

Pataula Judicial Circuit

Clay, Early, Miller, Randolph, Quitman, Terrell, & Seminole

PLEASE NOTE THAT THE FORMS ON THE WEBSITE ARE FREE TO DOWNLOAD, BUT NO ONE IN THE COURT (PERSONNEL IN THE JUDGES' OFFICES OR CLERKS' OFFICES) CAN ASSIST YOU WITH LEGAL ADVICE OR HELP YOU FILL OUT THESE FORMS. IF YOU NEED ASSISTANCE, PLEASE GET THE ADVICE OF A GEORGIA LICENSED ATTORNEY.

Neither the Court nor its personnel can advise you which forms you will need. If you need help determining this, you may want to seek the advice of an attorney.

Many of the forms you may need may be found at: www.pataulajudicialcircuit.com and www.pataulalawlibrary.com.

Please read the following pages carefully before filing any documents.

Instructions for filing an

UNCONTESTED DIVORCE WITH CHILDREN

Quick Facts:

- You must file a *Complaint For Divorce* in the Superior Court to end a marriage in Georgia. You can either hire an attorney who will prepare your case and represent you in Court, or you can use the sample forms found on the circuit websites and represent yourself in Court. NOTE: YOU MAY NOT NEED ALL OF THE FORMS OR YOU MAY NEED ADDITIONAL FORMS NOT FOUND ON THE WEBSITE.
- The earliest that a final divorce can be granted is 31 days after filing.
- If you are filing the complaint, then you are the **Plaintiff** and your spouse is the **Defendant**.
- If you represent yourself, you are considered to be *pro se*. Pro Se means you are NOT represented by an attorney and **Court personnel cannot assist you**. This

means that no one in the Judge's office or the office of the Clerk of Superior Court can tell you which forms to use or how to file them.

- ❑ After a Court issues a Final Judgment and Decree, you can remarry. Due to the heavy volume of cases before the Court, you are advised to wait until you receive the Final Judgment and Decree of Divorce before scheduling a marriage ceremony.
- ❑ An uncontested divorce is one in which the parties have worked out an agreement regarding issues such as child support, alimony, child custody, property division, etc. The parties do not ask the Judge to settle arguments between them, but rather have worked these issues out by themselves. **If you and your spouse are not in complete agreement regarding the issues covered in your divorce, YOU HAVE NOT SELECTED THE CORRECT FORMS and you are strongly encouraged to enlist the help of an attorney.**
- ❑ **This Court always recommends that you seek the advice of an attorney if you are filing for a divorce that involves minor children.** If one or more of the following situations below applies to you, then you MAY WANT TO CONTACT AN ATTORNEY BEFORE PROCEEDING:
 - The case becomes **contested** (meaning there is an issue that you and your spouse have not been able to resolve).
 - Your spouse has a lawyer.
 - You cannot find your spouse to serve him or her with your papers.
 - You might lose custody of your children.
 - You think you will have difficulty getting information and documents from your spouse regarding income, retirement funds, etc.

Use blue or black ink only or type in the fillable form on the website. PLEASE PRINT LEGIBLY. Failure to provide proper, complete, or legible forms will delay the finalization of your divorce and may result in dismissal of your case for not following Georgia law. NOTE: ONCE THE DIVORCE IS FILED YOU ARE RESPONSIBLE FOR MAILING A COPY OF YOUR DOCUMENTS TO THE JUDGE'S OFFICE. The addresses can be found on the circuit websites.

DETAILED INSTRUCTIONS

STEP 1: Complete the *Domestic Relations Case Filing Information Form*

This form is available on both of the circuit websites. To complete the Filing Information form:

1. In the top line, fill in the county where you are filing and the date filed.
2. In the second line, located below "Docket #" (which will be filled in by the Clerk), fill in the names of the Plaintiff (your name) and Defendant (your spouse).
3. Where it says "Plaintiff/Petitioner's Attorney," check the box which says "Pro Se."
4. In the left-hand box ("Check Case Type"), check "Divorce;" below that check "No" to Contested, Child Custody Issue and Child Support Issue. **If any of these should be answered as "Yes", then your divorce is contested and you are using the wrong form.**
5. In the right hand box, indicate whether or not you are asking for relief from family violence by checking Yes or No in the appropriate boxes.

