

# UNCONTESTED MATRIMONIAL ACTION CHECKLIST

2007 Edition (Revised 08/07)

(This edition must be submitted; no earlier form will be accepted.)

\_\_\_\_\_  
Plaintiff

v.

\_\_\_\_\_  
Defendant

\_\_\_\_\_  
Index Number

\_\_\_\_\_  
Attorney/Self-Represented Litigant

The following checklist must be filled in by the Attorney or Self-Represented Litigant before the Supreme Court Clerk will accept papers as an Uncontested Matrimonial Action pursuant to 22 NYCRR § 202.21(i). The Attorney or Self-Represented Litigant must sign the completed checklist certifying compliance with these requirements.

Please submit the papers in the order listed. Forms beginning with "A" are from the Uncontested Divorces Without Children Under 21 Official Forms Set and forms beginning with "UD" are from the Uniform Uncontested Divorce Packet Forms.

If the papers are prepared by an Attorney, substantial conformity to the Uniform Uncontested Divorce Packet Forms is required (22 NYCRR §202.21(i)(2)).

\_\_\_\_ STIPULATION ON UNCONTESTED MATRIMONIAL ACTION (Referral to JHO) if used

\_\_\_\_ REQUEST FOR JUDICIAL INTERVENTION (RJI) (Form A-11 or UD-13 or UCS-840 [Revised 01/00])

\_\_\_\_ TRIAL NOTE OF ISSUE (Form A-10 or UD-9)

\_\_\_\_ SUMMONS WITH NOTICE (Form A-1 or UD-1) or SUMMONS (Form UD-1a) containing

- (A) \_\_\_\_ Venue basis
- (B) \_\_\_\_ Index Number assigned
- (C) \_\_\_\_ Date of Filing with County Clerk printed by County Clerk on SUMMONS WITH NOTICE (Form A-1 or UD-1) or SUMMONS (Form UD-1a)
- (D) \_\_\_\_ Statement of nature of action (i.e., "Action for a Divorce")
- (E) \_\_\_\_ If SUMMONS WITH NOTICE (Form A-1 or Form UD-1) was served without COMPLAINT (Form A-3 or UD-2), Statement of nature of action and full statement as to any ancillary relief requested (such as child support, custody, maintenance, equitable distribution, etc.) and specific nature thereof, including any request to incorporate any prior court orders, must be on SUMMONS WITH NOTICE (Form A-1 or UD-1) (*Attach copy(ies) of orders*)

\_\_\_\_ COMPLAINT (Form A-3 or UD-2)

- (A) \_\_\_\_ Statement as to required jurisdictional residence
- (B) \_\_\_\_ Statement that Plaintiff has taken or will take all steps solely within Plaintiff's power to remove any barrier to the Defendant's remarriage following divorce, if marriage officiant is listed in DRL § 11(1)
- (C) \_\_\_\_ Full statement of the grounds for the relief requested and, if the grounds are based on Defendant's misconduct, the nature and circumstances of such misconduct, including the date and place of each act complained of, with detail as required by CPLR 3016 (c)
- (D) \_\_\_\_ Full statement as to any ancillary relief requested (such as child support, custody, maintenance, equitable distribution, etc.) and specific nature thereof, including any request to incorporate any prior court orders (*Attach copy(ies) of orders*)
- (E) \_\_\_\_ Verified and jurat signed by notary public

\_\_\_\_ AFFIDAVIT OF SERVICE (Form A-4 or UD-3) unless AFFIDAVIT OF DEFENDANT (Form A-5 or UD-7) is provided

- (A) \_\_\_\_ Date of Service on Defendant shown
- (B) \_\_\_\_ Date of Filing with County Clerk printed on AFFIDAVIT OF SERVICE (Form A-4 or UD-3) by County Clerk
- (C) \_\_\_\_ Statement of knowledge the affiant had that the person served was the Defendant and how the affiant acquired such knowledge (*Attach photograph if used*)
- (D) \_\_\_\_ Physical description of the person served

\_\_\_\_ AFFIDAVIT OF DEFENDANT (Form A-5 or UD-7) if signed by Defendant, admitting service of SUMMONS WITH NOTICE and/or SUMMONS and COMPLAINT. The Defendant's signature must be notarized

