

**INTRODUCTION:
WHAT YOU NEED TO KNOW
BEFORE STARTING YOUR DIVORCE ACTION**

This section will outline:

- The ‘basics’: the important things you will need to know before starting your divorce action. (See pages 1-6)
- The schedule of filing fees for an uncontested divorce. (See page 5)
- The documents and papers needed to obtain an uncontested divorce. (See page 6)
- The instructions for starting the action. (See pages 7-11)
- The instructions for filing the action with the court and placing the case on the court’s calendar. (See pages 10-12)

THE BASICS

There are two requirements that must be met before you can file for a divorce in New York State.

1. You must satisfy the residency requirements as set forth in Domestic Relations Law Section 230. The Domestic Relations Law is the law that governs divorces in New York State.
2. You must satisfy one of the grounds for divorce set forth in Domestic Relations Law Section 170.

RESIDENCY

To file for a divorce in New York you must satisfy one of the following residency requirements:

- 1) The marriage ceremony was performed in New York State and either spouse is a resident of the state at the time of the commencement of the action for divorce and resided in the state for a continuous period of one year immediately before the action began; OR
- 2) The couple lived as husband and wife in New York State and either spouse is a resident of the state at the time of the commencement of the action for divorce and resided in this state for a continuous period of one year immediately before the action began; OR
- 3) The grounds for divorce occurred in New York State and either spouse is a resident of the state at the time of the commencement of the action for divorce and resided in this state for a continuous period of one year immediately before the action began; OR
- 4) The grounds for divorce occurred in New York State and both spouses are New York residents at the time the action is commenced; OR
- 5) If you and your spouse were married outside of New York State and you never lived together as husband and wife in this state and the grounds for divorce did not occur in this state -- either you or your spouse must presently be a resident of New York State and have resided continuously in the state for at least two years prior to bringing this action for divorce.

GROUND FOR DIVORCE

In order to file for a divorce in New York State you must have a ground (a legally acceptable reason) for the granting of a divorce by the New York courts. The legally acceptable reasons, or grounds for divorce, in New York are described in Domestic Relations Law §170. They are: (1) cruel and inhuman treatment; (2) abandonment; (3) imprisonment; (4) adultery; (5) living separate and apart pursuant to a separation judgment or decree; and (6) living separate and apart pursuant to a separation agreement.

DEFINITION OF PLAINTIFF AND DEFENDANT

Where you are the person seeking the divorce, you are the Plaintiff and your spouse is called the Defendant.

CRUEL AND INHUMAN TREATMENT

- The treatment of the Plaintiff by the Defendant must rise to the level that the physical or mental well being of the Plaintiff is endangered and making it unsafe or improper for the Plaintiff to continue living with the Defendant.
- You cannot obtain a divorce simply because you do not get along with your spouse ("irreconcilable differences") or because you have arguments or because of an isolated act in an otherwise long and peaceful marriage.
- All acts must have happened within five (5) years of the date the summons is filed with the County Clerk.
- In describing the specific acts of cruelty, you must be clear and to the point. You must supply the court with details like dates and places. If you do not remember the exact date, use the words "on or about".
- After describing the acts of cruelty you should conclude with the following language: "The conduct of the Defendant was cruel and inhuman and so endangered the physical or mental well being of the Plaintiff as to render it unsafe or improper for the Plaintiff to cohabit with the Defendant."

ABANDONMENT

- An action for divorce may be maintained where the Defendant abandons the Plaintiff for a period of one year or longer prior to commencing the action and continuing to the present.
- Abandonment may take the form of your spouse physically departing your marital home without any intention of returning for a period of one year or longer prior to commencing the action, and continuing to the present, without any good reason for doing so and without your consent.

Page 4

- Another form of abandonment is called constructive abandonment, which involves one spouse's refusal to engage in sexual relations with the other spouse continuously for one year or longer prior to commencing the action, and continuing to the present, without consent, good cause or justification.
- Another form of abandonment is called a lock out, which involves one spouse's refusal to allow the other spouse into the home continuously for more than one year prior to commencing the action and continuing to the present.

IMPRISONMENT

- An action for divorce may be maintained where the Defendant is imprisoned for a period of at least three consecutive years. The imprisonment must have commenced after the date of the marriage and the Defendant must still be in prison when this divorce action is commenced. There is a five (5)-year time limit to start the action, beginning from the time of the completion of the third year of imprisonment.

ADULTERY

- An action for divorce may be maintained based on adultery, which is an act of sexual or deviate sexual intercourse voluntarily performed by the Defendant with a person other than his or her spouse during the course of the marriage.
- The ground of adultery can be difficult and expensive to prove because the testimony of the Plaintiff is not enough and other evidentiary requirements must be satisfied (the Defendant's admission is not enough). You should keep in mind that acts of adultery may qualify as acts of cruelty and entitle you to maintain a divorce action on the grounds of cruel and inhuman treatment.

CONVERSION OF A JUDGMENT OF SEPARATION

- This ground is not used often. It involves a judgment of separation signed by a Judge or Referee of the Supreme Court.
- To maintain a divorce action the parties are required to live separate and apart. They must satisfy the terms of the judgment of separation for more than one year after the judgment was granted.

CONVERSION OF A SEPARATION AGREEMENT

- A separation agreement is an agreement between the spouses that sets forth the terms and conditions by which the parties will live apart. The agreement must be signed by the parties before a notary and filed with the County Clerk in the county where one of the parties resides.
- If you and your spouse have lived apart for more than one year according to the terms and conditions of a properly executed separation agreement, you may maintain an action for divorce. It may be advisable to consult an attorney regarding this ground for divorce.

After you have determined that you have met the requirements for residency and grounds for divorce, you may use the forms in this packet to file for a divorce. The instructions in this packet will help you in completing these forms, starting your action and satisfying the other requirements for obtaining a divorce.

SCHEDULE OF FILING FEES

- **You will have to pay the following fees in your action for a divorce:**
 - Index Number - \$ 210.
 - Note of Issue (New York City) - \$ 125.
 - Note of Issue (Outside NYC) - \$ 30.
 - Request for Judicial Intervention (Outside NYC) - \$ 95.
 - Certificate of Dissolution - Check with your local County of Marriage Clerk's Office
 - Certified Copy of Judgment - Approx. \$ 4. - \$ 10.

Check with the County Clerk's Office regarding acceptable forms of payment.

POOR PERSON STATUS

Where an individual lacks the financial resources to pay the costs associated with a divorce action, an application may be made to have these fees waived or forgiven by the court. The Supplemental Appendix of Forms in this booklet (beginning at page 34) contains instructions on how to complete the forms that are required to apply to have the fees waived.

THE PAPERS NEEDED TO OBTAIN AN UNCONTESTED DIVORCE IN NEW YORK STATE:

Notice of Automatic Orders

Notice Concerning Continuation of Health Care Coverage

- 1) Summons With Notice (Form UD-1) OR 1a) Summons (to be served with Verified Complaint) (Form UD-1a)
 - 2) Verified Complaint (Form UD-2)
 - 3) Affidavit of Service (Form UD-3)
 - 4) Sworn Statement of Removal of Barriers to Remarriage (Form UD-4) and Affidavit of Service (Form UD-4a)
 - 5) Affirmation (Affidavit) of Regularity (Form UD-5)
 - 6) Affidavit of Plaintiff (Form UD-6)
 - 7) Affidavit of Defendant (Form UD-7)
 - 8) Child Support Worksheet (Form UD-8)
 - 8a) Support Collection Unit Information Sheet (Form UD-8a)
 - 8b) Qualified Medical Child Support Order ("QMCSO") (Form UD-8b)
 - 9) Note of Issue - No Children Under 18 Subject To Matrimonial Action (Form UD-9)
 - 9a) Note of Issue - Children Under 18 Subject To Matrimonial Action (Form UD-9a)
 - 10) Findings of Fact/Conclusions of Law (Form UD-10)
 - 11) Judgment of Divorce (Form UD-11)
 - 12) Part 130 Certification (Form UD-12)
 - 13) Request for Judicial Intervention("RJI") (Form UD-13) - Outside of New York City
 - 14) Notice of Entry (Form UD-14)
- Certificate of Dissolution of Marriage
Self-Addressed and Stamped Postcard
UCS-111 (UCS Divorce and Child Support Summary Form)
New York State Case Registry Filing Form

SUPPLEMENTAL APPENDIX OF FORMS

- A) Income Deduction Order
- B) Notice of Settlement
- C) Poor Person Order
- D) Affidavit in Support of Application to Proceed as a Poor Person

The instructions for completing each individual form can be found on pages 13-38 of this Packet

A COPY OF EACH COMPLETED FORM SHOULD BE RETAINED FOR YOUR RECORDS.