STEP 2: Complete Form 3907 "*Report of Divorce, Annulment or Dissolution of Marriage.*"

This form is available on both of the circuit websites. Fill in all spaces EXCEPT: (1.) Civil Action Number and (2.) Date Decree Granted.

STEP 3: Complete the *Complaint for Divorce*

This form is available on both of the circuit websites. Fill in your **full name** as the Plaintiff and your spouse's **full name** as Defendant. Do not fill in where it says Civil Action File No. because your case has not yet been assigned a case number. Insert your name in the space provided just before paragraph one (1).

● **Paragraph 1: Residence Requirement**

- Check and complete box (A) if you have lived in the state of Georgia for at least six months prior to filing your complaint for divorce.
- Check and complete box (B) if you are not a resident of the state of Georgia, but your spouse has lived in Georgia and in the county where you are filing for at least six months prior to your filing the complaint for divorce.
- NOTE: If neither (A) nor (B) applies to you, you cannot file for divorce here. The filing will have to be made in the proper jurisdiction.

● **Paragraph 2: Venue and Service**

- Venue refers to the proper place to file a case. In Georgia, the general rule is that the proper venue (place) to sue a Defendant for divorce is in the Defendant's county of residence, if the Defendant is a resident of Georgia. (In other words, if the Defendant lives in Georgia, he or she is entitled to have the divorce case heard in the county where the Defendant lives.)

- When the Defendant in a divorce case is incarcerated, Georgia Courts have held that venue is proper in the county where the Defendant resided with his or her spouse before the incarceration. See *Scott v. Scott*, 192 Ga. 370, 15 S.E.2d 416 (1941); *McLeod v. McLeod*, 144 Ga. 359, 87 S.E. 286 (1915); *Barton v. Barton*, 74 Ga. 761 (1885).
- **Venue in a Georgia divorce is proper in:**
 - (A) The county where the Defendant resides, if he or she is a resident of Georgia; [NOTE: Venue can be waived, either by signing a waiver form or by failing to object to improper venue **IF** it is the county where the Plaintiff resides.] **OR**
 - (B) The county where the Plaintiff resides, **IF** the Defendant lives outside the State of Georgia, **AND** the Defendant has signed *Defendant's Acknowledgment of Service/Affidavit of Waiver of Venue and Personal Jurisdiction*; **OR**
 - (C) The county where the Plaintiff resides, **IF** the Defendant lives outside the State of Georgia, **IF** the Defendant moved out of state within six months of this divorce filing, **AND** the county of filing is where Plaintiff and Defendant lived as husband and wife before separating.
- Check and complete box (A) if your spouse lives in the county where you are filing and will sign an ***Acknowledgment of Service of Process***. You will need to give your spouse a copy of your completed *Complaint for Divorce* and other related documents, and have him/her sign the *Acknowledgment of Service of Process*. By signing this form, your spouse is letting the Court know that he/she has received a copy of your petition and, therefore, will not need to be served with a copy of your petition by the sheriff.

- Check and complete box (B) if your spouse lives in another state and will consent (agree) to let you file for divorce in Georgia in your county of residence by signing the ***Defendant's Acknowledgment of Service /Affidavit of Waiver of Venue and Personal Jurisdiction***.
- Check and complete box (C) if the Defendant lives in the State of Georgia in another county and has signed ***Defendant's Acknowledgment of Service/Affidavit of Waiver of Venue and Personal Jurisdiction***. Write in the name of the county of Plaintiff's residence on the line provided.
-  Check box (D) if your spouse will not sign either the *Acknowledgment of Service of Process* or the *Defendant's Acknowledgment of Service*. You must have the Defendant served by the Sheriff's Department in the county where the Defendant lives. **If the Defendant is a non-resident of Georgia and will not acknowledge service, or his/her whereabouts are unknown, you are strongly urged to seek the advice of an attorney.**

● **Paragraph 3: Date of Marriage**

- Check box (A) if you and your spouse have a marriage certificate. Insert the date you were married in the space provided. (Example: 1/1/2016 or January 1, 2016.)
- Check box (B) if you and your spouse are common law married. Insert the date you and your spouse entered into your marriage in the space provided. You were common law married if the following statements are true:
 - You and your spouse were able to enter into a contract at the time you established a common law marriage. You were over age sixteen and mentally competent.
 - You and your spouse actually entered into a contract of marriage meaning that you and your spouse agreed that you were married.

