does not suffer from any disability which would prevent *her / him* from engaging in such sexual relations with Plaintiff. The refusal to engage in sexual relations was without good cause or justification and occurred at the marital residence located at _____.
- That commencing on or about the _____, and continuing for a period of more than one (1) year immediately prior to commencement of this action, the Defendant willfully and without cause or justification abandoned the Plaintiff, who had been a faithful and dutiful spouse, by depriving Plaintiff of access to the marital residence located at _____ . This deprivation of access was without the consent of the Plaintiff and continued for a period of greater than one year.

Confinement to Prison (DRL §170(3)):

- That after the marriage of Plaintiff and Defendant, Defendant was confined in prison for a period of three or more consecutive years, to wit: that Defendant is/was confined in _____ prison on the _____ day of _____, _____, and remained confined until the _____ day of _____, _____; **OR** remains confined to this date.
- Name of correctional facility*
- Month Year*
- Month Year*

Adultery (DRL §170(4)):

- That on the _____ day of _____, _____, at _____ the Defendant voluntarily committed of an act of sexual or deviate sexual intercourse with a person other than the Plaintiff after the marriage of Plaintiff and Defendant.
- Month Year Location*

Living Separate and Apart Pursuant to a Separation Decree or Judgment of Separation(DRL §170(5)):

- (a) That the _____ Court, _____ County, _____ (Country or State) rendered a decree or judgment of separation on _____ under Index Number: _____; and

- (b) that the parties have lived separate and apart for a period of one year or longer after the granting of such decree; and
- (c) that the Plaintiff has substantially complied with all the terms and conditions of such decree or judgment.

14 *continued*

Living Separate and Apart Pursuant to a Separation Agreement (DRL §170(6)):

- (a) That the Plaintiff and Defendant entered into a written agreement of separation, which they subscribed and acknowledged on _____, in the form required to entitle a deed to be recorded; and
- (b) that the *agreement / memorandum of said agreement* was filed on _____ in the Office of the Clerk of the County of _____, wherein *Plaintiff / Defendant* resided; and
- (c) that the parties have lived separate and apart for a period of one year or longer after the execution of said agreement; and
- (d) that the Plaintiff has substantially complied with all terms and conditions of such agreement.

Irretrievable Breakdown in Relationship for at Least Six Months (DRL §170(7)):

- That the relationship between Plaintiff and Defendant has broken down irretrievably for a period of at least six months.

15

6a.

In addition to the dissolution of the marriage, I am seeking the following ancillary relief:
The nature of any ancillary or additional relief requested (see p.19 of Instructions) is:

-
- Additional page describing ancillary relief requested is attached;
 - Marital property to be distributed pursuant to separation agreement/stipulation;
 - I waive distribution of Marital property;

For divorces commenced on or after 1/25/16 only: *I am not seeking maintenance as payee as described in the Notice of Guideline Maintenance (the "Notice") other than what was already agreed to in a written agreement/stipulation ;* OR *I seek maintenance as payee, as described in the Notice.*

NONE- I am not requesting any ancillary relief;
AND any other relief the court deems fit and proper

6b. If DRL §170 subd. (7) is the ground alleged, then Plaintiff hereby affirms, by checking the Box A, B, or C or D below (**NOTE: BOX A, B, C or D below must be checked if DRL 170(7) is the ground alleged**), that the following statement is true:

All economic issues of equitable distribution of marital property, the payment or waiver of spousal support, the payment of child support, the payment of counsel and experts' fees and expenses as well as the custody and visitation with the minor children of the marriage:

- A. have been resolved by the parties and are to be incorporated into the Judgment of Divorce.
by oral settlement/ stipulation on the record; or
by written Settlement/ Separation Agreement
- B. will be determined by the Court and are to be Incorporated into the Judgment of Divorce.
- C. were determined by Family Court order (custody and visitation or child support and/ or spousal support issues only) which will be continued.
- D. are not to be incorporated into the Judgment of Divorce, since neither party to the divorce has contested any such issues.

16 7. The Defendant **is** in the military service and *has* waived *his* rights under the New York State Soldiers' and Sailors' Civil Relief Act. *has not* *her*

=====OR=====

- Defendant is not in the active military service of this state, or any other state or this nation.
- I know this because: *he/she* admitted it to *me / the process server* on _____.
- I have submitted with these papers an *investigator's affidavit / Defendant's affidavit* which states that Defendant is not in the active military service of this state, or any other state or this nation.

17 8. I am *not* receiving Public Assistance. To my knowledge the Defendant is *not* receiving Public Assistance.

18 9. No other matrimonial action is pending in this court or in any other court, and the marriage has not been terminated by any decree of any court of competent jurisdiction.

19 10. *Annexed to the "Affidavit of Service" of Summons and Complaint / Summons With Notice is a photograph. It is a fair and accurate representation of the Defendant.*

20 11A. I am not the custodial parent of the unemancipated child(*ren*) of the marriage (see definition on page 7 of the Instructions).

OR

11B. I am the custodial parent of the unemancipated child(*ren*) of the marriage (see definition on page 7 of the Instructions) entitled to receive child support pursuant to DRL §236(B)(7)(b),

AND

- (1) I request child support services through the Support Collection Unit which would authorize collection of the support obligation by the immediate issuance of an income execution for support enforcement.

OR

- (2) I am in receipt of such services through the Support Collection Unit.

OR

- (3) I have applied for such services through the Support Collection Unit.

OR

- (4) I am aware of but decline such services through the Support Collection Unit at this time. I am aware that an income deduction order (also known as an Income Withholding Order/Notice for Support) may be issued pursuant to CPLR §5242(c) without other child support enforcement services and that payment of an administrative fee may be required.

If (1) is selected, the Support Collection Unit Information Sheet (Form UD-8a) should be completed and presented with your papers.

21 *Plaintiff's* **OR** *Defendant's* prior surname is: _____

Pursuant to DRL § 240 1 (a-1)-Records Checking Requirements:

An Order of Protection *has been* *has never been* issued against me, enjoining me or requiring my compliance.

An Order of Protection *has* *has never been* issued in favor of or protecting me or my child(ren) or a member of my household.

List all Family/Criminal Court Docket #'s and Counties, _____
Supreme Court Index #'s and Counties _____

I or my child(ren) or my spouse has been named in a Child Abuse/Neglect Proceeding (FCA Art.10)
List all Family Court Docket #'s _____
and Counties _____

I or my child(ren) or my spouse has never been named in a Child Abuse/Neglect Proceeding (FCA Art.10)

I am registered under New York State's Sex Offender Registration Act
List all names under which _____
you are registered _____

I am not registered under New York State's Sex Offender Registration Act

22 If my divorce action was commenced on or after January 25, 2016, I acknowledge receipt of the Notice of Guideline Maintenance from the Court pursuant to DRL 236 B(6), Chapter 269 of the Laws of 2015, which was served with the Summons.

23 I have been provided a copy of Notice Relating to Health Care of the Parties. I fully understand that upon the entrance of this divorce agreement, I may no longer be allowed to receive health coverage under my former spouse's health insurance plan. I may be entitled to purchase health insurance on my own through a COBRA option, if available, otherwise I may be required to secure my own health insurance.

WHEREFORE, I _____ (print name), respectfully request that judgment be entered for the relief sought and for such other relief as the court deems fitting and proper.

24 Subscribed and Sworn to
before me on

Plaintiff's Signature

NOTARY PUBLIC