STARTING THE DIVORCE ACTION

- **PLEASE NOTE:**
 1. **This packet should be filled out either by typing or printing the information. Printing should be legible and in BLACK ink only.**
 2. **If you need additional space on any form, you may use an addendum sheet. Be sure to note on the particular form that an additional sheet is being attached to that form.**
 3. **Attach to your papers any court orders regarding this marriage and child custody/support.**

Please refer to the attached **glossary**, which defines many of the terms and phrases used in this packet.

IF YOU ARE A SURVIVOR OF DOMESTIC VIOLENCE AND WISH TO KEEP YOUR ADDRESS CONFIDENTIAL, PLEASE CHECK WITH THE SUPREME COURT CLERK'S OFFICE FOR INSTRUCTIONS ON HOW TO OBTAIN CONFIDENTIALITY. IF CONFIDENTIALITY IS GRANTED BY THE COURT, YOU SHOULD NOT FILL OUT YOUR ADDRESS ON ANY OF THESE FORMS.

FOLLOW STEPS 1-7 TO START THE DIVORCE ACTION

STEP 1: Prepare an **original** and **two copies** of the **Summons With Notice (Form UD-1)** or the **Summons and Verified Complaint (Form UD-1a and Form UD-2)**.

STEP 2: Purchase an **index number** at the County Clerk's Office and file the original of the Summons With Notice or the original of the Summons and Verified Complaint with the County Clerk. Unless you are granted a poor person's waiver, you will be required to pay \$210 for the index number. Check with the County Clerk regarding acceptable forms of payment. Many County Clerks also will require that you fill out an Index Number Application Form at the time of filing, so be sure to bring with you the names, addresses and telephone numbers of all of the attorneys or, if unrepresented, of the parties themselves.

STEP 3: Put the **index number** and the **date of the filing** on the two copies of the Summons With Notice (or the Summons and Verified Complaint) if this is not done by a clerk upon filing the papers.

STEP 4: Have the Defendant served with one copy of the Summons With Notice or Summons and Verified Complaint, and both the Notice of Automatic Orders and the Notice Concerning Continuation of Health Care Coverage, by being **personally handed the papers**.

- **If your spouse lives in New York State:**

- * The server must be a resident of New York State, over eighteen years of age, and cannot be a party to the action (this means you may not serve your spouse with the Summons).

- **If your spouse is presently residing outside of New York State:**

- * You must still ensure that he or she is personally served with the summons. If you use a non-New York State resident to serve your spouse outside of New York State, the server must be a person authorized to make service pursuant to the laws of that jurisdiction or a duly qualified attorney in that jurisdiction, and you must submit a copy of the authorization that allows that person to serve the summons. You are encouraged to check with the local sheriff and, if necessary, with a country's Consulate or Embassy as to any local requirements for service.

* Service upon the Defendant of the Summons With Notice or Summons and Verified Complaint must be made **within 120 days of their filing with the County Clerk's Office**. If you do not know where the Defendant is located, you may wish to delay filing the Summons With Notice or Summons and Verified Complaint until he or she is located, so that the 120-day period does not begin running while you search for your spouse.

IMPORTANT: **If there are children under the age of 21, you must also serve a copy of the Child Support Standards Chart on the Defendant. The Chart is available at the Supreme Court Clerk's Office.**

STEP 5: Where the Defendant agrees to the divorce, he or she will need to sign the **Affidavit of Defendant (Form UD-7)**. The Plaintiff may fill out the form and forward it to the Defendant for signature, or the Plaintiff may send the form to the Defendant with a copy of the instructions on how to fill it out. This may be accomplished by submitting the form to the Defendant together with the Summons With Notice or Summons and Verified Complaint. The Defendant must send the completed form back to the Plaintiff prior to having the case placed on the calendar so that the form can be filed with the other required forms.

STEP 6: Where the Defendant *will not agree* to complete and return the Affidavit of Defendant, the person that served the Defendant must prepare an "**Affidavit of Service**" (**Form UD-3**), which attests to the service of the Summons With Notice or Summons and Verified Complaint. This affidavit must be submitted along with the full set of divorce papers when you place your case on the court's calendar. Keep in mind that there is a 40-day waiting period from when the summons is served to place the matter on the court's calendar. When the Defendant does not sign the Affidavit of Defendant, waiving the 40 days, you must wait the full 40 days before you can place the matter on the court's calendar.

STEP 7: If the parties were married in a religious ceremony, the Defendant must be served with a copy of the **Sworn Statement of Removal of Barriers to Remarriage (Form UD-4)**. The Plaintiff must fill out the original and make a copy of the form. The copy then must be served on the Defendant either by personal service along with the Summons With Notice or the Summons and Verified Complaint, or by mail. If you serve the form by mail, it must be done prior to your placing your action on the court's calendar as described below, because you will need to file the original form with the other required forms. Service by mail must be by someone other than the Plaintiff who is over the age of 18 and not a party to the action. When you file this form, you must attach to the form the **Affidavit of Service (Form UD-4a)**. If the Defendant signs the **Affidavit of Defendant (Form UD-7)**, then you will not have to serve and file this form.

- **If the Defendant appears and does not consent to this action:**

* Then your matter is **no longer an uncontested matrimonial** and you will be unable to obtain an uncontested divorce. You may want to consult an attorney at that point.

STEPS FOR PLACING YOUR DIVORCE CASE ON THE COURT CALENDAR

After you have completed Steps 1-7, you are ready to place your case on the court's calendar. If the Defendant consents to the action by signing the Affidavit of Defendant (Form UD-7), you may place your case on the court's calendar immediately. Otherwise, you will have to wait until 40 days after the date of the service of the summons.

You must complete the following steps to place your case on the calendar:

STEP 8: You must complete **Forms UD-3 through UD-12** (include UD-7 only if signed by the Defendant). Form UD-3 (Affidavit of Service) and Form UD-4 (Sworn Statement of Removal of Barriers to Remarriage) need not be completed, or filed, if the Defendant has signed Form UD-7 (Affidavit of Defendant) and checked Box 6b on the form. Form UD-8 (Child Support Worksheet), Form UD-8a (Support Collection Unit Information Sheet) and Form UD-8b (Qualified Medical Child Support Order) need not be completed, or filed, if there are no unemancipated children of the marriage.

STEP 9: If you are filing your action outside of the City of New York, you also must complete **Form UD-13 (Request for Judicial Intervention)**.

STEP 10: You also must complete the **Certificate of Dissolution of Marriage, the postcard, and the UCS 111 (Divorce and Child Support Summary Form)**. If a party is requesting child support payable to a person or entity other than a child support collection unit, the party must complete, as well, the New York State Case Registry Form.

STEP 11: You must file the completed forms, including a copy of the Summons With Notice or the Summons and Verified Complaint, with the County Clerk's Office. Include three (3) copies of the **Note of Issue (Form UD-9)**.

STEP 12: Unless you are granted a poor person's waiver, you must pay a filing fee for filing the Note of Issue (Form UD-9) and, if outside New York City, the Request for Judicial Intervention (Form UD-13). See page 5 for the schedule of filing fees.

All of the papers filed with the County Clerk's Office will be submitted to the judge. If the papers are approved, the judge will sign the Judgment of Divorce (Form UD-11).

If you are asking for maintenance, custody, visitation, or distribution of property, the court may require a hearing unless you have either a written agreement or prior court order. If you are asking for exclusive occupancy of the marital home, you must assert that your spouse is not living in the marital home; otherwise a hearing may be ordered.