- You and your spouse have had sexual intercourse.
- **All of the above were done before January 1, 1997.** If this date is AFTER January 1, 1997, and you were common law married in another state, you need to speak with an attorney.

● **Paragraph 4: Date of Separation**

- Insert in the space provided the date you and your spouse separated.
- It is not essential that the husband or wife leave the marital homeplace; separation can occur when one spouse moves into another room with the intent and purpose of suspending conjugal rights. The suspended conjugal rights include the company, cooperation, assistance, aid and intimacy of the other spouse in every conjugal way. [See *Hosford v. Hosford*, 58 Ga.App 188, 199, 198 S.E. 289(1938); *Blasingame v. Blasingame*, 249 Ga. 791, 294 S.E. 34 (1982).]

● **Paragraph 5: Children Born of the Marriage**

- Check box (A) underneath Paragraph 5. List all children born to you and your spouse together, even if the children were born before your marriage. List the children’s names, years of births, and genders.
- If the wife is pregnant, check box (B), and indicate how many babies she is carrying and the expected due date.

● **Paragraph 6: Custody of Children**

- Legal custody: Check the box under Plaintiff or Defendant if you want one party to have sole legal custody, while the other party retains only the right to visitation. Choose “Joint” if both parties will share legal custody.
- Physical custody: Check the box under Plaintiff or Defendant if you intend for one party to have primary physical custody (in other words, the children will live with one party most of the time). Choose “Joint” if both parties will share physical custody.
- Child visitation: Check the box under Plaintiff or Defendant if one of these parties will be the non-custodial parent and will retain the right to visitation.

● **Paragraph 7: Children’s Past Living Arrangements**

- Insert in the space provided the addresses of where the children lived, the dates they lived at each place, and the names of whom they lived with.

● **Paragraph 8: Other Court Actions Concerning the Children**

- Check box (A) if there have never been any other actions concerning your children. The Court wants to know about the following types of actions: custody, visitation, family violence, protective orders, termination of parental rights, and adoption.
- Check box (B) if there has ever been or is presently another action concerning your children. The Court wants to know about the following types of actions: custody, visitation, family violence, protective orders, termination of parental rights, and adoption. Insert in the space provided the location of the action, the type of action, when it began, and what happened at that action.

● **Paragraph 9: Others with a Custody Claim**

- Check box (A) if no one other than you or your spouse has a Court Order stating what legal rights they have to your children. This means that there is no Court Order granting anyone else custody or guardianship of your child.
- Check box (B) if someone other than you or your spouse has any legal rights to your children. Insert in the space provided the name of the person or agency, and what legal rights that person or agency has to your children.

● **Paragraph 10: Grounds for Divorce**

- This uncontested divorce packet uses the most common ground for divorce, that the marriage is "irretrievably broken." This means that you and your spouse are unable to live together, and there is no hope that the two of you will get back together again. This is what is commonly called a "no fault" divorce.

● **Paragraph 11: Settlement Agreement**

- Paragraph 11 indicates that you have completed and signed a *Settlement Agreement* with your spouse. This should be filed along with your *Complaint For Divorce*. This form is available on either of the circuit websites.

● **Paragraph 12: Domestic Relations Financial Affidavits**

- Paragraph 12 indicates that you and your spouse have each completed and signed a *Domestic Relations Financial Affidavit*. This should be filed along with your *Complaint For Divorce*. This form is available on either of the circuit websites.

● **Paragraph 13: Parenting Plan**

- Paragraph 13 indicates that you have completed and signed a *Parenting Plan* with your spouse. This should be filed along with your *Complaint For Divorce*. This form is available on either of the circuit websites.

● **Paragraph 14: Child Support Order Addendum**

- Paragraph 14 indicates that you have completed and signed a *Child Support Order Addendum* with your spouse. This should be filed along with your *Complaint For Divorce*. This form is available on either of the circuit websites.

● **Paragraph 15: Child Support Worksheet**

- For more explanation regarding the *Child Support Worksheet*, see the instructions for the *Settlement Agreement* below. The *Child Support Worksheet* **must** be filed with the *Complaint For Divorce*.