\_\_\_\_ AFFIRMATION/AFFIDAVIT OF REGULARITY (Form A-8 or UD-5). If the default in appearing or answering occurred more than one (1) year before date of submission of the AFFIRMATION/AFFIDAVIT OF REGULARITY, an affirmation or affidavit pursuant to CPLR § 3215(c) showing sufficient cause for the delay in filing must be submitted and the CONCLUSIONS OF LAW and JUDGMENT OF DIVORCE must contain an ordering paragraph permitting the late filing

\_\_\_\_ SWORN STATEMENT OF REMOVAL OF BARRIERS TO REMARRIAGE (Form A-6 or UD-4) only if marriage officiant is listed in DRL § 11(1), stating that pursuant to DRL § 253(3) and (4) that Plaintiff has taken all steps solely within his or her power to remove any barrier to the Defendant's remarriage following divorce

- (A) \_\_\_\_ AFFIDAVIT OF SERVICE of REMOVAL OF BARRIERS STATEMENT upon Defendant (Form A-4 or UD-4a) must be attached
- (B) \_\_\_\_ but if divorce is based upon the parties living separate and apart pursuant to a decree or judgment of separation or a written agreement of separation for a period of one or more years pursuant to DRL § 170(5) or (6), both parties must comply with DRL § 253(3) and (4) requirements

\_\_\_\_ AFFIDAVIT OF PLAINTIFF (Form A-9 or UD-6) if SUMMONS WITH NOTICE (Form A-1 or UD-1) was served without COMPLAINT (Form A-3 or UD-2)

\_\_\_\_ If there are any UNEMANCIPATED CHILDREN:

- (A) \_\_\_\_ AFFIDAVIT OF PLAINTIFF (Form UD-6) or DRL § 76-h AFFIDAVIT (Form UCCJEA-3)
- (1) \_\_\_\_ Certified copy of any Family Court Order of Custody or Visitation to be continued by Judgment of Divorce
- (2) \_\_\_\_ Certified copy of any Family Court Order of Support to be continued by Judgment of Divorce
- (B) \_\_\_\_ If AFFIDAVIT OF PLAINTIFF (Form UD-6) is not used, statement of Plaintiff pursuant to DRL § 240(1) either requesting or declining child support enforcement services and if child support is to be paid through Support Collection Unit, complete APPLICATION FOR CHILD SUPPORT SERVICES
- (C) \_\_\_\_ SEPARATION AGREEMENT or OPTING-OUT AGREEMENT, if signed
- (1) \_\_\_\_ Must contain provision regarding custody and
- (2) \_\_\_\_ Must contain provision that any self-represented party has been provided with a copy of the CHILD SUPPORT STANDARDS CHART (Form LDSS 4515) prepared by the New York State Office of Temporary and Disability Assistance and
- (3) \_\_\_\_ Must contain either a calculation of the basic child support obligation made pursuant to DRL § 240(1-b) or have a CHILD SUPPORT WORKSHEET (Form UD-8) attached or continue an existing Family Court Order of Support containing the calculations and have a certified copy of the Family Court Order of Support attached and
- (4) \_\_\_\_ If the agreed upon child support deviates from the basic child support obligation calculated pursuant to DRL § 240(1-b), must contain a provision stating that the parties were advised of the provisions of the Child Support Standards Act or were provided with a copy of the CHILD SUPPORT STANDARDS CHART; showing the calculation of the basic child support obligation; stating that the basic child support obligation would presumptively result in the correct amount of child support to be awarded; and the reason or reasons for deviation from the basic child support obligation, and
- (5) \_\_\_\_ Must contain a provision with respect to which party will provide health insurance for the children or whether the children will be covered by Child Health Plus and must also contain a calculation of the pro rata shares of the cost to provide health insurance, child care expenses and any uncovered health expenses for the children
- (D) \_\_\_\_ CHILD SUPPORT WORKSHEET (Form UD-8) with Plaintiff's signature notarized if child support is sought or provided for unless a full statement complying with DRL § 240(1-b)(h) with respect to child support is incorporated in Attorney-prepared Separation Agreement or Opting-out Agreement.  
Note: For STEP 10 on the CHILD SUPPORT WORKSHEET (Form UD-8), starting March 1, 2007 the self-support reserve amount is \$ 13,784 and the poverty level amount is \$ 10,210
- (E) \_\_\_\_ QUALIFIED MEDICAL CHILD SUPPORT ORDER (Form UD-8b) if applicable
- (F) \_\_\_\_ NEW YORK STATE CASE REGISTRY FILING FORM (in APPENDIX to Uniform Uncontested Divorce Packet Forms) if child support is not paid through Support Collection Unit or APPLICATION FOR CHILD SUPPORT SERVICES (available from the Court Clerk's Office) if child support is to be paid through Support Collection Unit