SUPPLEMENTAL FORMS

This packet contains additional forms that you may be required to file depending upon the special requirements in the county where you are bringing the action.

a. Income Deduction Order

In certain circumstances, the court may direct that the payment of maintenance (spousal support) or child support be made by automatically deducting moneys from the paying spouse's wages through use of an Income Deduction Order. This can occur only where the paying spouse is a salaried employee and, in the case of child support, where the support order is not enforced through a local child support collection unit. If the court notifies you that an Income Deduction Order is required, follow the procedure for completing that order set forth in the Supplemental Appendix of Forms at page 35, and submit the order to the Supreme Court Clerk's Office.

b. Notice of Settlement

In some instances, the court will not sign the Judgment of Divorce until the Defendant is served with a copy of the unsigned Judgment and any other proposed orders and is permitted an opportunity to object to or comment on them. In that situation, the court will notify you that the Judgment and the proposed orders are to be served upon the Defendant with a Notice of Settlement (see Supplemental Appendix of Forms at page 34). Follow the procedure set forth in the Supplemental Appendix of Forms for completing and serving a Notice of Settlement.

AFTER THE JUDGMENT HAS BEEN SIGNED BY THE COURT

The **Judgment of Divorce (Form UD-11)** needs to be filed and entered in the County Clerk's Office. The manner in which this occurs depends upon the procedure of the county in which you brought the action. Consult the Supreme Court Clerk's Office for information regarding your obligations for the retrieval and/or entry of the signed judgment and supporting papers. Should you receive notice that the papers have been filed on your behalf by the court, or if you file the papers, you may go to the County Clerk's Office to obtain a certified copy of the judgment. You must bring identification with you, because matrimonial files are confidential and information will be released only to a party or his or her attorney. The certified copy will cost between \$4.00 and \$10.00, but the fee will be waived if you obtained a poor person waiver.

A copy of the judgment of divorce must be served on the Defendant. To do this, you must mail to the Defendant a copy of the signed and entered **Judgment of Divorce (Form UD-11)**, together with the completed **Notice of Entry (Form UD-14)**.

TURN TO PAGES 13-38 FOR INSTRUCTIONS ON HOW TO COMPLETE THE FORMS

FORMS INSTRUCTIONS

If you have unemancipated children under the age of 21, please see the Child Support Worksheet (Form UD-8) instructions on page 21 before you prepare the summons, so you can give the Defendant notice of the amount of child support demanded.

1. SUMMONS WITH NOTICE (Form UD-1):

This form is used when commencing an action for divorce without a Verified Complaint.

- Field 1: Put the index number in the space provided.
- Field 2: Print the county in which you are bringing this action.
- Field 3: Print the date the summons was filed.
- Field 4: The same as field 2.
- Field 5: Print the Plaintiff's name.
- Field 6: You must state the basis of venue, that is, why this case may be heard in the county you select. You have several options: Plaintiff's residence (Plaintiff lives in the county), Defendant's residence (Defendant lives in the county), or CPLR §509 (any other county so long as the Defendant does not object and the court accepts the case). If you choose a county where neither party resides, you must write in CPLR §509. The court must accept the case if it is brought in the county where either the Plaintiff or the Defendant resides. If you choose CPLR §509 and the other side does not challenge the basis for venue, then the action may go forward in that county, but you should be aware that the court may reject your case based on specific venue rules in the county where you are filing.
- Field 7: Provide where either the Plaintiff or the Defendant resides depending on which party's residence was chosen as the basis of venue. For example, if the Plaintiff's residence is listed as the basis for venue, place the Plaintiff's address in this space. If Defendant's residence is chosen, list the Defendant's address in this space. If CPLR §509 is chosen, list the Plaintiff's address in this space.
- Field 8: Print Defendant's name.
- Field 9: Check the appropriate box.
- Field 10: Print the date you prepared the summons.
- Field 11: Check the appropriate box.

- Field 12: List your attorney's address and telephone number. If you do not have an attorney, list your name, address and telephone number.
- Field 13: Fill in the appropriate subdivision number and the grounds for divorce as indicated at the bottom of the form (see pages 3-5 in this booklet). Check with your local clerk's office if you need additional information on where to learn about the grounds for divorce.
- Field 14: If you are asking for other relief in addition to your request for a divorce, this relief must be listed in this section. Examples include but are not limited to custody, visitation, child support, equitable distribution, maintenance and exclusive occupancy of the home. If there are minor children of the marriage, child support must be listed in this section. You should also list any presently existing Family Court orders (with the docket number) that you wish to be continued. (Note: when children reside in New York, custody must be determined).

NOTE: The Notice of Automatic Orders and Notice Concerning Continuation of Health Care Coverage must be served along with the Summons with Notice.

1a. SUMMONS (Form UD-1a): This form must be filed and served simultaneously with the Verified Complaint (Form UD-2)

- Field 1: Put the index number in the space provided.
- Field 2: Print the county in which you are bringing this action.
- Field 3: Print the date the summons was filed.
- Field 4: The same as field 2.
- Field 5: Print the Plaintiff's name.
- Field 6: You must state the basis of venue, that is, why this case may be heard in the county you select. You have several options: Plaintiff's residence (Plaintiff lives in the county), Defendant's residence (Defendant lives in the county), or CPLR §509 (any other county so long as the Defendant does not object and the court accepts the case). If you choose a county where neither party resides, you must write in CPLR §509. The court must accept the case if it is brought in the county where either the Plaintiff or the Defendant resides. If you choose CPLR §509 and the other side does not challenge the basis for venue, then the action may go forward in that county, but you should be aware that the court may reject your case based on specific venue rules in the county where you are filing.
- Field 7: Provide where either the Plaintiff or the Defendant resides depending on which party's residence was chosen as the basis of venue. For example, if the Plaintiff's residence is listed as the basis for venue, place the Plaintiff's address in this space. If Defendant's residence is chosen, list the Defendant's address in this space. If CPLR §509 is chosen, list the Plaintiff's address in this space.

- Field 8: Print the Defendant's name.
Field 9: Check the appropriate box.
Field 10: Print the date you prepared the summons.
Field 11: Check the appropriate box.
Field 12: List your attorney's address and telephone number. If you do not have an attorney, list your name, address and telephone number.

NOTE: The Notice of Automatic Orders and Notice Concerning Continuation of Health Care Coverage must be served along with the Summons.

2. VERIFIED COMPLAINT (Form UD-2):

- Field 1: Fill in the county in which the action is brought. Be consistent with other forms.
Field 2: Print the Plaintiff's name.
Field 3: Write in the index number assigned to this matter.
Field 4: Print the Defendant's name.
Field 5: Write the name of Plaintiff's attorney in the blank space or, if Plaintiff is representing himself or herself, strike the word "by" and leave the space blank.
Field 6: This section informs the court of whether it has the jurisdiction (authority) to hear your case. Check the appropriate box or boxes.
Field 7: Insert the date that you and your spouse were married as listed on a marriage license and the city, town or village; and the state or country of the marriage.
Field 8: Check the appropriate box. If you had a religious ceremony, you must strike the word "not" in the first line and you must check one of the three options below as to your removing barriers to remarriage. If you had a civil ceremony, leave the word "not" in place and do not check any of the three options below. A Barriers to Remarriage Affidavit (Forms UD-4 and UD-4a) must be filed with proof of service unless the Defendant waives the filing of the Affidavit.
Field 9: Check the appropriate box. List the number of children either born or adopted during the marriage. List the names, dates of birth and addresses for each.
Field 10: List the Plaintiff's and Defendant's addresses. If child support is not an issue leave this section blank.
Field 11: 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. Strike this section if child support is not an issue.