● **Paragraph 16: Wife's Former or Maiden Name**

- Check and complete box (A) if you, the Plaintiff, are the wife and you desire to be restored to your **full** former or maiden name.
- Check box (B) if you, the Plaintiff, are the wife and you do NOT wish that your former or maiden name be restored.
- Check box (C) if you, the Plaintiff, are the Husband in this case.

Complete the final section of the *Complaint For Divorce*, date and sign as indicated and complete the personal information below the signature so that the Court can contact the parties to schedule your final hearing.

STEP 4: Complete the VERIFICATION Form

This form is available on both of the circuit websites. **TO BE PROPERLY FILED, THE VERIFICATION FORM MUST BE COMPLETED AND NOTARIZED.** Complete the *Verification* form. Insert your name as Plaintiff and your spouse's name as Defendant. Do

not fill in where it says Civil Action File No. The Clerk will assign a number to your case when you file your complaint. **You will need to sign this Verification in the presence of a Notary Public.** Most banks and many libraries have a notary on staff and will notarize your documents for a small fee.

STEP 5: Complete the *SETTLEMENT AGREEMENT*

This form is available on both of the circuit websites. The Caption: Fill in the name of the county in which you are filing. Fill in the names of the Plaintiff and the Defendant. Leave the Civil Action No. line empty; the Clerk of Court will assign a number to the case. **Introductory paragraph:** insert the names of the husband and wife. List the names of the children along with the year of birth.

● **Paragraph 1: Separation**

- Check the box beside paragraph 1 to show that you want to live apart from one another.

● **Paragraph 2: Custody and Visitation**

- Check the box beside paragraph 2 to show that you intend to encourage a positive relationship between the children and the other party.

● **Paragraph 3: Legal and Physical Custody**

- Legal custody means the authority to make decisions about the children.
- Physical custody means the physical care of the children – whom the children are living with.
- There are three ways to divide up custody:
 - Sole legal and physical custody. In this arrangement, one parent assumes the decision making responsibility, and the children spend most of their time with that parent.
 - Shared legal custody and sole physical custody. Parents share decision-making authority, but the children spend most of their time with only one parent. There is often a provision that in the event of a disagreement about a decision, one parent will be the "tie-breaker."
 - Shared legal custody and shared physical custody. Parents share decision-making authority, and the children divide their time equally between their parents.

NOTE: This section will be dealt with in detail in the *Parenting Plan* and not the *Settlement Agreement*.

● **Paragraph 4: Visitation**

This section will be completed in detail in the *Parenting Plan*. What follows is an example or sample Visitation Schedule:

SAMPLE VISITATION SCHEDULE

The non-custodial parent is _____.

The custodial parent is _____.

The non-custodial parent shall be entitled to exercise reasonable visitation with the minor child with the following minimum provisions:

- A. On every 1st, 3rd, and 5th Friday at 6:00 p.m. until the following Sunday at 6:00 p.m.
- B. The Mother shall have the minor child on Mother’s Day.
- C. The Father shall have the minor child on Father’s Day.
- D. The non-custodial parent shall have the right to visit with the minor child for two consecutive weeks in the summer between June 15 and August 15. The non-custodial parent shall give the custodial parent a minimum of thirty (30) days written notice of the intent to exercise this visitation.
- E. Holiday visitation shall take precedence over weekend visitation.
- F. Holiday visitation schedule shall be either **even numbered years** (2016, 2018, etc.), or **odd numbered years** (2017, 2019, etc.):

Holiday	Custodial Parent	Non-Custodial Parent
New Year’s Day	Even	Odd
Martin Luther King’s Birthday	Odd	Even
Easter or Spring Break	Even	Odd
Memorial Day	Odd	Even
July 4th	Even	Odd
Labor Day	Odd	Even
Halloween	Even	Odd
Thanksgiving	Odd	Even

Holiday	Custodial Parent	Non-Custodial Parent
First Week of Christmas vacation, including Christmas Day until 2:00 p.m. on December 25	Even	Odd
Second week of Christmas Vacation from 2:00 p.m. on December 25 until New Year's Eve.	Odd	Even

● **Paragraph 5: Child Support**

- You must go online to <http://csc.georgiacourts.gov/> and complete the *Child Support Worksheet*. This is the way that you will determine the amount that must be filled in paragraph 6 of the *Settlement Agreement*.

