

SUPREME COURT OF THE STATE OF NEW YORK

COUNTY OF _____

-----X

Plaintiff,

Index No.: _____

-against-

AFFIDAVIT OF PLAINTIFF

Defendant.

-----X

STATE OF _____ }

ss:

COUNTY OF _____ }

_____ being duly sworn, says:

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

2. The Plaintiff has resided in New York State for a continuous period in excess of two years immediately preceding the commencement of this action.

OR

The Defendant has resided in New York State for a continuous period in excess of two years immediately preceding the commencement of this action.

OR

The Plaintiff has resided in New York State for a continuous period in excess of one year immediately preceding the commencement of this action, and:

- a. the parties were married in New York State.
- b. the Plaintiff has lived as husband or wife in New York State with the Defendant.
- c. the cause of action occurred in New York State.

OR

The Defendant has resided in New York State for a continuous period in excess of one year immediately preceding the commencement of this action, and:

- a. the parties were married in New York State.
- b. the Defendant has lived as husband or wife in New York State with the Plaintiff.
- c. the cause of action occurred in New York State.

OR

The cause of action occurred in New York State and both parties were residents thereof at the time of the commencement of this 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:

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

The present address of each child under the age of 18 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 child under the age of 18 has lived within the last five (5) years is:

_____	_____
_____	_____
_____	_____

12 I have participated in other litigation concerning the custody of the child(ren) in this or another state. Yes No

I have information of a custody proceeding concerning the child(ren) 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 child(ren) or claims to have custody or visitation rights with respect to the child(ren).

Yes No

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

Plaintiff

Defendant

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

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

OR

Not Applicable.

14 5. In addition to the dissolution of the marriage, I am seeking the following relief:

AND

equitable distribution of marital property;

OR

marital property to be distributed pursuant to the annexed separation agreement / stipulation;

OR

I waive equitable distribution of marital property;

and any other relief the court deems fitting and proper.

15 6. The grounds for dissolution of the marriage are as follows:

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

At the following times, none of which are earlier than (5) years prior to commencement of this action, the Defendant engaged in conduct that so endangered the mental and physical well-being of the Plaintiff, so as to render it unsafe and improper for the parties to cohabit (live together) as husband and wife.

(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 *husband / wife*, 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)):

- (a) 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 was confined in _____ prison on _____, and has remained confined to this date; and
- (b) not more than five (5) years elapsed between the end of the third year of imprisonment and the date of commencement of this action.

Adultery (DRL §170(4)):

- (a) That on _____, at the premises located at _____, the Defendant engaged in sexual intercourse with _____, without the procurement nor the connivance of the Plaintiff, and the Plaintiff ceased to cohabit (live) with the Defendant upon the discovery of the adultery; and
- (b) not more than five (5) years elapsed between the date of said adultery and the date of commencement of this action.

(Attach a corroborating affidavit of a third party witness or other additional proof).

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.

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.

16 7. 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 child(*ren*) of the marriage.

OR

11B. I am the custodial parent of the unemancipated child(*ren*) 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 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) or (4) is selected, the following information must be included on a separate information sheet (Form UD-8a):

Name, date of birth, address and social security number of each party;
date and place of marriage; names and dates of birth of the children;
and name and address of employer of the payor (non-custodial parent).

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

Pursuant to DRL § 240 1 (a-1):

I have been a party in an Order of Protection
List all Family/Criminal Court Docket #'s and Counties, _____
Supreme Court Index #'s and Counties _____

I have never been a party in an Order of Protection

I have been a party in a Child Abuse/Neglect Proceeding (FCA Art.10)
List all Family Court Docket #'s _____
and Counties _____

I have never been a party 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

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.

22 Subscribed and Sworn to
before me on

Plaintiff's Signature

NOTARY PUBLIC