- Field 12: You must state and describe the grounds for divorce. In addition to selecting the section (be specific as possible) of the Domestic Relations Law that applies, you should fill in the date where appropriate and also give a brief description as to how you meet New York State's grounds requirements. (Refer to **Grounds for Divorce** on pages 2 through 5 of these instructions).
- Field 13: This section remains unchanged. If a judgment of divorce was already entered in this state or another state between you and your spouse and/or there is another action for divorce pending between you and your spouse, you may not be permitted to maintain this action. You should seek legal assistance as noted in the Foreword.
- Field 14: If you are asking for other relief in addition to your request for a divorce, this relief must be listed in this section. Examples include but are not limited to custody, visitation, equitable distribution, maintenance and exclusive occupancy of the marital home. If there are minor children of the marriage, child support must be listed in this section. You should also list any presently existing Family Court orders (with the docket number) that you wish to be continued. (Note: when children reside in New York, custody must be determined).
* If you are requesting that an equitable distribution of marital property be made, you must check the appropriate box. Be aware that requests to distribute marital property may require a hearing before a judge or special referee. If you are waiving the distribution of marital property or if marital property is being distributed pursuant to an agreement/stipulation, check the appropriate box.
- Field 15: Insert the date that you prepared the document.
- Field 16: Check the appropriate box. The attorney for the Plaintiff must sign this line and print his or her name, address and telephone number. If the Plaintiff does not have an attorney, the Plaintiff must sign at that line and put in his or her address and telephone number.
- Field 17: The Plaintiff must sign this section in the presence of a notary public, who then must notarize the document. That individual will fill in the remaining information on this page.

3. **AFFIDAVIT OF SERVICE (Form UD-3):**

This affidavit must be filled out by the person that serves the summons with notice or the summons and verified complaint on your spouse (the Defendant). You need not file this form if Defendant executes the **Affidavit of Defendant (Form UD-7)**, which satisfies the proof of service requirement.

- Field 1: Insert the county in which the action is brought. Be consistent with prior forms.

- Field 2: Print the Plaintiff's name.
Field 3: Insert the index number.
Field 4: Print the Defendant's name.
Field 5: Insert the state and county where the process server signed this document before a notary public.
Fields 6, 7: The process server must fill in his or her name and address.
Field 8: The process server must fill in the details of when and where the Defendant was served, and must check the appropriate boxes as to the documents that were served. If there are children under the age of 21, the Child Support Standards Chart must also be served on the Defendant. The Chart is available at the Supreme Court Clerk's Office.
Field 9: The process server must check the option that specifies how he or she identified the Defendant and check all the applicable identifying characteristics of the Defendant. If the first option is checked, the process server must describe how he or she became acquainted with the Defendant. If you provided the process server with the Defendant's picture, or pointed out the Defendant to the process server, you must address this in the Affidavit of Plaintiff (Form UD-6).
Field 10: The process server must ask the Defendant whether he or she is a member of the military of this state or any other state or this nation. Strike either 6(a) or 6(b). Where 6(b) applies, fill in the military service which the Defendant claims to be a member of. If you hired an investigator to determine the Defendant's military status, annex an affidavit of the investigator (see Appendix for form). If you inquired into or determined the Defendant's military status yourself, you should address this in the Affidavit of Plaintiff (Form UD-6). If your proof of the Defendant's military status is through either of the latter options, strike paragraph 6.
Field 11: The process server must sign the document when completed before a notary public.

4. SWORN STATEMENT OF REMOVAL OF BARRIERS TO REMARRIAGE (Form UD-4):

- Field 1: Insert the county where you are bringing the action.
Field 2: Print the Plaintiff's name.
Field 3: Print the index number assigned to the case.
Field 4: Print the Defendant's name.
Field 5: Insert the state and county in which Plaintiff signed the statement.
Field 6: You must select either of the italicized statements by placing a check mark in the appropriate box. If you select the second box, attach a copy of Defendant's waiver. If you checked the box in the Verified Complaint or Affidavit of Plaintiff that you "will" be taking these steps, you must have completed the steps before you file your papers.

Field 7: The Plaintiff must sign the form, which must be sworn to before a notary public.

4a. AFFIDAVIT OF SERVICE (Form UD-4a): This form must be attached to and filed with the Sworn Statement of Removal of Barriers to Remarriage (Form UD-4)

- Field 1: Insert the county where you are bringing the action.
Field 2: List the name and address of the individual serving the form on the Defendant.
Filed 3: Insert the date that the form was served. Fill in either the location where the party was personally served or the address to which the form was mailed.
Field 4: The server must sign before a notary public.
Field 5: If service of Sworn Statement of Removal of Barriers to Remarriage is acknowledged by your spouse, he or she must sign the Affidavit of Service.

5. AFFIRMATION (AFFIDAVIT) OF REGULARITY (Form UD-5):

- Field 1: Insert the county where you are bringing the action.
Field 2: Print the Plaintiff's name.
Field 3: Insert the index number assigned to the case.
Field 4: Print the Defendant's name.
Field 5: List the state and county where either the Plaintiff or the attorney for the Plaintiff signed this document.
Field 6: Check the appropriate boxes.
Field 7: Check the appropriate box.
Field 8: Insert the date that the document was completed if signed by an attorney. If the Plaintiff is self-represented, the document must be signed and notarized before a notary public.

6. AFFIDAVIT OF PLAINTIFF (Form UD-6):

- Field 1: Insert the county in which you are bringing the action.
Field 2: Print the Plaintiff's name.
Field 3: Insert the index number for the action.
Field 4: Print the Defendant's name.
Field 5: Insert the state and county where Plaintiff signed this document.
Field 6: Insert the Plaintiff's name.
Field 7: Print where the Plaintiff resides, the Defendant resides and their social security numbers.
Field 8: Address the residency requirements as explained on page two of this instruction booklet by checking the appropriate box or boxes.

Page 19

- Field 9: Insert the date the parties were married and the city, town or village; the county; and the state where they were married. Strike the italicized word "not" in the following sentence if the parties were married by a clergyman, minister or by a leader of the Society for Ethical Culture.
- Field 10: If the word "not" is deleted, you must check one of the three options.

[You do not have to complete Fields 11-13 if you do not have children.]

- Field 11: List the number and name (if any) of the children of the marriage, their social security number, their date of birth and the present address of each child as well as any other addresses they may have had for the previous five (5)-year time period. You must also list the name and present address of the person that each child has lived with for the past five (5) years. Adopted children must also be included.
- Field 12: Check the boxes as appropriate. If you check "yes", you must attach a statement explaining the circumstances, and if a Family Court order was issued, you must provide the court with a copy.
- Field 13: Fill in the required information about Plaintiff's and Defendant's insurance coverage. Make sure to include the type of coverage, such as medical, dental or optical coverage. If either party has more than one insurance plan, you must list the additional coverage. Check the not applicable box if child support is not an issue or if there is no health insurance available to either party for the benefit of the child(ren) of the marriage.
- Field 14: List any additional relief that you are requesting. Examples include but are not limited to maintenance, custody, visitation, child support and exclusive occupancy of the marital home. Refer back to the Summons with Notice and Verified Complaint forms. In addition, check the appropriate box addressing how you want the marital property to be distributed. You should also list any existing Family Court orders (with the docket number) that you want to be continued or any stipulations or agreements that you have made in writing with the Defendant that you wish to become a part of the judgment, and attach copies of those documents.
- Field 15: List the grounds for divorce, filling in any relevant facts to prove the grounds alleged. Refer to Grounds for Divorce on pages 2 through 5 of these instructions. See the bottom of the Summons With Notice (Form UD-1), which lists the different grounds for divorce, or if you filed a Summons and Verified Complaint, refer to paragraph 12 of the Complaint.
- Field 16: Check the appropriate box as to the Defendant's status in the military. Strike the inapplicable language within the section that you choose.
- Field 17: Strike the word "not" where appropriate.
- Field 18: This section remains unchanged if there are no other matrimonial actions pending and you are still married. If there are other matrimonial actions pending, then you should seek legal assistance as noted in the Foreword.

- Field 19: Leave this section unchanged if you have supplied a photograph of the Defendant to the process server. Strike or delete it if you have not.
- Field 20: Check the appropriate box or boxes. If you are not the custodial parent of the children of the marriage, check Section 11A. If you are the custodial parent of the children of the marriage, check Section 11B and one of the following four statements [boxes (1),(2),(3), or (4)]. One of the four statements must be selected. If (1),(2) or (3) is selected in this Affidavit or in the Affidavit of Defendant, then you must check "Applicable" on the opening sentence (Field 8) of Form UD-11 (Judgment of Divorce).
- Field 21: Insert the Plaintiff's and/or the Defendant's surname before the marriage if different from the current surname.
Complete the next section pursuant to D.R.L. section 240 only if there are children under the age of 18 who are subject to the matrimonial action.
Check the appropriate boxes and list any required information.
- Field 22: The Plaintiff must sign the form before a notary public.