● **Paragraph 6: Child Support Amount**

- YOU MUST INCLUDE THE *Child Support Worksheet* WITH YOUR PAPERWORK. IT IS LOCATED AT <http://csc.georgiacourts.gov/>.
- If you do not understand how to prepare these worksheets after consulting the training materials, you may want to seek the advice of an attorney.
- You must include your print copy of the *Georgia Child Support Worksheet* with the papers you file. If you fail to include this Worksheet, your paperwork will be incomplete which may result in your case being dismissed due to not following Georgia law.
- Check and complete box (A) if the Husband is to pay child support to the wife. Fill in the amount and date that child support payments are to begin.
- Check and complete box (B) if the Wife is to pay child support to the Husband. Fill in the amount and date that child support payments are to begin.

 PLEASE NOTE: The Court cannot accept ANY OTHER NUMBER FOR THE CHILD SUPPORT AMOUNT OTHER THAN WHAT IS GIVEN ON LINE 13 OF THE CHILD SUPPORT WORKSHEET – even if you mutually agree upon some other amount. The guidelines are in place so that the adequate amount is provided for each child. Some people may qualify for income deviations (high or low). See <http://csc.georgiacourts.gov/> for more information about income deviations.

● **Paragraph 7: Child Support Method of Payment**

- Check and complete box (A) if child support will be sent directly by the non-custodial parent to the custodial parent.
- Check box (B) if child support will be remitted to the custodial parent by the employer of the non-custodial parent via an *Income Deduction Order*.
- Check box (C) if child support payments will be made directly to Georgia Child Support Enforcement by the employer of the non-custodial parent pursuant to an *Income Deduction Order*.
- Check box (D) if child support payments will be made directly to Georgia Child support Enforcement by the non-custodial parent.

● **Paragraph 8: Child Support Order Addendum**

- The *Child Support Order Addendum* is a separate summary document found on both circuit websites. Check the box to indicate that you have completed and signed this document, along with your spouse.

● **Paragraph 9: Health Insurance**

- Select which parent will maintain the medical, dental and hospitalization insurance policy on the minor children, and indicate how costs not covered under the policy will be divided and paid by the parties.

● **Paragraph 10: Alimony**

- Check and complete block (A) if the Husband is paying alimony to the Wife to end on a specific date.
- Check and complete block (B) if the Wife is paying alimony to the Husband to end on a specific date.
- Check and complete block (C) if the Husband is paying alimony to the Wife until the Wife either remarries or dies.

- Check and complete block (D) if the Wife is paying alimony to the Husband until the Husband either remarries or dies.
- Choose block (E) if both parties waive alimony.

● **Paragraph 11: Division of Property**

- Check block (A) if there is no joint marital property to divide. Examples of marital property would be a home/real estate, furniture, automobiles, etc.
- Check block (B) if all joint marital property has already been divided up to the satisfaction of both parties.
- Check block (C) if the parties have property jointly-owned and have agreed to the division of property. List the jointly-owned property and the division thereof in the space provided.

● **Paragraph 12: Division of Debts**

- Check box (A) if there are no outstanding joint debts.
- Check box (B) if there are outstanding joint debts. List the creditor, amount of the debt, and the party which will be responsible for that debt.

● **Paragraph 13: Name Restoration**

- Check this box if the Husband consents to the Wife changing her name back to her full maiden or prior name. Include the first, middle, and last name. If you fail to fill out this portion, but the Wife would like a maiden name restored after the finalization of the divorce, she will have to have her name changed through the Superior Court in a separate filing. This will have an additional cost.

● **Paragraph 14: Binding Agreement**

- Check this box to acknowledge that both parties have entered into this *Settlement Agreement* freely, voluntarily, and without duress or undue influence; that this *Settlement Agreement* is the complete and entire agreement between the parties; and that there are no verbal agreements that exist outside of this *Settlement Agreement*.

● **Paragraph 15: Enforceability**

- This paragraph states that you agree to be bound by this agreement whether you maintain a separate maintenance or go on to get a divorce.

