

YOUR DIVORCE CASE

**DISSOLUTION OF MARRIAGE
with no minor children**

2

A DO-IT-YOURSELF GUIDE

Including Helpful Forms

HOW TO BEGIN A DIVORCE CASE

**YOUR FUTURE MAY DEPEND ON THE
OUTCOME OF YOUR CASE. YOU SHOULD
CONSIDER USING A LAWYER TO ENSURE
THAT YOUR RIGHTS ARE FULLY
PROTECTED.**

**HOWEVER, IF YOU DO NOT WISH TO USE A
LAWYER, THE COURT PROVIDES A
“CHECKLIST” FOR A SIMPLE DIVORCE.**

**THE CHECKLIST IS NOT INTENDED TO BE
COMPREHENSIVE OR APPLICABLE TO
EACH AND EVERY CASE. THEY ARE
INTENDED ONLY AS AN AID TO YOU IN
UNDERSTANDING AND COMPLYING WITH
COURT PROCEDURE.**

**THE CHECKLIST IS NOT “GUARANTEED” IN
ANY WAY.**

A Checklist for Divorce (with no children):

1. Petition for Dissolution of Marriage

This is the formal request for the court to DISSOLVE the marriage, resolve any questions or disputes about PROPERTY and DEBT. A copy of the Petition must be promptly served upon the other party [called the Respondent]. A sample Petition is provided in this Packet.

2. Temporary Domestic Order

This is a Court Order which is issued to help the parties while the case is being resolved. The Temporary Domestic Order [or “TDO”] makes provision for keeping the peace and keeping the bills up. The TDO must be promptly served upon the other party. A sample TDO is included in this Packet.

The TDO also arranges for a very important meeting with the court: An INTERIM SUPPORT and EXPENSE hearing to establish responsibility for sharing the income of the parties and to make sure the bills are paid until the Final Decree. This hearing is MANDATORY.

3. Summons and Return of Service

A SUMMONS is notice to the Respondent that a formal written response must be filed with the court within 30 days after the Summons, Petition and TDO are served. If there is no response after proper service, the Judge can then enter a Default Decree.

SERVICE IS VERY IMPORTANT

“Serve” means placing the Petition [and SUMMONS and TEMPORARY DOMESTIC ORDER] in the hands of the other party; in other words, service must be PERSONAL. Mailing the papers is NOT good enough, not even Certified Mail

Anyone who is over 18 and who is not a party to the case may serve the papers. That means the Petitioner CANNOT serve the papers. The Sheriff’s Office or a professional process server can serve but they usually charge a fee. If the Court has already found that the Petitioner can’t pay court fees, the Sheriff will serve the papers for free.

To prove service, ask the person who performed the service to complete the RETURN OF SERVICE and then make sure it is filed with the Clerk of the Court.

4. After a RESPONSE is filed, you may request a hearing using a REQUEST FOR HEARING form. See the Judge’s Trial Court Assistant for help on requests for hearing and notices of hearing.

If no written response has been filed within 30 days of service, you may apply to the Court for a Default Decree.

5. If your debts and property are large or complicated, you may use a MARITAL SETTLEMENT AGREEMENT with a detailed distribution of property and debts. Because no case is alike, the court cannot offer you a sample Marital Settlement Agreement.

6. When all your disputes have been resolved [either by your agreement or by court decision] a FINAL DECREE is entered. This is the document which marks the official end of the marriage. A sample Final Decree [without children] is available in this Packet.

**FIRST JUDICIAL DISTRICT COURT
STATE OF NEW MEXICO
COUNTY OF _____**

Petitioner,

vs.

Case No. _____

Respondent.

PETITION FOR DISSOLUTION OF MARRIAGE

[No Minor Children]

PETITIONER comes before this court and requests that the marriage between Petitioner and Respondent be dissolved. Petitioner states that the following contentions are true:

The Parties

1. The Petitioner has resided in New Mexico for at least six months prior to the filing of this Petition and Petitioner is a resident of _____ County.

2. Petitioner and Respondent were married in (place) _____ on the date of _____. They have been husband and wife since that time.