7. **AFFIDAVIT OF DEFENDANT (Form UD-7):**

- Field 1: Insert the county in which you are bringing the action.
- Field 2: Print the Plaintiff's name.
- Field 3: Insert the index number assigned to the action.
- Field 4: Print the Defendant's name.
- Field 5: Insert the state and county in which the Defendant signed this affidavit.
- Field 6: Print the Defendant's name.
- Field 7: Print the Defendant's address.
- Field 8: Defendant must check the appropriate box. The date of service and the grounds for divorce listed on the Summons With Notice or in the Verified Complaint also must be inserted.
- Field 9: This section remains unchanged.
- Field 10: Check the appropriate box.
- Field 11: Check Section 4A if the Defendant waives service of all further papers in the action except for the final Judgment of Divorce. Check Section 4B if the Defendant wants to be served with all papers required to be served. The Defendant may strike any individual documents that the Defendant does not wish to be served with.
- Field 12: Strike the italicized words if you are not seeking equitable distribution.
- Field 13: Strike section 6a in totality except where Plaintiff requests a divorce by the conversion of a separation agreement as described earlier in these instructions and the marriage was performed by a clergyman, minister or by a leader of the Society for Ethical Culture. Check box 6b if you waive the Plaintiff's requirement to file the Sworn Statement of Removal of Barriers to Remarriage (Form UD-4).

- Field 14: If Defendant is not the custodial parent of the children of the marriage, check Section 7A. If Defendant is the custodial parent of the children of the marriage, check Section 7B and check one of the statements in [boxes (1),(2),(3), or (4)], that applies to your individual situation. One of the four statements must be selected. If (1), (2) or (3) is selected in this Affidavit or in the Affidavit of Plaintiff, then you must check "Applicable" on the opening sentence (Field 8) of Form UD-11 (Judgment of Divorce). **Complete the next section pursuant to D.R.L. section 240 only if there are children under the age of 18 who are subject to the matrimonial action.** Check the appropriate boxes and list any required information.
- Field 15: Defendant must sign the document and have it notarized before a notary public.

8. CHILD SUPPORT WORKSHEET (Form UD-8):

The Plaintiff **must** submit this document where there are unemancipated children of the marriage (children under the age of 21 who are supported by a parent or guardian). It lists the amount of child support that must be paid to the custodial parent by the non-custodial parent. If you have a Family Court order that directs the payment of a specified amount of child support, you do not have to fill in this worksheet. A copy of that order must be submitted with your papers.

This form requires you to list financial information. You may use a tax return, pay stub, W-2 or any financial document that will assist you in completing the form. You may also use other information that you have to assist you. For example, if the Defendant was earning \$20,000 per year at the time you separated or if you know someone with the same job making \$20,000, you should list that amount and state the source of your information in Field 7 or Field 8.

If you do not know the Defendant's income at present, write the number 0 in all relevant sections with the word "unknown" next to that amount. Fill out the remainder of the form to the best of your ability. When you reach Field 35, you will be receiving \$300 per year, the statutory minimum. You may return to this Court or the Family Court should you learn Defendant's income at a later date. The Defendant may also return to court to show that he/she cannot pay this minimum amount.

Although this document looks complicated, a careful, step-by-step approach should help you complete it properly and without too much trouble. When things become complicated, examples will be given. You should complete this form before you prepare the summons, so that you can give the Defendant the required notice as to the amount of child support demanded or offered, as the case may be. It may help to read through the form before you begin. All statutory references in the form are to Domestic Relations Law Section 240(1-b).

- Field 1: Insert the county in which you are bringing the action.
Field 2: Print the Plaintiff's name.

- Field 3: Insert the index number assigned to the action.
- Field 4: Print the Defendant's name.
- Field 5: Insert the Plaintiff's name. Please note that in some cases the Defendant prepares this form; if so, put the Defendant's name here.
- Field 6: Check the appropriate box to show whether the Plaintiff or the Defendant is signing this document. This check will correspond to field 5.
- Field 7: Insert the father's annual gross income (before taxes) in Item number 1. If the father has income listed in Items 2-14 that he does not include in Item number 1, then put that yearly dollar amount next to the appropriate numbered category. Add up all of the items to get the "total mandatory income". Here are two examples:
* **Example One:** The father is a truck driver who earns \$30,000 per year, which is his total income. Put \$30,000 in the blank next to number 1. Put -0- in the blanks next to numbers 2-14. The total mandatory income is \$30,000.
* **Example Two:** The father is a teacher and earns \$30,000 per year but also receives a \$10,000 pension from a prior profession. Put \$30,000 in the blank next to number 1; put \$10,000 in the blank next to number 8, and put -0- in all the other blanks. The total mandatory income is \$40,000.
- Field 8: List the mother's total income in the same way that the father's income was stated.
- Field 9: Insert the father's non-mandatory income. The form designates various kinds of non-mandatory income. If there is any income of this nature, you must list it. If there is none, the total is -0-.
- Field 10: List the mother's total non-mandatory income.
- Field 11: This is the total of Field 7 and Field 9.
- Field 12: This is the total of Field 8 and Field 10.
- Field 13: List the father's total deductions. These deductions are itemized in numbers 19 to 27. The deductions used most often are: number 26 (New York City or Yonkers income tax) and number 27 (Social Security taxes). Read each item to see which deductions apply, then total all the father's deductions and put that figure in line D (Total Deductions). Remember, these figures are yearly totals.
- Field 14: List the mother's total deductions.
- Field 15: List the father's adjusted income - his total gross income from field 11 minus his total deductions from field 13.
- Field 16: List the mother's adjusted income - her total gross income from field 12 minus her total deductions from field 14.
- Field 17: Insert the combined income of both the father and the mother. Add field 15 and Field 16.
- Field 18: Insert the combined child support of the mother and the father. To find the correct amount, multiply the combined income in field 17 by the appropriate percentage listed in field 18. (If the combined income in field

17 is over \$130,000, then disregard the amount exceeding \$130,000 for now and multiply the appropriate percentage by \$130,000).

*** For Example:** If the father's adjusted income is \$30,000 (field 15) and the mother's adjusted income is \$20,000 (field 16), then their combined income is \$50,000 (field 17). Suppose there is one child. Looking at field 18, you see: For 1 child...17%. You multiply $\$50,000 \times 17\% = \$8,500$. You now have the combined child support of \$8,500; this number will be put in field 18.

Field 19: Insert the non-custodial parent's income. To do this, take the adjusted income of the person who does not have the child and insert this (either field 15 or field 16) in field 19.

Field 20: Insert the combined income. Whatever is in field 17 will be repeated in field 20.

Field 21: This amount is the result of simple division. Divide the non-custodial income (field 19) by the combined parental income (field 20) to arrive at a percentage - sometimes called "the prorated share".

*** For Example:** Suppose the father is the non-custodial parent; his adjusted income is \$30,000, and the mother's income is \$20,000. The combined income is \$50,000. You divide \$30,000 [non-custodial parent's income] by \$50,000 [Combined income]. $\$30,000 / \$50,000 = .60$ or 60%. Put this percentage in field 21. This percentage is important, because it will be used later to determine obligations of the non-custodial parent.

Field 22: Multiply the combined child support (field 18) times the non-custodial parent's percentage [prorated share] (field 21) and insert the result in field 22. This is the non-custodial parent's share of the total child support.

*** For Example:** Using the figures in the last two examples, $\$8,500 \times 60\% = \$5,100$.

Field 23: Insert the amount of child support on the amount over \$130,000. Look at Step 11 of the Child Support Worksheet to see what factors might affect the child support on amounts over \$130,000. Some people decide to simply use the same formula that was used in field 22 and hope the court goes along with that.

Field 24: Insert the sum of field 22 and field 23.