Each party must date and sign the Agreement in the presence of a notary public. The parties do not have to sign at the same time, and they do not have to use the same

notary public. If one party lives elsewhere they may sign in the presence of a notary, then mail it to the filing party. The Court will not accept the filing if it is not notarized.

STEP 6: OTHER COURT DOCUMENTS

In addition to the *Complaint for Divorce, Verification, and Settlement Agreement*, you will need to attach the following completed and signed forms to your complaint:

- *Domestic Relations Financial Affidavit* (one for each party)(see Step 7 below);
- *Consent to Trial 31 Days After Service and Waiver of Right to Trial By Jury*;
- *Acknowledgment of Service of Process [OR] Defendant's Acknowledgment of Service/ Affidavit of Waiver of Venue and Personal Jurisdiction*;
- *Parenting Plan*;
- *Child Support Order Addendum*; and
- *Child Support Worksheet*.

STEP 7: PAY THE FILING FEE--\$210.00 (SUBJECT TO CHANGE)

STEP 8: FILE YOUR FORMS.

You should make two copies of all of your documents. Give the Clerk your original and the two copies. The Clerk will then stamp the documents to show that your complaint has been filed and will give you your copy for your records and another copy for the Defendant.

STEP 9: GET A HEARING DATE

You are responsible for getting a copy of your documents to the Judge's secretary to get a hearing date 31 DAYS AFTER THE DIVORCE IS FILED. The filing date is the date listed with the Clerk's stamp (located in the upper right hand corner). It is suggested that you **mail** a copy of your documents to the Judge's office. You will find addresses on the circuit website: www.PataulaJudicialCircuit.com.

STEP 10: RECEIVE THE FINAL JUDGMENT

Your divorce is not final until (1) you have a hearing before the Judge, and (2) the Judge signs the final order in the case and it is filed with the Clerk of Superior Court. You may not remarry until the Final Judgment and Decree of Divorce is signed.

UNCONTESTED DIVORCE WITH CHILDREN CHECKLIST:

1. Do I have my *Domestic Relations Filing Forms* completed (except for the case number which will be provided by the Clerk of the Court)?

2. Do I have my *Complaint for Divorce*?

If yes, does it meet the following requirements?

I know where my spouse is; AND

I plan to use the no fault reason for divorce, "irreconcilable differences;" AND

My spouse and I are willing to sign a *Settlement Agreement* (contract) that decides the following issues:

- Whether you have any debts, and how to divide them;
- Whether you have any possessions that need to be divided, and how;
- Who will have custody of the children;
- What is the visitation schedule;
- What is the proper child support amount;
- Whether you will have alimony, and if so, how much.

3. Do I have my *Verification* form?

If yes, is it properly completed and signed by the Plaintiff in the presence of a notary public who has attested to this fact by stamping it with his or her seal and signing it?

4. Do I have the *Consent to Trial 31 Days After Service and Waiver of Right to Trial by Jury*?

If yes, is it properly completed and signed by the Plaintiff and Defendant in the presence of a notary public who has attested to this fact by stamping it with his or her seal and signing it?

5. Do I have an *Acknowledgment of Service and Summons* **OR** *Defendant's Acknowledgment of Service / Affidavit of Waiver of Venue and Personal Jurisdiction*?

If yes, is it properly completed and signed by the Defendant in the presence of a notary public who has attested to this fact by stamping it with his or her seal and signing it?

6. Do I have the required *Domestic Relations Financial Affidavits* for both the Plaintiff and the Defendant?

If yes, are they both properly completed and signed in the presence of a notary public who has attested to this fact by stamping it with his or her seal and signing it? Have I attached any forms as required by the *Affidavit*?

7. Do I have a completed *Parenting Plan*?
8. Have I completed a *Child Support Worksheet*?
9. Have I completed the *Child Support Order Addendum*?

IF YOU HAVE ANSWERED NO TO ANY OF THESE QUESTIONS, THEN YOU DO NOT HAVE THE REQUIRED PAPERWORK TO FILE A DIVORCE IN THIS CIRCUIT.

Please secure the documents and/or meet the requirements as set forth above or consult an attorney who will do so on your behalf.

I understand that I represent myself and **that no one in the Court can assist me with any of this process** (this includes personnel in the Clerk's office and Judge's office).

_____ [Plaintiff] _____ [Date]