Grounds for Divorce

3. Due to differences in temperament and outlook, the Petitioner and Respondent have been unable to live together harmoniously. There is discord and conflict of personalities that have destroyed the marital relationship. A state of incompatibility exists between the parties, and there is no reasonable expectation of reconciliation.

4. There are no children of this marriage.

Community Property [Choose 1]

[Note: Community property generally includes all real and personal property acquired during marriage, except by gift, inheritance or agreement of the parties]

[] 5. Petitioner and Respondent have no community property or they have accumulated community property during their marriage and they have already divided it. **OR**

2 -- Petition for Dissolution

☐ 5. Petitioner and Respondent have accumulated community property during their marriage which should be equitably divided between them.

Community Debts [Choose 1]

☐ 6. Petitioner and Respondent have no community debts or they have incurred community debt during their marriage and they have already divided the debt; **OR**

☐ 6. Petitioner and Respondent have incurred community debt during their marriage which should be equitably divided between them.

Separate Property [Choose 1]

[Note: Separate property means property acquired before marriage or, during marriage, property acquired by gift, inheritance or designated as separate property by agreement.]

☐ 7. Neither the Petitioner nor the Respondent have separate property; **OR**

☐ 7. Petitioner or Respondent have separate property which should be confirmed to the owner of the separate property.

Separate Debts [Choose 1]

☐ 8. Neither the Petitioner nor the Respondent have any separate debts; **OR**

☐ 8. Petitioner or Respondent have separate property which should be awarded to the person incurring the separate debts.

Spousal Support [Alimony] [Choose 1]

☐ 9. Each party is self-supporting or is able to be self-supporting, and neither party should receive spousal support; **OR**

☐ 9. _____ is unable to earn sufficient income to be self-supporting and is in need of temporary or permanent support and maintenance. The other party, is capable of paying reasonable support.

Name Change

☐ 10. _____ desires to change her name to _____.

WHEREFORE, Petitioner asks the Court to:

1. Dissolve the marriage of the parties on the grounds of incompatibility.
2. Enter a Final Decree of Marriage granting relief as requested in this Petition.
3. Grant such other and further relief as the Court deems just and equitable.

RESPECTFULLY SUBMITTED:

Signature of Petitioner

Print Name

Address

City/State/Zip
Telephone:_____

STATE OF NEW MEXICO) ss.
COUNTY OF _____)

I, the Petitioner, being first duly sworn upon my oath, depose and state that I am the Petitioner in the above-entitled cause. I have read the attached PETITION FOR DISSOLUTION OF MARRIAGE. I state that the contents thereof are true and correct, except to the matters stated on information and belief, and those matters I believe to be true.

Signature:_____

SUBSCRIBED AND SWORN TO before me this date: _____	
by _____.	
My Commission Expires: _____	_____ NOTARY PUBLIC

FIRST JUDICIAL DISTRICT COURT
STATE OF NEW MEXICO
COUNTY OF _____

Petitioner.

vs.

Case No. _____

Respondent.

SUMMONS

TO THE DEFENDANT[s]: _____
Name of Defendant[s]

Address

City, State and Zip

GREETINGS:

You are hereby directed to serve a pleading or motion in response to the complaint within thirty (30) days after service of this summons, and file the same, all as provided by law.

You are notified that, unless you serve and file a responsive pleading or motion, the plaintiff will apply to the court for the relief demanded in the complaint.

Attorney or attorneys for plaintiff: _____

WITNESS the Honorable _____, district judge of the First Judicial District Court of the State of New Mexico, and the seal of the district court of _____ County, this _____ day of _____, 19____

JOANNE VIGIL QUINTANA
Clerk of the District Court

By _____.