Field 25: Insert the cost of child care for certain items. If you pay for any of those items, put a check in the appropriate box and place the total annual expense in field 25.

Field 26: Insert the non-custodial parent's share of the child care check in field 25. To do this, multiply the total child care expense (field 25) by the non-custodial parent's prorated share (field 21), and put the number in field 26.

*** For Example:** If field 21 is 60% and field 25 is \$1,000 then field 26 would be $\$1,000 \times 60\% = \600 .

Page 24

- Field 27: Insert the amount for future annual health care expenses not covered by insurance.
- Field 28: Insert the non-custodial parent's share of the health care as listed in field 27. To do this, multiply the total future health care expenses in field 27 by the percentage in field 21.
- Field 29: List the annual amount for educational expense. Use Step 11(b) as a guide to decide if it is appropriate to put any amount in field 29.
- Field 30: Insert the non-custodial parent's income. This is the same amount that is in field 19.
- Field 31: Insert the total amount of support, child care, future health care and educational expense attributable to the non-custodial parent. This field is the addition of field 24 + field 26 + field 28 + field 29.
- Field 32: Field 32 = field 30 - field 31. This amount is used to determine whether or not the low income exemptions apply to this case. If the deduction from the non-custodial parent's income of child support, child care, future health care and educational expense brings his income below poverty level or below the self-support reserve, then a different formula, as determined by fields 33-36, is used to determine the appropriate child support.

To see whether you have to use that different formula in fields 33-36, you first have to determine what are the poverty level and the self-support reserve. Every April 1st the poverty level as well as the self support reserve changes. You may obtain the most current figures from the Child Support Standards Chart, which is available from the Supreme Court Clerk's Office. On April 1, 1999, the poverty level was \$8,240 and the self-support reserve was \$11,124 (135% of the poverty level).

Now you can see whether any of the low income exemptions apply. There are three possibilities. First -- If the figure you get in field 32 is larger than the self-support reserve, then you are finished with this form except for signing and notarization. Second -- If the figure you get in field 32 is less than the poverty level, then you must complete field 33 and field 34 before you are finished. Third -- If the figure you get in field 32 falls between the poverty level and the self-support reserve, skip field 33 and field 34 and move on to field 35 and field 36.

- Field 33: List the adjusted income of the non-custodial parent as set forth in field 30, but only when field 32 is below the poverty level. Otherwise, skip this field.
- Field 34: Insert the amount of the self-support reserve, as calculated using the instructions in the footnotes at the bottom of page four of the form.
- Field 35: This amount is the remainder after subtracting the self-support reserve (field 34) from the non-custodial parent's income (field 33). If the amount on field 34 is greater than \$300, then the correct child support is field 34. If the amount in field 34 is \$300 or less, then the correct child support is \$300 per year. Keep in mind that the amount on field 34 may be less than

\$0, which occurs when the non-custodial parent's income is less than the self support reserve. Treat any figure below \$0 as \$0. As noted, that will result in child support of \$300 per year.

- Field 36: List the adjusted income of the non-custodial parent as set forth in field 30, but only when field 32 was below the self support reserve and above the poverty level. Otherwise skip this field.
- Field 37: Insert the amount of the self-support reserve, as calculated using the instructions in the footnotes at the bottom of page four of the form.
- Field 38: Insert the remainder after subtracting the self-support reserve (field 37) from the non-custodial parent's income (field 36). If the amount in field 36 is greater than \$600, then the correct child support is field 36. If the amount in field 36 is \$600 or less, then the correct child support is \$600 per year.

It is strongly advised that you attach to this document the latest income tax returns, W-2's, 1099's, pay stubs -- or whatever documentation you have -- to substantiate the amounts you state in this form.

- Field 39: Plaintiff must sign this document. If the defendant prepared this document, then the defendant signs it. This form must be signed and sworn to before a notary public.

8a. SUPPORT COLLECTION UNIT INFORMATION SHEET (Form UD-8a):

The Plaintiff must submit this document where the services of the Support Collection Unit are requested. The Support Collection Unit is a state agency that assists litigants in obtaining the child support that has been ordered by the court. You may utilize the service or decline the service. If you decline the service you may apply to the Support Collection Unit in the future to assist you in obtaining the child support that the court has ordered to be paid.

- Field 1: Fill in the county in which the action is brought.
- Field 2: Print the Plaintiff's name.
- Field 3: Write in the index number assigned to this case.
- Field 4: Print the Defendant's name.
- Field 5: Fill in the Plaintiff's name, address, date of birth and social security number.
- Field 6: Fill in the Defendant's name, address, date of birth and social security number.
- Field 7: Fill in the date and the place of marriage.
- Field 8: Check the appropriate box.
- Field 9: Indicate the name(s) and date(s) of birth of the unemancipated child(ren). List the amount of support for each child and check the appropriate box for either per week or per month.

- Field 10: Indicate who will be receiving the support payments by checking the appropriate box.
- Field 11: Fill in the name and address of the third-party person if this person is receiving the support payments.
- Field 12: Fill in the non-custodial parent's employer's name and address.
- Field 13: Fill in the date the form is completed.

8b. QUALIFIED MEDICAL CHILD SUPPORT ORDER (Q.M.C.S.O.) (Form UD-8b):

A certified copy of this signed order must be served on the employer of the person legally responsible to provide health insurance.

- Fields 1-4: The court will fill in these sections.
- Field 5: Print the Plaintiff's name.
- Field 6: Insert the index number.
- Field 7: Print the Defendant's name.
- Field 8: Insert the name, date of birth, social security number and mailing address of each unemancipated child of the marriage.
- Field 9: Insert the name of the party who must enroll the child(ren) in the health insurance plan available through his or her employment.
- Field 10: Insert the name of the party that has custody of or is the legal guardian of the child(ren).
- Field 11: Insert the name, address and identification number (if any) of the health plan.
- Field 12: Insert the name and address of the administrator of the plan (if any).
- Field 13: Describe the type of coverage provided by the plan. Give a detailed description.
- Field 14: Leave this section unchanged.
- Field 15: Insert the date the parties agree that coverage is to be effective. If not filled in, the court will enter the date the order is signed.
- Field 16: The court will fill in this section.

9. NOTE OF ISSUE - No Children Under 18 Subject To Matrimonial Action (Form UD-9):

- Field 1: Insert the county where you are bringing the action.
- Field 2: Print the Plaintiff's name.
- Field 3: Insert the index number that you will receive from the clerk's office in this space. Leave the space for calendar number empty; the clerk's office will fill in that section.
- Field 4: Print the Defendant's name.
- Field 5: The words "no trial" appear here. You do not need to write anything in this space.

Page 27

- Field 6: This section must indicate who is placing this matter on the calendar. Check the appropriate box. Only one (1) box should be checked.
- Field 7: Insert the date that the summons was filed with the County Clerk.
- Field 8: Insert the date that the summons was served on your spouse.
- Field 9: Because this an uncontested divorce, the term "NOT JOINED" appears. You must indicate whether this case is going forward due to a default (your spouse fails to appear in the action), due to a waiver (your spouse is agreeing to proceed to divorce by completing an Affidavit of Defendant), or due to a stipulation (both parties agree by written document). Check the appropriate box.
- Field 10: The divorce is not being contested. You do not need to write anything in this space.
- Field 11: You are asking for an absolute divorce. You do not need to write anything in this space.
- Field 12: Check the appropriate box. Fill in the name, address, telephone number and fax number of the attorney for the Plaintiff here. If the Plaintiff does not have an attorney, put the Plaintiff's name, address, telephone number and fax number in this space.
- Field 13: Check the appropriate box. Fill in the name, address, telephone number and fax number of the attorney for the Defendant. If the Defendant does not have an attorney, put the Defendant's name, address, telephone number and fax number in this space.

