

DISSOLUTION OF MARRIAGE WITH PROPERTY BUT NO DEPENDENT OR MINOR CHILD(REN)

NOTICE TO PARTIES WHO ARE NOT REPRESENTED BY AN ATTORNEY WHO IS A MEMBER IN GOOD STANDING OF THE FLORIDA BAR

This checklist is designed to help persons seeking to represent themselves in court without the assistance of an attorney. It is meant to serve as a guide only.

We do not guarantee that either the instructions or the forms will achieve the result desired by the parties or ensure that any individual judge will follow the procedures exactly or accept each and every form drafted. Any person using these instructions and forms does so at his/her own risk.

To obtain Florida approved family law forms visit the Florida Court Self Help website at www.flcourts.org.

Please note that Florida law prevents our staff from providing legal advice.

AFTER all forms are filled out and **NOTARIZED** you must have them reviewed by **Family Court Case Management**, which is located on the 2nd floor of the Lake County Courthouse. You **DO NOT** need to schedule an appointment to have your paperwork reviewed.

I. REVIEW OF DOCUMENTS WITH FAMILY COURT CASE MANAGEMENT

Additional items to bring for review with Family Court Case Management

- Proof of residency
 - a. A copy of your Florida driver's license issued six months prior to the date of filing.
 - OR**
 - b. An Affidavit of Residency and an Affidavit of Corroborating Witness

- If you are having the other party served you must have
 - a. An additional copy of the completed Petition
 - b. An additional copy of the completed Summons

- Three (3) stamped envelopes
 - a. One addressed to the Petitioner
 - b. One addressed to the Respondent
 - c. One left blank to be used if necessary

- Other possible documents you may need.** If your petition concerns real property (such as a house or piece of land) you may need the legal description of that piece of property at your hearing. Documentation of any stocks, bonds, retirement accounts (such as 401k plans), and social security benefits, may also be required at the hearing.

II. INITIAL FILING

A. Petition

- Petition for Dissolution of Marriage with Property but No Dependent or Minor Child(ren). Form - 12.901(b)(2)
- Civil Cover Sheet –Form 12.928
- If the Petitioner is also the wife, and she is asking for her former name to be restored, she **must** fill in the space that asks for **FULL LEGAL NAME**.

B. Required forms filed with initial petition

- State of Florida Department of Health – Vital Statistics (This form may be obtained from the Clerk of Court. There is no fee for this form.)
- Notice of Related Cases
- Notice of Social Security Number – Form 12.902(j)
- Financial Affidavit – Form 12.902(b) (If your income or your spouse’s income exceeds \$50,000 you will need form 12.902(c), which may be found under Family Law Forms at www.flcourts.org.)
- Affidavit of Military Service – Form 12.912(b)
- A copy of your Florida Driver’s License or Florida Identification Card. **The issue date of the copied document must be at least six months before the date the case is filed with Clerk of Court.** Or, a Corroborating Witness Affidavit – Form 12.902(i) and an Affidavit of Residency
- Marital Settlement Agreement – Form 12.902(f) (2). (Both parties must sign.)
- Summons: Personal Service on an Individual – Form 12.910(a). **Not required if the other party has signed a waiver of service.**
- Process Service Memorandum – Form 12.910(b)

Out of County/State Service Information: If the other party resides outside of the county or the State of Florida, the party who filed the petition has two choices.

The first option is to complete and file the summons with the Clerk. The Clerk will sign and seal the summons, then return it to you. You then have the responsibility to forward the summons and paperwork to the out of county/state sheriff’s office with the appropriate funds for service.

The second option: The party filing needs to contact the sheriff’s office in the county which the other party resides in order to find out what is required for out of county/state service. Complete and file the summons with the Clerk. In addition, give the Clerk the payment required by the out of county/state sheriff and a pre-addressed stamped envelope addressed to the out of county/state sheriff. The Clerk’s Office will forward the issued summons with the payment to the address provided for the out of county/state sheriff. **Most other states will not honor a Florida Affidavit of Indigence.**

OR:

- Answer, Waiver, and Request for Copy of Final Judgment of Dissolution of Marriage-form12.903(a).

C. **Other Forms**

- Motion for Default – Form 12.922(a)
- Default – Form 12.922(b)
- Certificate of Compliance with Mandatory Disclosure – Form 12.932
- Disclosure from Non Lawyer – Form 12.900(a)
- Notice of Trial - Form 12.924

If the other party has signed a waiver of service you may skip Section III, “Service of Process.”

The remaining sections still apply.

