

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF _____

(Names of Plaintiff(s))

VS

(Names of Defendant(s))

STATE OF NEW YORK

COUNTY OF _____ SS:

(County where notarized)

AFFIDAVIT IN SUPPORT
of Order to Show Cause to
Vacate a Matrimonial Default
Judgment

Index No. _____

I, _____, being duly sworn, deposes and says:
(Insert your name)

1. I am the defendant in this divorce action. I make this affidavit in support of my application to vacate the Default Judgment.

2. I reside at: _____
(Street address, city, state, zip code)

3. There are _____ children of the marriage.
(fill in number)

4. The Plaintiff and I were married on _____ in _____
(date of marriage) (place of marriage)

5. I defaulted in this action because: (Check all applicable boxes)

a. On _____, I was given a _____ for this case.
(date) (Summons with notice OR Summons & Complaint)

(Attach copy of Summons with Notice or Summons & Complaint) At the time I was not represented by an

attorney. On _____, I served, via _____ mail, a(n) _____ upon
(date) (regular, certified or registered) (Notice of Appearance or Answer)

the Plaintiff's attorney, _____. (Attach copy of Notice of Appearance or Answer).
(name of Plaintiff's attorney)

In addition, on _____, I personally filed a copy of the _____ with the
(date) (Notice of Appearance or Answer)

Clerk of the Supreme Court of New York, _____ County. I never received any other
(name of county)

documents until the Judgment of Divorce. (Attach copy of Judgment of Divorce)

b. I was never served with a _____. I found out about the
(Summons with notice OR Summons & Complaint)

divorce action only when I received a copy of the signed Judgment of Divorce on

_____. (Attach copy of Judgment of Divorce)
(date)

c. I received only an Affidavit of Defendant, and was unsure of what I should

do. I was not served with a _____.
(Summons with notice OR Summons & Complaint)

d. I was not properly served because:

I was served on a Sunday.

The _____ was handed to me by the Plaintiff.
(Summons with notice OR Summons & Complaint)

The _____ did not include an Index Number.
(Summons with notice OR Summons & Complaint)

Therefore, I was unable to file a Notice of Appearance or Answer.

Other: _____

e. Other reason for not answering: _____

6. I have a meritorious defense to the action because: (Check all applicable boxes)

I have had an Order of Protection against the Plaintiff. (Attach a copy of Order of Protection)

The Plaintiff left the marital residence/bed on or about _____.
(date)

- The Plaintiff is currently in prison.
- I never committed adultery.
- I never committed the acts alleged in the Complaint.
- The Plaintiff has been having an affair with another person and is currently living with that person.

7. There are assets of this marriage which need to be divided between the parties.

These assets include, but are not limited to: (Check all applicable boxes)

- Car
- House
- Plaintiff's pension, 401(k), 457, IRA, or other deferred compensation
- Bank Account(s)
- Business interest or partnership
- Advanced educational degree or license
- Martial furnishings
- Other: _____

8. I need maintenance because: (Check all applicable boxes)

- I am unable to support myself.
- I am in danger of becoming a public charge.
- I have been left with significant martial debts, which Plaintiff has refused to pay.

9. We have a child(ren) together, who are in my custody. (Check if applicable)

a. There is a current Family Court Order for Custody/Visitation, issued on

_____ by the Family Court of _____ County, which is not mentioned in the
(date) (name of county)

Judgment of Divorce. (Attach Family Court Order)

b. I have had custody of the child(ren) since _____.
(date)

10. The current Judgment of Divorce inappropriately awarded child support.

There is a current Family Court Order for Child Support, issued on _____
(date of Order)

by the Family Court of _____ County, which is not mentioned in the Judgment of
(name of county)

Divorce. (Attach Family Court Order)

11. Attached is my Proposed Verified Answer with Counterclaim.

12. No previous application for the relief prayed for has been made.

WHEREFORE, I respectfully request that the Judgment of Divorce be vacated, and that I be granted the relief requested and given an opportunity to serve Plaintiff with the Verified Answer with Counterclaim.

(Sign your name in the presence of a Notary Public)

(Print your name)

Sworn to before me this

_____ day of _____, 20_____

Notary Public