\_\_\_\_ With respect to EQUITABLE DISTRIBUTION:

- (A) \_\_\_\_ AFFIDAVIT OF PLAINTIFF (Form A-9) or AFFIDAVIT OF PLAINTIFF (Form UD-6) with Paragraph 5 filled out completely, including the applicable statement regarding equitable distribution or
- (B) \_\_\_\_ Affidavit of equitable distribution of marital property pursuant to DRL § 236B, including sworn waiver of equitable distribution, if applicable, and if not included in complaint or
- (C) \_\_\_\_ OPTING-OUT AGREEMENT (Original, County Clerk certified or Attorney certified copy), or
- (D) \_\_\_\_ SEPARATION AGREEMENT (Original, County Clerk certified or Attorney certified copy)

\_\_\_\_ For OPTING-OUT AGREEMENT or SEPARATION AGREEMENT,

- (A) \_\_\_\_ Sworn Statement of Plaintiff that the agreement was fair and reasonable when entered into and is not now unconscionable
- (B) \_\_\_\_ Signed Statement pursuant to DRL § 177(1) with respect to health insurance coverage not continuing

\_\_\_\_ HEALTH INSURANCE COVERAGE NOTIFICATION if there is no OPTING-OUT AGREEMENT or SEPARATION AGREEMENT

\_\_\_\_ WITHDRAWAL OF ANSWER/REPLY BY STIPULATION if applicable. The CONCLUSIONS OF LAW and JUDGMENT OF DIVORCE must order withdrawal

\_\_\_\_ FINDINGS OF FACT AND CONCLUSIONS OF LAW (Form A-12 or UD-10) or Attorney-prepared (22 NYCRR § 202.50(b) Appendix B)

- (A) \_\_\_\_ Findings of Fact incorporating evidentiary allegations actually set forth in the Complaint and any supplemental affidavits
- (B) \_\_\_\_ Findings regarding custody
- (C) \_\_\_\_ Findings in compliance with DRL § 240(1-b)(c) or (h) if child support awarded, showing the calculation of the basic child support obligation and the reason or reasons for deviation from the basic child support obligation, if any
- (D) \_\_\_\_ Conclusions of Law containing recitals providing for each aspect of relief to be ordered by the Court

\_\_\_\_ JUDGMENT OF DIVORCE (Form A-13 or UD-11) or Attorney-prepared (22 NYCRR § 202.50(b) Appendix B)

- (A) \_\_\_\_ Award of matrimonial relief
- (B) \_\_\_\_ Provision regarding custody, if there are any unemancipated children, including the name(s) and date(s) of birth of the child(ren)
- (C) \_\_\_\_ Provision in compliance with DRL § 240(1-b)(c) or (h) if child support awarded
- (D) \_\_\_\_ Provisions in compliance with DRL §§ 240-a, 240-b and 240-c if child support awarded and child support is to be paid through the Support Collection Unit, providing the Social Security Numbers of the parties and the subject child(ren); the name and address of the employer of the party paying child support; notice of the requirement to report certain information changes to the Support Collection Unit; and notice of the right to a review and cost of living adjustment of the child support provisions
- (E) \_\_\_\_ Copy of SEPARATION AGREEMENT or OPTING-OUT AGREEMENT attached and statement as to incorporation and merger or non-merger
- (F) \_\_\_\_ Provision permitting either party to resume use of pre-marriage name or any other former surname
- (G) \_\_\_\_ Family Court referral provision pursuant to Fifth Judicial District Civil Case Management Rules (*Revised 10/13/05*) added to Judgment of Divorce (*Replace either page 4 of A-13 or the last two (2) pages of UD-11 with Court-provided pages*)
- (H) \_\_\_\_ Copy of any Family Court Order of Custody or Visitation and/or Order of Support to be continued by Judgment of Divorce

\_\_\_\_ FORM UCS-111 (*Revised 12/01*) CHILD SUPPORT SUMMARY FORM, if there are any unemancipated children and/or maintenance/spousal support is awarded

\_\_\_\_ WRITTEN RETAINER AGREEMENT (22 NYCRR § 1400.3) if Attorney filing

Dated: \_\_\_\_\_

\_\_\_\_\_  
Signature of Attorney/Self-Represented Litigant

\_\_\_\_\_  
Telephone Number