RETURN OF SERVICE

STATE OF NEW MEXICO)
COUNTY OF _____)

I, being duly sworn, on oath, say that I am over the age of eighteen (18) years and not a party to this lawsuit, and that I served the within Summons in said County on the ____ day of _____, 19____, by delivering a copy thereof, with copy of Complaint attached, in the following manner: (check one box and fill in appropriate blanks)

- ☐ to Defendant (used when Defendant receives copy of Summons or refuses to receive Summons)
- ☐ to _____, a person over fifteen (15) years of age and residing at the usual place of abode of Defendant _____, who at the time of such service was absent therefrom.
- ☐ by posting a copy of the Summons and Complaint in the most public part of the premises of Defendant _____ (used if no person found at dwelling house or usual place of abode)
- ☐ to _____, an agent authorized to receive service of process for Defendant _____.
- ☐ to _____, (parent) (guardian) of Defendant _____.
(used when Defendant is a minor or an incompetent person)
- ☐ to _____ (name and title of person authorized to receive service. (used when Defendant is corporation or association subject to a suit under a common name, a land grant board of trustees, the State of New Mexico or any political subdivision)

Signature of Person Making Service

Title [if any]

*SUBSCRIBED AND SWORN to before me this ____ day of _____, 19____.

Judge, Notary or Other Officer authorized to Administer Oaths

Official Title

*If service is made by the sheriff or a deputy sheriff of a New Mexico county, the signature of the sheriff or deputy sheriff need not be notarized.

**FIRST JUDICIAL DISTRICT COURT
STATE OF NEW MEXICO
COUNTY OF _____**

_____,
Petitioner,

vs.

No. _____

_____,
Respondent.

TEMPORARY DOMESTIC ORDER

[Married -- No Minor Children]

**VIOLATION OF THIS ORDER CAN CONSTITUTE CONTEMPT OF COURT, AND
SUBJECT THE VIOLATOR TO FINE, IMPRISONMENT, AND OTHER SANCTIONS,
PLUS PAYMENT OF ATTORNEY FEES AND COSTS TO THE OTHER PARTY.**

THIS MATTER comes before the Court upon review. The Court finds it is in the best
interests of justice to issue this Order:

YOU, THE PETITIONER AND RESPONDENT, ARE ORDERED AS FOLLOWS:

A. Hearings You MUST Attend

1. All court events are held on the Second Floor at the Santa Fe County Judicial Complex located at the corner of Catron Street and Grant Avenue in downtown Santa Fe, New Mexico.
2. An INTERIM SUPPORT AND EXPENSES HEARING is set at _____ on the date of _____. The Hearing is held in Room 250 Hearing Room.
3. At least ten (10) days before the hearing, the you shall exchange the following:
 - a. Your most recent state and federal tax returns;
 - b. Your three (3) most recent pay stubs. If you are self-employed, then you must produce your most recent profit and loss statement and CRS-1 forms and similar financial data;
 - c. Your checking and savings account statements for the past six (6) months;
 - d. An itemization of all your monthly fixed expenses;
 - e. All exhibits you intend to introduce at the hearing.
4. You shall also bring this information to the hearing with you.
5. If you don't exchange this information completely and on time, it counts against you.

B. Conduct Towards Each Other

6. DO NOT molest, intimidate, threaten, harass, injure or physically or mentally abuse the other person.

7. DO NOT open personal mail or packages addressed only to the other person, but either forward to or arrange prompt delivery of this mail to the other person. If the mail is addressed to both persons or if the mail relates to the income, debts or property, you may open this mail but you must promptly send a copy to the other person.

C. The Marital Residence

8. DO NOT make the other person leave the marital residence, whether it be community or separate property, without Court order. You should attempt to resolve the question of who leaves the residence in a fair manner. If you can't agree, you must ask the Court to decide.

9. WHOEVER moves from the marital residence may return to pick up personal belongings at a reasonable time as you may agree. Personal belongings do not include furniture unless you agree or the Court permits. If an order prohibiting domestic violence has been entered, a law enforcement officer be present to monitor the removal of personal belongings.

10. WHOEVER leaves the marital residence shall notify the other person, in writing and within one day, of an address where the vacating person can receive mail.

C. Income, Debts and Ongoing Matters

11. ALL EARNED INCOME is community property and income from all other sources is generally community property. Likewise, all debts, existing and recurring, are generally community obligations. Each of you has a one-half interest in all community property and is obligated for one-half of all community debts.

