

# *Pataula Judicial Circuit*

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**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.**

## **Instructions for filing an UNCONTESTED DIVORCE without 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 this website and represent yourself in Court.
- The earliest that a final divorce can be granted is 31 days after filing.
- 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.
- After a Court issues a *Final Judgment and Decree*, you can remarry.
- An **uncontested divorce** is one in which the parties work out an agreement regarding all issues such as alimony, property division, etc. The parties do not ask the Judge to settle arguments between them, but rather work things out by themselves. If this is not the case, **YOU HAVE NOT SELECTED THE CORRECT FORMS.**
- **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 and your spouse has a lawyer.

- You cannot find your spouse to serve him or her with your papers.
- You think you will have difficulty getting information and documents from your spouse regarding income, retirement funds, etc.

Use black or blue ink only or type in the fillable form. **PLEASE PRINT LEGIBLY.** Filing improper, incomplete or illegible forms will delay, or may even prevent the Court from scheduling your hearing and the finalization of your divorce. You also risk loss of your filing fee should you file defective forms as stated above.

NOTE: ONCE THE DIVORCE IS FILED YOU ARE RESPONSIBLE FOR SETTING UP YOUR FINAL DIVORCE HEARING.

## DETAILED INSTRUCTIONS

### **STEP 1: Complete the *Domestic Relations Filing Information Form* and the *Domestic Relations Case Final Disposition Information Form*.**

To complete the Filing Information forms:

1. In the top line, fill in the county where you are filing and the date filed.
2. Leave "Docket #" blank. The Clerk will assign the case a number.
3. In the second line, fill in the names of the Plaintiff and Defendant.
4. Where it says "Plaintiff/Petitioner's Attorney," check the box which says "Pro Se."

Note: the Clerk will fill in the balance of the *Final Disposition Information Form*.

5. In the left-hand "Check Case Type" box, check "Divorce." Check the "No" boxes beside "Contested", "Child Custody Issues" and "Child Support Issues". (If any of these should be marked "yes" then you have the wrong divorce form.)
6. 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*."**

Fill in all spaces EXCEPT: (1.) Civil Action Number and (2.) Date Decree Granted.

**STEP 3: Complete the *Complaint for Divorce*.**

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 number. Insert your name in the space provided just before paragraph one (1).

**1. Paragraph 1: Residence Requirement (Jurisdiction)**

- a. Check box (A) if you have lived in the state of Georgia for at least six months prior to filing your complaint for divorce.
- b. Check box (B) if you do not live in the State of Georgia, but the Defendant has been a resident of Georgia for at least six months prior to this filing. You must state the name of the county where Defendant lives.

**NOTE:** If neither a) or b) applies to you, you cannot file for divorce here. The filing will have to be made in the proper jurisdiction.

**2. Paragraph 2: Venue and Service**

- a. 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).
- b. Venue in a Georgia divorce is proper in:
  - 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.

- The county where the Plaintiff resides, if the Defendant is not a Georgia resident;
- *Acknowledgment of Service of Process*
  - Check 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 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 box (B) if your spouse lives in another state and will consent (agree) to let you file for divorce in Georgia by signing the ***Defendant's Acknowledgment of Service/Affidavit of Waiver of Venue and Personal Jurisdiction***.
  - Check 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 Defendant'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* and you must have the Defendant served by the Sheriff's Department if a resident of Georgia. **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.**

**3. Paragraph 3: Date of Marriage**

- a. 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.)
- b. 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.

**4. Paragraph 4: Date of Separation**

- Insert in the space provided the date you and your spouse separated for the last time.
- 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).

**5. Paragraph 5: Minor Children of the Marriage**

- This form is designed for married couples with no minor children. You must use a different form if you have minor children. A minor child is someone who has not reached the age of 18 years.

**6. Paragraph 6: Grounds for Divorce**

- The uncontested divorce form 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.

**7. Paragraph 7: Settlement Agreement**

- Check box (A) if you have signed a *Settlement Agreement* with your spouse.
- Check box (B) if you have not signed a *Settlement Agreement* with your spouse.

**8. Paragraph 8: Wife's Former or Maiden Name**

- Check box (A) if the wife is the Plaintiff and wants to have her prior or maiden name restored. Print LEGIBLY the **full name** to which she wants to be restored. Also print the full name legibly in subsection (C) of the requests at the end of the *Complaint For Divorce*.
- Check box (B) if the wife is the Plaintiff and she does NOT want her former name restored.
- Check box (C) if the Husband is the Plaintiff. This paragraph would not apply.

Complete the *Complaint For Divorce* by dating, signing as indicated, and filling in your (the Plaintiff's) information including your mailing address, phone numbers, and your email address if you have one.