9. NOTE OF ISSUE - Children Under 18 Subject To Matrimonial Action (Form UD-9a):

- Field 1: Insert the county where you are bringing the action.
- Field 2: Print the Plaintiff's name.
- Field 3: Insert the index number that you will receive from the clerk's office in this space. Leave the space for calendar number empty; the clerk's office will fill in that section.
- Field 4: Print the Defendant's name.
- Field 5: The words "no trial" appear here. You do not need to write anything in this space.
- Field 6: This section must indicate who is placing this matter on the calendar. Check the appropriate box. Only one (1) box should be checked.
- Field 7: Insert the date that the summons was filed with the County Clerk.
- Field 8: Insert the date that the summons was served on your spouse.
- Field 9: Because this an uncontested divorce, the term "NOT JOINED" appears. You must indicate whether this case is going forward due to a default (your spouse fails to appear in the action), due to a waiver (your spouse is agreeing to proceed to divorce by completing an Affidavit of Defendant), or due to a stipulation (both parties agree by written document). Check the appropriate box.

- Field 10: The divorce is not being contested. You do not need to write anything in this space.
- Field 11: You are asking for an absolute divorce. You do not need to write anything in this space.
- Field 12: Check the appropriate box and complete all of the required information.
- Field 13: Check the appropriate box and complete all of the required information.
- Field 14: Check the appropriate box and complete all of the required information.
- Field 15: Check the appropriate box. Fill in the name, address, telephone number and fax number of the attorney for the Plaintiff here. If the Plaintiff does not have an attorney, put the Plaintiff's name, address, telephone number and fax number in this space.
- Field 16: Check the appropriate box. Fill in the name, address, telephone number and fax number of the attorney for the Defendant. If the Defendant does not have an attorney, put the Defendant's name, address, telephone number and fax number in this space.

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

- Fields 1-4: Do not fill in these sections. The judge or referee assigned to the case 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 a judge or referee 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 judge or referee 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 in the Foreword.
- 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 regardless of age. List their names, social security numbers, dates of birth and addresses. Adopted children must be included.
- 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: If you have a stipulation which includes maintenance, or if the court awarded maintenance in a decision, fill in the amount, how often payment is to be made, and the date upon which payments are to commence. Indicate the applicable language by placing a check mark in the appropriate box.
- Field 19: This section addresses the children of the marriage. Check the appropriate box so that the judge or referee signing this document 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 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. List the names and the dates of birth of the children entitled to receive parental support. (Under age 21 and not deemed emancipated by a court).
- * **Paragraph (B):** You must fill in either subparagraph 1, 2 or 3 to show how the amount of child support was determined. Much of this information can be taken from the Child Support Worksheet. It is

recommended that you use the Child Support Standards Chart in calculating the support obligation. The Chart is available in the Supreme Court Clerk's Office or from the Office of Temporary and Disability Assistance (formerly known as the Department of Social Services).

*** 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 deductions) of each party. 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 \$130,000 and do the same for combined income over \$130,000, 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 \$130,000 by the non-custodial parent's pro rata percentage share and do the same for income over \$130,000. Fill in the amounts. Fill in the non-custodial parent's pro rata share of health care expenses not covered by insurance, child care, educational, or extraordinary 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 \$130,000 a year. If issues regarding health care, child care, educational, 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 Child Support Worksheet 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 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. Strike this section if child support is not an issue.

- Field 23: If there are no unemancipated children 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. Form UD-13 must be submitted if there is health insurance coverage available to either party through their employer.
* 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 and list prior surname.
- 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 and insert the Domestic Relations Law subdivision for the grounds for divorce. Be consistent with prior forms.
- Field 28: This section will be filled in by the Court.

11. JUDGMENT OF DIVORCE (Form UD-11):

- Fields 1-4: Do not fill in these sections. The Judge or Referee assigned to the case 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. Fill in the Social Security Number of the person who will be obligated to pay child support (if any).
- Field 7: Print the Defendant's name.
- Field 8: Check the appropriate box. If you are receiving child support and want payments to be made to the Support Collection Unit, the box labeled "Applicable" must be checked. If there are no minor unemancipated children of the marriage, you must check the "Not Applicable" box.

Page 32

- Field 9: If you had an inquest/hearing before a judge or referee check that box and fill in the date of the inquest. If you did not have an inquest then the court will fill in the consideration date for you.
- Field 10: Check the appropriate box as to the method of service and whether service was made in New York State or outside of New York State.
- Field 11: Check the appropriate box.
- Field 12: Check the appropriate box and fill in the date of the stipulation, if any.
- Field 13: Check the appropriate box.
- Field 14: List the Plaintiff's and Defendant's addresses and social security numbers in the spaces provided.
- Field 15: Fill in the name of the person submitting the judgment and check the appropriate box identifying this person.
- Field 16: Leave this section unchanged.
- Field 17: Insert the names of the parties and check the box(es) of the section(s) of the Domestic Relations Law pertaining to your grounds for divorce. You may obtain the information pertaining to the grounds of divorce from the Affidavit of Plaintiff (Form UD-6) or Verified Complaint (Form UD-2).
- Field 18: Check the appropriate box as to who shall have custody of the minor child or children of the marriage and print the name of the person in the space provided. If there are no minor children (under eighteen years of age) of the marriage, check that box in field 19.
- Field 19: List the names and dates of birth and Social Security numbers for the children of the marriage. If there are no minor children (under eighteen years of age), check that box.
- Field 20: Check the appropriate box. If visitation is to be ordered after a hearing or by decision, set forth the schedule of visitation. If visitation is not applicable, check that box.
- Field 21: If there are existing orders from any other court that are to be continued by this court, other than child support orders, list the County and Index Numbers or Docket Numbers of the order(s), and check the appropriate boxes. A copy of any order to be continued must be submitted to this court. If there are no other court orders with regard to custody, visitation or maintenance, check that box.
- Field 22: Fill in this section if there is to be continued an award of child support by a court order issued by a court other than this court. Check all appropriate boxes. If there is to be no award of child support by continuing another court's order, check that box.
- Field 23: Fill in this section if one party is receiving an award of maintenance. Check the appropriate boxes. If there is no award of maintenance, check that box.

- Field 24: Check the appropriate box and insert all requested information or check the "Not applicable" box if payment of child support is not to be made by these means. This section applies where child support is to be paid directly by one spouse to the other or through the NYS Child Support Processing Center.
- Field 25: Fill in this section, and check the appropriate boxes if child care expenses are to be paid. If not, check the "Not applicable" box.
- Field 26: Fill in this section, and check the appropriate boxes if health care expenses are to be paid. If not, check the "Not applicable" box.
- Field 27: Fill in this section and check the appropriate boxes if educational expenses are to be paid. If not, check the "Not applicable" box.
- Field 28: If an award of exclusive occupancy of the marital residence is to be ordered, insert the appropriate terms, including the address of the marital residence and any other provisions regarding exclusive occupancy. If there is no issue of exclusive occupancy, check the "Not applicable" box. **Note:** A hearing may be held for the court to determine exclusive occupancy unless you and your spouse agree that one of you will remain exclusively in the marital residence.
- Field 29: If there is an agreement or stipulation between the parties, this section must be filled out. Fill in the date the agreement or stipulation was entered. If you have other wishes regarding the survival of this agreement, please notify the court.
- Field 30: A Qualified Medical Child Support Order (Q.M.C.S.O.) must be issued where child support is an issue. The Q.M.C.S.O. is included in the forms booklet as Form UD-8b. Check the box if not applicable.
- Field 31: Complete if you have a separation agreement or a decision of the court. If not, check the "Not applicable" box.
- Field 32: Complete if you have a separation agreement or a decision of the court. If not, check the "Not applicable" box.
- Field 33: Leave this provision unchanged.
- Field 34: Insert Plaintiff's and/or Defendant's surname before the marriage if different from the current surname.
- Field 35: The court will insert proper language for this order.
- Field 36: The court will fill in this section.

12. PART 130 CERTIFICATION (Form UD-12):

Part 130 of the Rules of the Chief Administrator of the Courts [22 NYCRR] requires that you, or your attorney if you have one, must certify, by your signature, that every document relating to the divorce action which is served, filed or submitted to the court, is not frivolous as defined in subsection (c) of section 130-1.1, which provides:

§130-1.1(c) For purposes of this Part, conduct is frivolous if:

- (1) it is completely without merit in law and cannot be supported by a reasonable argument for an extension, modification or reversal of existing law;
- (2) it is undertaken primarily to delay or prolong the resolution of the litigation, or to harass or maliciously injure another; or
- (3) it asserts material factual statements that are false.