12. DO NOT incur unreasonable or unnecessary debts. Any debt which does not contribute to the benefit of both spouses which is incurred after you have separated, shall be the separate debt of the person who incurs the debt.

13. DO NOT drop any health insurance coverage, and the existing health insurance coverage must remain in full force and effect.

14. DO NOT change the beneficiaries of any existing life insurance policies owned by the community and the existing life insurance policies must remain in full force and effect.

D. Property

15. DO NOT sell, remove, transfer, dispose of, conceal, encumber or damage any property, real or personal, community or separate, except in the usual course of business or for the necessities of life and keep an accounting of any transactions to show to the court.

16. YOU ARE entitled to examine the contents of the marital residence and the other person's home and to gain access to all properties owned by either of you, for purposes of inspection, valuation, or appraisal, at reasonable times and places. If you ask, the other must provide access to the home or properties within fifteen (15) days after the date of the request, unless the court otherwise orders.

E. Take this Order Seriously

17. This Order is binding upon you unless (a) you modify it by agreement so long as your agreement is in writing and filed with the Clerk of the court; or (b) you ask the Court to modify it and the Court agrees in writing.

18. If you already have an "Order Prohibiting Domestic Violence," sometimes called an "Order of Protection," the Protection Order shall be attached to the Temporary Domestic Order. If there is a conflict between the two Orders, the Protection Order controls unless the Court specifically orders otherwise.

FAMILY COURT JUDGE

Dated: _____

**FIRST JUDICIAL DISTRICT COURT
STATE OF NEW MEXICO
COUNTY OF _____**

Petitioner,

vs.

Case No. _____

Respondent.

FINAL DECREE OF DISSOLUTION OF MARRIAGE

[No Minor Children]

THIS COURT having read the pleadings, heard the evidence, and being otherwise advised, finds:

1. The Petitioner has resided in New Mexico for at least six months prior to the filing of this Petition and Petitioner is a resident of _____ County.
2. Petitioner and Respondent were married on the date of _____ in [place of marriage] _____. They have been husband and wife since that time.
3. There are no children of this marriage.
4. Due to differences in temperament and outlook the Petitioner and the Respondent have been unable to live together harmoniously. There is discord and conflict of personalities that have destroyed the marital relationship. A state of incompatibility exists between the parties, and there is no reasonable expectation of reconciliation.

WHEREFORE, THIS COURT ORDERS AS FOLLOWS:

1. The marriage of the parties is dissolved on the grounds of incompatibility.

Community Property [Choose One]

[Note: Community property generally includes all real and personal property acquired during marriage, except by gift, inheritance or agreement of the parties]

- [] 2. Petitioner and Respondent have no community property: **OR**
- [] 2. Petitioner and Respondent have accumulated community property during their marriage and they have already divided it: **OR**

☐ 2. Petitioner and Respondent have accumulated the following community property during their marriage and have divided it between them as follows:

A. Petitioner will take this property

B. Respondent will take this property:

Community Debts [Choose One]

☐ 3. Petitioner and Respondent have no community debts: **OR**

☐ 3. Petitioner and Respondent have incurred community debt during their marriage and they have already divided the debt; **OR**

☐ 3. Petitioner and Respondent have incurred the following community debt during their marriage which is divided between them as follows:

[State Name of Creditor and Amount, if known]

A: Petitioner will take these debts:

B. Respondent will take these debts:

Separate Property [Choose One]

[Note: Separate property means property acquired before marriage or, if acquired during marriage, property acquired by gift or inheritance or agreed by the parties to be separate.]

☐ 9. Neither Petitioner nor Respondent have any separate property; **OR**

☐ 9. The following separate property is confirmed to the parties:

To Petitioner:

To Respondent:

Separate Debts [Choose One]

☐ 10. Petitioner and Respondent have no separate debts: **OR**

☐ 10. The following separate debts are confirmed to the parties:

To Petitioner:

To Respondent:

Spousal Support

☐ 11. _____ is ordered to pay \$_____ for temporary or permanent support to the other party.

Name Change

☐ 12. The name of _____ is hereby changed to _____.

Date: _____

District Judge

Petitioner

Respondent