

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

**COUNTY OF \_\_\_\_\_**

-----X

Plaintiff,

Index No.:

-against-

**AFFIDAVIT OF DEFENDANT  
IN ACTION FOR DIVORCE**

Defendant.

-----X

**STATE OF \_\_\_\_\_ }**

**ss:**

**COUNTY OF \_\_\_\_\_ }**

\_\_\_\_\_ being duly sworn, says:

I am the Defendant in the within action for divorce, and I am over the age of 18. I reside at \_\_\_\_\_.

1. I admit service of the *Summons with Notice* **OR** *Summons and Complaint* for divorce on \_\_/\_\_/20\_\_ based upon the following grounds: Insert the grounds alleged in the *Summons with notice* or *Complaint*:

- DRL §170(1) cruel and inhuman treatment
- DRL §170(2) abandonment
- DRL §170(3) confinement in prison
- DRL §170(4) adultery
- DRL §170(5) living apart one year after separation decree or judgment of separation
- DRL §170(6) living apart one year after execution of a separation agreement
- DRL §170(7) irretrievable breakdown in relationship\*(see Defendant’s Affidavit Notes)

I also admit service of the *Notice of Automatic Orders*, and, if the divorce was commenced or after 1/25/16, the *Notice of Guideline Maintenance*, and those of the following forms checked:

- Notice Concerning Continuation of Health Care Coverage*:
- other* \_\_\_\_\_

2. I appear in this action; however, I do not intend to respond to the summons or answer the complaint, and I waive the twenty (20) or thirty (30) day period provided by law to respond to the summons or answer the complaint. I waive the forty (40) day waiting period to place this matter on the calendar, and I hereby consent to this action being placed on the uncontested divorce calendar immediately.

**TO THE DEFENDANT:**

You should read the Defendant’s Affidavit Notes on the last page of this Affidavit before completing this form. For instructions on how to fill out this form, see p. 20 of the instructions for Uncontested Divorces with Children which may be found at any Supreme Court Clerk’s Office or online at <http://www.nycourts.gov/divorce/pdfs/divorce-packet-instructions.pdf>

10 3.  I am not a member of the military service of this state, any other state or this nation

**OR**

If in the military: I am aware of my rights under the New York State Soldiers' and Sailors' Civil Relief Act; however, I consent that this matter be placed on the Uncontested Matrimonial calendar and waive any rights I may have under the Act.

11 4a.  I waive the service of all further papers in this action except for a copy of the final Judgment of Divorce.

**OR**

b.  I request service of the following documents: *Note of Issue, Request for Judicial Intervention, Barriers to Remarriage Affidavit, Proposed Judgment of Divorce, Proposed Findings of Facts and Conclusions of Law, Notice of Settlement, Qualified Medical Child Support Order, and any other proposed orders.*

12 5a. I am not seeking equitable distribution *other than what was already agreed to in a written stipulation.* I understand that I may be prevented from further asserting my right to equitable distribution.

5b. ***For divorces commenced on or after 1/25/16 only:***

(i)  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 (ii)  *I seek maintenance as payee, as described in the Notice .* **Note:** you must fill out and file with the court the Annual Income Statement (Form UD-8(1)) and a Maintenance Guidelines Worksheet (Form UD-8(2) if you check box (ii).

13 6a. *I will take or have taken all steps solely within my power to remove any barriers to the Plaintiff's remarriage.*

b.  *I waive the requirements of DRL § 253 subdivisions (2),(3) and (4).*

14 7.

I am  custodial parent  the non-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, If (1) is selected, this Affidavit or the another signed application for child support services such as the Short Form Application for Child Support Services

or the LDSS-5143, together with a copy of the completed Support Collection Unit Information Sheet (Form UD-8a) and a copy of the signed Judgment of Divorce (UD-11) must be provided to the local Support Collection Unit in the county where the Defendant resides within 20 days after entry of the Judgment of Divorce. These forms and instructions are available at <http://ww2.nycourts.gov/divorce/forms.shtml>

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 and any \_\_\_\_\_  
related information \_\_\_\_\_
- I am not registered under New York State's Sex Offender Registration Act

**15** 8. If DRL §170 subd. (7) is the ground alleged, then Defendant 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**  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.
- 17**  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.

**18**

\_\_\_\_\_  
Defendant's Signature

Subscribed and Sworn to  
before me on

\_\_\_\_\_

\_\_\_\_\_  
NOTARY PUBLIC

## Defendant's Affidavit Notes

- If you have been served with a Summons with Notice or a Summons and Complaint in an action for Divorce, ask yourself these two questions:  
*Do I oppose the divorce itself?*  
*Do I oppose anything else my spouse is asking for in the divorce papers?*
- You may want to discuss your situation with a lawyer before deciding on your final answers to these questions. If you answered “Yes” to *either* of the two questions, do *not* sign this form. If you are opposing the divorce or anything else your spouse is asking for, you should talk with a lawyer *immediately, since there are time limits for you to respond to the divorce.* The Supreme Court Clerk’s Office in the county where you live (if you live in New York State) may be able to help you with information about lawyer referral services, but cannot give you legal advice.
- If you have decided to agree to the divorce and to the other things your spouse is asking for, **or** if you and your spouse have worked out a written Settlement Agreement about everything involved in the divorce, you can sign the Affidavit of Defendant form and have it notarized before a notary public, and send it back to your spouse.
- \*If DRL §170 subd. (7) is the ground alleged in the summons with notice or complaint, then 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 must have been resolved by the parties or determined by the court and incorporated into the judgment of divorce. If you have decided to agree to the divorce on the ground of irretrievable differences alleged by your spouse pursuant to DRL §170 subd. (7), and to all the relief requested by your spouse, and if you have no additional relief you wish to request, you should fill out Paragraph 8 at Field 15 of this Affidavit.