You will satisfy the requirements of this rule by signing the form. Be sure to type or print your name beneath your signature.

13. REQUEST FOR JUDICIAL INTERVENTION (Form UD-13):

In counties outside of New York City a Request for Judicial Intervention (RJI) form must be completed and submitted with the balance of the divorce papers being filed with the County Clerk's office (see **STEP 9** on page 10). This form requests selected information and is used to assign your case to a judge for review and disposition. Fill out as indicated on the form.

14. NOTICE OF ENTRY (Form UD-14):

- Field 1: Insert the county where you brought the action.
- Field 2: Print the index number assigned to the case.
- Field 3: Print the Plaintiff's name.
- Field 4: Print the Defendant's name.
- Field 5: Insert the county where you brought the action.
- Field 6: Print the date the judgment of divorce was entered. You can find this date by looking at the entry stamp on the judgment. If there is no stamp on the document, you must bring it to the County Clerk's Office and have it entered.
- Field 7: List the date you prepared this document.
- Field 8: List your name.
- Field 9: Write in your address.
- Field 10: Write in Defendant's name and address, or, if Defendant has an attorney, the attorney's name and address. Check the appropriate box. You will be sending this Notice of Entry with the Judgment of Divorce to the Defendant as noted on page 12 of the instructions booklet under the heading "After the Papers are Approved".

CERTIFICATE OF DISSOLUTION OF MARRIAGE:

This form is required by the Department of Health. You must fill out the form, although you need not complete the section entitled "Confidential," and submit it to the County Clerk's Office with the filed papers.

POSTCARD:

The forms packet contains a postcard that must be submitted with the filed papers. That postcard must contain the Plaintiff's name, address and the proper postage. It also must contain the name of the case and the index number. The court will use this postcard to notify you of the status of the case, including whether there are any problems with the papers filed.

UCS 111 (UCS DIVORCE & CHILD SUPPORT SUMMARY FORM):

The Unified Court System is required by law to collect various data concerning divorce proceedings. This form must be completed by the Plaintiff and submitted to the Supreme Court Clerk's Office upon submission of the filed papers. The information reported on the form is confidential and will be used for statistical purposes only. It will not be retained in the permanent case file.

NEW YORK STATE CASE REGISTRY FILING FORM:

This form must be completed if a party is requesting child support that will be payable to another party or entity other than a child support collection unit (for example, the child support will be paid by the defendant directly to the plaintiff). The "payor" is the party who pays the support; the "payee" is the party who receives the support payment.

SUPPLEMENTAL APPENDIX OF FORMS INSTRUCTIONS

A. INCOME DEDUCTION ORDER:

To complete the order, you must include the name, address and social security number of the parties; the name and address of the employer; the amount to be withheld; and the date upon which payments are to end. If you are the person receiving the payment, you are the creditor and your spouse is the debtor.

If the income deduction order is for spousal support (maintenance) only, you may insert the address of the person who is to receive the monies or the following address where payments are to be forwarded:

Office of Temporary and Disability Assistance
P.O. Box 15365
Albany, New York 12212-5365

If the income deduction order is for child support, or child and spousal support combined, insert the name and address of the person who is to receive the monies. Make sure to check the appropriate box that indicates whether the payments are to be made by either direct payment (to the party receiving the support payment) or forwarded payment (to the Office of Temporary and Disability Assistance, formerly known as the Department of Social Services).

You should speak to your local child support enforcement unit to find out the services it provides in collecting and enforcing child support payments.
back to top

B. NOTICE OF SETTLEMENT:

If required by the court, or requested by the Defendant, fill out this form and serve it on the Defendant together with a copy of the orders and/or judgment being settled.

- Field 1: Insert the county in which you are bringing the action.
- Field 2: Insert the index number.
- Field 3: Print the Plaintiff's name.
- Field 4: Print the Defendant's name.
- Field 5: Check the appropriate box or boxes as to the documents that are being noticed for settlement. Specify any other order(s) being submitted.
- Field 6: Insert the address of the court in which the action is pending. Select a date that the Proposed Judgment of Divorce, Qualified Medical Child Support Order or any other order will be presented to the court, and insert that date. Note: the date that is selected must be at least 5 days after you serve the other party personally with a copy of the Proposed Judgment of Divorce, Qualified Medical Child Support Order or any other order; or at least 10 days after the day you serve the other party by mail with a copy of the Proposed Judgment of Divorce, Qualified Medical Child Support Order or any other order.
- Field 7: Insert the date the form is being prepared.
- Field 8: Check the appropriate box as to who prepared the form and fill in the name, address and telephone number of that person.
- Field 9: Check the appropriate box as to the person whom the Notice of Settlement is being served upon and fill in the name, address and telephone number of that person.

POOR PERSON STATUS / WAIVER OF FILING FEES:

NOTE: If you are incarcerated, you cannot submit the forms included in this packet. You will need to submit an application pursuant to C.P.L.R. 1101(f).

The State of New York recognizes that some individuals may lack the financial resources needed to pay the filing fees and court costs associated with filing for an uncontested divorce. The law permits an application for poor person status, thus relieving the person of the obligation to pay those fees, costs and expenses required. You will not be allowed an exemption from the obligation to pay merely because your circumstances are difficult. Rather, you must fill out an affidavit that indicates you are unable to pay the fees and costs associated with the lawsuit and as such will not be able to proceed in the absence of an order granting an exemption.

To request poor person status, you must fill out the Affidavit in Support of Application to Proceed as a Poor Person and the Poor Person Order and file these papers with the County Clerk's Office when you file the summons with notice or summons and verified complaint. Before you file the papers, check with the County Clerk's Office to see if any additional papers are needed to obtain poor person status.

Before filing a Poor Person application with the County Clerk's Office, be sure to make and retain copies of the papers. You must serve a copy of each set of papers upon the County Attorney (outside of New York City) or Corporation Counsel (within the City of New York) and your spouse or his/her attorney. You may serve these papers by mail.

C. POOR PERSON ORDER:

- Field 1: Insert the county in which you are bringing this action.
- Field 2: Fill in the address of the courthouse where you are submitting the papers.
- Field 3: Leave this section blank. The court will fill in.
- Field 4: Leave this section blank. The court will fill in.
- Field 5: Insert the index number.
- Field 6: Print the Plaintiff's name.
- Field 7: Print the Defendant's name.
- Field 8: Insert the Plaintiff's name.
- Field 9: Insert the Plaintiff's name.
- Field 10: Fill in the appropriate subdivision number and the grounds for divorce as indicated at the bottom of the form.
- Field 11: Insert the Plaintiff's name.
- Field 12: Insert the Plaintiff's name.
- Field 13: Insert the Defendant's name.
- Field 14: Leave this section blank. The Judge will sign here.

D. AFFIDAVIT IN SUPPORT OF APPLICATION TO PROCEED AS A POOR PERSON:

- Field 1: Insert the county in which this action is brought.
- Field 2: Print the Plaintiff's name.
- Field 3: Insert the index number.
- Field 4: Print the Defendant's name.
- Field 5: Insert the county in which the Plaintiff signed this document.
- Field 6: Insert the Plaintiff's name.
- Field 7: Fill in the address of Plaintiff, the village where the Plaintiff resides and the county where the Plaintiff resides. In addition, indicate the number of years that the Plaintiff resided in New York State.
- Field 8: Fill in the appropriate subdivision number and the grounds for divorce as indicated at the end of the form.
- Field 9: Plaintiff must list all sources of income including any amounts earned on a weekly, monthly or yearly basis and submit proof. For example, Plaintiff may attach a pay stub, W-2 form or social services identification.
- Field 10: Plaintiff must list any property that he or she has and the value of this property. This must include bank accounts and the amounts in those bank accounts.
- Field 11: Leave this section unchanged.
- Field 12: Leave this section unchanged.
- Field 13: Indicate whether prior requests were made for similar relief.
- Field 14: Plaintiff must sign this document before a notary public.