

10. FINDINGS OF FACT AND CONCLUSIONS OF LAW (Form UD-10):

Fields 1-4: Do not fill in these sections. The court will fill in these fields.

Field 5: Print the Plaintiff's name.

Field 6: Print the index number assigned to the case. Do not fill in the calendar number.

Field 7: Print the Defendant's name.

Field 8: If you are submitting the papers to obtain a divorce based solely on signed affidavits, check the appropriate box or boxes. If you had an inquest/hearing before a judge, check that box. If you do not know whether the court will sign your divorce (you may want to inquire at the clerk's office as to the procedure in the county where you are filing), do not strike either provision or insert the Part where the documents will be signed. The Part will be filled in by court employees. You must, however, insert the name of the county where you are filing for divorce and the date of the inquest/hearing if you had one. Otherwise leave the date section blank so that the court can fill in the information.

Field 9: This section remains unchanged. If either the Plaintiff or the Defendant was under the age of 18 when this action was commenced, then a divorce action may not be filed and the Plaintiff should consult with an attorney as noted earlier.

Field 10: This section establishes residency for purposes of obtaining a divorce. The beginning of this filing instruction packet explains the requirements for residency. Check the appropriate box or boxes. This section should be consistent with the earlier instructions given as to residency and any other form where you addressed residency.

Field 11: Fill in the date and place that the parties were married, and indicate the type of ceremony by checking the appropriate box.

Field 12: Do not fill anything in this section unless there is another action pending elsewhere. If so, consult an attorney as noted in the Foreword.

Field 13: Check the appropriate box as to the papers served on Defendant to start the action. Indicate how defendant was served by placing a check mark in the appropriate box. If service was made pursuant to court order, fill in the date of such order. Indicate whether defendant appeared in the action by placing a check in the appropriate box.

Field 14: Check the appropriate box. If defendant is a member of the military indicate the branch of service. If defendant is in the military and does not consent, it is suggested you retain counsel.

Field 15: Check the appropriate box. Insert the total number of children of the marriage (see the definition on page 7). List their names, social security numbers, dates of birth and addresses.

Field 16: Indicate the grounds upon which the divorce is to be granted by checking the appropriate box. Where a date is required, fill in the appropriate date. When using Cruel and Inhuman Treatment (DRL §170(1)) as grounds for divorce, make sure the specific allegations listed demonstrate Cruel and Inhuman Treatment as defined on the form. Repeat the same facts as set forth in the Verified Complaint and in the Plaintiff's Affidavit.

Field 17: Check the appropriate box.

Field 18:

A) If you have asked for maintenance payments from your spouse in your divorce papers and you and your spouse have come to a written agreement on the amount and timing of the payments, complete the box in paragraph "A").

B) If no maintenance was awarded, check Paragraph “B”) and then check the appropriate box as to the reason.

C) If your divorce action was commenced before January 25, 2016, and if there is no agreement for maintenance and you asked the court in the papers that you served on your spouse to award maintenance, check the box for Paragraph “C”. *Note: you may be required to attend a court hearing to provide proof and it is possible your divorce may become contested. In that case, Check the box for Paragraph “C”) but leave Paragraph “C)” blank. You will receive further instructions from the court.*

D) If your divorce action was commenced on or after January 25, 2016, and if there is no agreement for maintenance, and if you asked the court in the papers you served on your spouse to award maintenance, check the box for Paragraph “D”). Then fill in the information and check the applicable boxes in paragraphs 1 and 2 by copying the information from the Maintenance Guidelines Worksheet (Form UD-8(2) that you have already filled out. **Your answers must be the same as on the UD-8(2), Leave Paragraph 3 blank for the court to fill out. Note: if you are asking the court to adjust the award of maintenance because it is unjust or inappropriate or to award maintenance on income in excess of \$203,000 per year, the Court will review the reasons you gave on your Maintenance Guidelines Worksheet, and you may be required to attend a court hearing to provide proof and it is possible your divorce may become contested. You will receive further instructions from the court.**

Field 19: This section addresses the children of the marriage (see the definition on page 7). Check the appropriate box so that the court can see which party the children reside with and which party, if any, is entitled to visitation with the children away from the custodial residence (the place where the children reside). If the children live with a third party, fill in the name. Leave the paragraph regarding domestic violence for the court to complete.

Field 20: If there are other issues (i.e., support, custody, marital home, etc.) being settled or decided by the court, place a check mark in the appropriate box.