**STEP 4: VERIFICATION**

**TO BE PROPERLY FILED, THE VERIFICATION FORM MUST BE COMPLETED AND NOTARIZED.**

- Complete the *Verification* form. Insert the county of filing, 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. The notary will fill in the date of signing.

**STEP 5: SETTLEMENT AGREEMENT**

Although a *Settlement Agreement* is not required, it is recommended in cases where property, debts and support are involved. Any matters not addressed in a *Settlement Agreement* will not be a part of the *Final Judgment and Decree*. If you leave any property, debts, or issues out of the *Settlement Agreement*, you may likely not be able to bring these issues up again.

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 File No." blank; the Clerk of Court will assign a number to the case.

Introductory paragraph: insert the names of the wife and husband.

**1. Paragraph 1: Separation**

- This paragraph states that you want to live apart from one another.

**2. Paragraph 2: Alimony**

- a. Check box (A) if you agree to have alimony payments for the support of one of the parties, until the party either remarries or dies. Check the boxes to show who is making payments to whom. In the blank provided, indicate the amount and the frequency (week or month) of payment. Fill in the beginning date of alimony payments.
- b. Check box (B) if you agree to have alimony payments for the support of one of the parties for a definite period of time. Check the boxes to show who is making payments to whom. In the blanks provided, indicate the **amount** and the **frequency** of payment (week or month); the date on which the **first payment** should be made; and the date on which the **final payment** should be made.
- c. Check box (C) if both parties are waiving alimony.

**3. Paragraph 3: Division of Property**

- a. Choose box (A) if you have no marital property to divide.
- b. Choose box (B) if you have already divided up your marital property to your mutual satisfaction.
- c. Choose box (C) if you have items of property to be divided. In the blanks provided, list what those items are and how they will be divided.

**Note: It is suggested that you pay particular attention to motor vehicles with a certificate of title and provide a detailed description of the vehicle and its disposition.**

**4. Paragraph 4: Division of Debts**

- a. Check box (A) if you have no joint debts which should be divided.

- b. Check box (B) if you have joint debts which need to be divided. In the chart provided, list the name of the creditor, the amount owed, and who will be responsible for the debt.

**5. Paragraph 5: Name Restoration**

- Check the box beside this paragraph if the wife wishes to be restored to a former surname or to a maiden name. Make sure to include first, middle, and last name. If you fail to fill out this portion, but would like a maiden name restored after the finalization of the divorce, you will have to have your name changed through the Superior Court in a separate filing. This will have an additional cost. (EX: Jane Elizabeth Doe to Jane Elizabeth Smith.) Fill in the **full name** on the line provided.

**6. Paragraph 6: Binding Agreement**

- This paragraph acknowledges that the agreement was entered voluntarily without any external pressure and that there are no agreements other than those listed in this document.

**7. Paragraph 7: Enforceability**

- This paragraph shows that you agree to be bound by this agreement in the event that a divorce action is filed.

Each party must sign the *Settlement 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 get it signed in the presence of a notary public and then mail it to the filing party. The Court will not accept the filing if it is not notarized. Each party must also fill in the information in the box below the notary commission line.

**STEP 6: OTHER COURT DOCUMENTS**

In addition to the *COMPLAINT FOR DIVORCE* and the *VERIFICATION*, you will need to attach the following forms as indicated to your complaint:

1. ***Consent To Trial 31 Days After Service And Waiver of Right To Trial By Jury.***
2. ***Acknowledgment of Service of Process*** (This form is utilized only if the case is being filed in the county of Defendant's residence or the Defendant is a non-resident of Georgia.)



[OR]

***Defendant's Acknowledgment of Service/Affidavit of Waiver of Venue and Personal Jurisdiction*** (This form is utilized only if the case is being filed in the county of the Plaintiff's residence and the Defendant resides in either another county in Georgia, or in another state and is willing to submit to the jurisdiction of the Court where this case is filed.)

3. If the Defendant does not acknowledge service, you must have service made through the Sheriff's Department and pay the service fee upon filing the divorce.

**UNCONTESTED DIVORCE WITHOUT CHILDREN CHECKLIST:**

1.  Do I have my *Domestic Relations Filing Form* and *Final Disposition Information Form* completed (except for the docket number which will be provided by the Clerk of the Court)?

2.  Have I completed Form 3907 *Report of Divorce, Annulment or Dissolution of Marriage* (except for the civil action number and the Date Decree Granted)?

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 written *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; AND
  - 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 both the Plaintiff and 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?

5.  Do I have an *Acknowledgment of Service of Process* **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?

**F 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]