III. SERVICE OF PROCESS

A. **Personal Service**

- Summons returned “served” and the Original Return of Service has been filed with the Clerk.
- After 20 days have passed from the date the Respondent was served, check to see whether the Respondent has filed an answer or **any** papers within the 20 day period. If yes, you may check this item. **(If both checked, skip to Section IV; if no answer filed, go to “B.”)**

If your summons is returned to the Clerk “NOT SERVED.”

1. **Alias summons:** Return to the Clerk of Court to request an **Alias** (2nd attempt at service) or **Pluries** (3rd or more attempt at service) service to be processed by the Clerk of Court.
 - Complete Summons: Personal Service on an Individual-Form 12.910(a).
 - Process Service Memorandum - Form 12.910(b).

If you are still unable to serve the other party,

2. **Constructive Service (Publication):** is only to be used after you have completed an actual diligent search for the other party and have been unable to locate them.
 - Notice of Action for Dissolution of Marriage –Form 12.913(a). Constructive service is also known as “service by publication.” This form may be found under Family Law Forms at www.flcourts.org.
 - Affidavit of Diligent Search and Inquiry 12.913(b). This form may be found under Family Law Forms at www.flcourts.org.

If constructive service is used, the Court may grant only limited relief, in all cases it is best to have your petition personally served. This is a complicated area of the law and you may wish to consult with an attorney before using constructive service.

If proper service is not obtained, the Court cannot hear your case.

B. **Default**

- Respondent failed to answer or file any paper after service.
- Motion for Default filed with Clerk – Form 12.922(a) (no sooner than 20 days after date of service.)

- Default entered by Clerk – Form 12.922(b) **Note:** If the other party has filed anything in the case the Clerk will not be able to process the Default. This is also true if the other party is a member of the military service. If the Clerk is unable to process your Default, you need to file a motion for the Court to enter the Default. Send a copy to the other party and set a hearing on your motion.

AND

- Notice for Trial- form 12.924

Only now is the case potentially ready for setting for trial/final hearing.

IV. FINANCIAL DISCLOSURE

If your petition involves financial issues such as property, child support or alimony, each party has a right to the production of certain documents during the discovery phase of the case. See Fla. Fam. L. R. P. 12.285.

- Certificate of Compliance with Mandatory Disclosure – Form 12.932. The actual documents (tax returns, pay stubs etc.) should not be filed in the court file. The other party should be provided these documents and this affidavit should be filed with the Clerk to notify the Court that the listed documents have been provided to the other party. You may be required to bring the listed documents with you to the hearing.

Note: If the other party refuses to provide you with their financial information, a motion to compel can be filed with the court requesting the court to order the other party to provide you their financial information.

V. SETTING A HEARING

NOTE: IF YOU ARE INVOLVED IN OTHER CASES, SUCH AS AN ACTIVE DEPENDENCY CASE, YOUR CASE COULD BE REFERRED TO A FAMILY COURT JUDGE FOR HEARING. IF THIS IS YOUR SITUATION, PROCEDURES FOR SETTING A HEARING WILL BE SLIGHTLY DIFFERENT. PLEASE CONTACT FAMILY COURT CASE MANAGEMENT AT (352) 742-4301.

- After an answer is filed or a Default has been entered, **contact Family Court Case Management to set your hearing.**
- If the other party filed a counter petition you are required to respond to their counter petition. To answer their counter petition use the Form 12.903(d). This form may be found under Family Law Forms at www.flcourts.org.
- If the other party has filed a motion to dismiss your petition, a hearing must be set (by either party) to address the motion to dismiss before you can set a final hearing. Pending motions may also prevent your final hearing from being set as they must sometimes be addressed before a final hearing.
- Call Family Court Case Management to request a final hearing. Your court records will be reviewed for completeness and you will either be given a court calendar date or you will be given further instructions for setting your final hearing.

VI. FINAL HEARING

- The Petitioner is required to attend the final hearing. The divorce will not be granted if the Petitioner does not attend. The Respondent's attendance depends if the answer and waiver has been signed, or a settlement agreement has been reached. In this case the Respondent is not required to attend the final hearing. The Respondent should be present if a settlement could not be reached.

When can I expect my final paperwork to arrive? If you appeared at the final hearing you most likely will get your paperwork on that day. However, if you were not at the final hearing a copy will be mailed to you, a copy in the mail can take 10 – 14 days.

If you are a person with a disability who needs any accommodation in order to participate in this proceeding, you are entitled, at no cost to you, to the provision of certain assistance. Please contact the ADA Coordinator at the Office of the Trial Court Administrator, Lake County Courthouse, P.O. Box/550 West Main Street, Tavares, FL 32778-7800, Telephone 352-742-4221, at least 7 days before your scheduled court appearance, or immediately upon receiving this notification if the time before the scheduled appearance is less than 7 days; if you are hearing or voice impaired call, 711 or (352)742-3890.