Field 21: Check the appropriate box: **Paragraph (A):** You must fill out this paragraph if there are children of the marriage (see the definition on page 7). List the names and the dates of birth of the unemancipated children of the marriage. **Paragraph (B)*:** You must fill in either subparagraph 1, 2 or 3 to show how the amount of child support was determined.

IMPORTANT NOTE: Much of this information can be taken from the Child Support Worksheet (Form UD-8(3)).

*** Instructions for subparagraph (1):** Fill in subparagraph (1) if there is already in existence a court order that has set the amount of child support and such order is to be continued by the Judgment of Divorce.

*** Instructions for subparagraph (2):** Fill in subparagraph (2) if you are requesting an order of the court for child support. Fill in the adjusted gross income (after adjusting for maintenance paid to or received by a party spouse. You can take the amounts from Appendix G to Form UD-8(3). Circle the applicable child support percentage. The percentages are 17% for one child, 25% for two children, 29% for three children, 31% for four children and 35% for five or more children. Multiply the child support percentage by the combined income to \$163,000 and do the same for combined income over \$163,000, if any. Fill in the amounts. Divide each party's income by the total income to obtain each party's pro rata share percentage of the combined income. Fill in the percentage. Multiply the basic child support obligation on income to \$163,000 by the non-custodial parent's pro rata percentage share and do the same for income over \$163,000. Fill in the amounts. Fill in the non-custodial parent's pro rata share of health care expenses not covered by insurance, reasonable child care expenses, or educational or extraordinary expenses. Fill in the cost of health insurance premiums for the children. Check the applicable box as to which spouse maintains the health insurance for the children. Check box a) or box b) to indicate how the health insurance adjustment should be made. NOTE: If the Non-Custodial Parent's Income after deducting his/her Percentage Share of Combined Child Support (Line 3 of Section II of Appendix G to Form UD-8(3)) is less than the Self Support Reserve but greater than the poverty level, the Court has discretion whether or not to award the Add-On Expenses.

*** Instructions for subparagraph (3):** Fill in subparagraph (3) if the parties entered into a stipulation/agreement as to child support, or if the court rendered its decision in open court on the record. Fill in the date the parties entered into the stipulation/agreement and the amount of child support agreed to be paid. Check the appropriate boxes as to who will pay and who will receive child support. Check the appropriate box as to whether the parties are applying or waiving the application of the Child Support Standards Act (Guidelines) to the total combined income over \$163,000 a year. If issues regarding health care, childcare, educational expenses or extraordinary expenses were agreed to, fill in the dollar amount to be paid or the percentage of said expenses agreed to be paid. Fill in the presumptive amount of child support attributable to the non-custodial parent pursuant to the Child Support Standards Act (Guidelines). Refer to the Child Support Standards Chart or Line 5B of the Child Support Worksheet (Form UD-8(3)) for this presumptive amount. Check the appropriate box that indicates whether the agreed-upon amount of support conforms with or deviates from the non-custodial parent's basic child support obligation. If there is a deviation, whether it be higher or lower, give specific reasons why the parties approved, and why the court should approve of such deviation. The reasons for deviations must be in the stipulation/agreement.

Field 22: List the Plaintiff's and Defendant's addresses and social security numbers.

Field 23: If there are no unemancipated children of the marriage or if child support is not an issue or if the parties do not have health coverage provided by their employer, check the

appropriate box. If either party's employer offers health insurance, check that box and fill in the required information about Plaintiff's and Defendant's insurance coverage. Make sure to include the type of coverage. Examples include but are not limited to medical, dental and optical coverage. If either party has more than one insurance plan, you must list the additional coverage on a separate sheet of paper.

Check the appropriate box as to whether both parties have agreed or stipulated as to which party will cover the unemancipated children on their health insurance policy. If there is no agreement, check the box indicating that the court has determined the party who will cover the children and indicate whether Plaintiff or the Defendant will cover the children under a group health plan. Strike out any inapplicable language.

- Field 24: List any court orders, by the index number or docket number and the date entered, that the parties wish to be continued.
- Field 25: Check the appropriate box.
- Field 26: Check box A) if the parties entered into a Stipulation of Settlement/Agreement and fill in the date of the agreement. Check appropriate box 1 or 2. Check box B) if there is no Stipulation of Settlement/Agreement. Leave box 1 or 2 to be completed by the court.
- Field 27: Check the appropriate box. If DRL §170(7) is the ground alleged, you must check one of the boxes.
- Field 28: You must check the applicable boxes to explain the court's reasons if an income deduction order or income execution is not being required.
- Field 29: Check the appropriate box and insert the Domestic Relations Law subdivision for the grounds for divorce. Be consistent with prior forms.
- Field 30: This section will be filled in by the court.