

COMMON FILING MISTAKES

in an Uncontested Divorce with no children

Papers which are incomplete and legally insufficient will be rejected by the court and returned to the plaintiff for corrections and/or additional information. Usually, the resulting delay in a granting of the divorce caused by errors and omissions in the forms could have been avoided by a **patient and careful reading of the detailed instructions**. A *statewide survey of court personnel* has shown the following defects to be among the most common reasons upon which papers are rejected:

- **Inconsistencies:** Names, dates, other factual information not consistent throughout the papers.
- **Defendant's Affidavit** (Form A-5) admitting service of the Summons with Notice or the Summons and Verified Complaint **pre-dates the commencement of the action**.
- **Separation Agreement:**
 - (a) missing.
 - (b) no proof of filing with the county clerk
 - (c) not acknowledged in the manner required to entitle a deed to be recorded
- **Proof of Service** of the Summons with Notice or Summons and Complaint **missing or inadequate**. (incomplete/description missing/proof of presence in a foreign country)
- Factual **Affidavit(s)** in support **missing or inadequate** in regard to:
 - (a) Residential Requirements (DRL §230).
 - (b) Compliance with DRL § 253 (barriers to remarriage).
 - (c) Grounds for divorce. No legal basis for divorce asserted.
 - (d) Proof entitling moving party to ancillary relief (financial etc.).
- **Notarization** (missing/expired/ no good)
- **Signing Certification** of papers by the attorney/party missing. (Rule 130.1.-a).
- **Verified Complaint missing** or not verified.
- **Notice of Settlement** or waiver missing.