

Law Library Resource Center

**INSTRUCTIONS: HOW TO RESPOND TO DISSOLUTION (DIVORCE)
PAPERS FOR A NON-COVENANT MARRIAGE –
WITHOUT MINOR CHILDREN**

DOMESTIC VIOLENCE: Domestic violence can be part of any marriage. Domestic violence includes **physical violence**, such as hitting, slapping, pushing or kicking, and **threats** of violence and/or **verbal abuse** directed against you and/or your children.

Court documents request your address and phone number. If you are a victim of domestic violence, and you **do not** want your address to be known to protect yourself or your children from further violence, you must file a Petition for an Order of Protection and ask that your address not be disclosed on court papers. With that Order, you do not need to put your address and phone number on your divorce papers just write "protected" in the space where the court asks you for this information. You must tell the Clerk of the Court your address and phone number as soon as possible.

INFORMATION ABOUT PAPERS YOU SHOULD HAVE RECEIVED FROM YOUR SPOUSE WITH THE PETITION FOR DISSOLUTION:

SUMMONS: You have been summoned to appear in court. The **"Summons"** tells you how many calendar days you have to file a Response, depending on how you were served with the court papers. Be sure to file a WRITTEN RESPONSE on time. If the time for you to file a WRITTEN RESPONSE has passed, your spouse must complete an **"Application and Affidavit for Entry of Default"** and send you a copy of that. You will have 10 more days from the date the application was filed with the Clerk of the Court in which to file your WRITTEN RESPONSE. If you do not file a WRITTEN RESPONSE **ON TIME**, a default judgment can be entered, which means you will not get to tell the judge your side of the story.

PRELIMINARY INJUNCTION: This is an order from the court to both spouses about what you **CAN** and **CANNOT** do with property and other issues while the divorce is pending. If you or your spouse violate this order, the party who violates it can be in serious trouble with the court. If your spouse violates the order, see a lawyer for help on what to do. The Law Library Resource Center has a list of lawyers who will help you help yourself, and this list tells how much they charge to help you.

NOTICE OF RIGHT TO CONVERT HEALTH INSURANCE: This is an important document that explains what to do about health care coverage for yourself and/or your children. Read it carefully.

INFORMATION FOR CONCILIATION COURT: You may or may not have received a paper on this. Your spouse is not required to send you this document. In either case, the court has "Conciliation" and "Mediation" services available to couples to help them preserve their marriage. You can ask for an appointment to discuss your marriage with these professionals by filing a written Petition. You can get the forms for the appointment at the Law Library Resource Center

"PETITION FOR DISSOLUTION OF A NON-COVENANT MARRIAGE --WITHOUT MINOR CHILDREN:" This is the form your spouse completed to tell the court his/her side of the story about property, debt, spousal maintenance/support (alimony), minor children, pregnancy, and everything else about the marriage. **Read every word very carefully**, and decide what you want to do. Here are your choices:

1. **Do nothing.** This means your spouse can get a divorce and tell the judge his or her side of the story, without you telling your side at all. **This is called a default.** Even in these cases, the judge will try to decide what is best, but it is never a good idea to ignore the court proceeding and have a court order that you had no input on. You should see a lawyer for help before you decide to do nothing.
2. **Consent.** Decide with your spouse how you want to handle everything: property, debt, spousal maintenance/support (alimony), and everything else about the marriage. Then you and your spouse file papers in the court stating your agreement on everything. This is called a **Consent or Stipulation.** This is often the best way to proceed, if you and your spouse believe the marriage is over, and you can talk about how you both want to handle the divorce. Mediators can help you with this. The Law Library Resource Center has a list of mediators, and how much they charge to help you.
3. **Disagree.** File a Response stating your side of the story, and how you want to handle everything: property, debt, spousal maintenance/support (alimony), and everything else about the marriage. This will make your case a **contested matter.** But, even if you originally file a Response, you and your spouse can still decide to agree on something, or everything, and file court papers for a **Consent or Stipulation.** Mediators can help you with this, and the Law Library Resource Center has a list of mediators, and how much they charge to help you. If you file a Response and do not settle everything with your spouse, you must be sure to file the court papers you will need to set the case for trial.

No matter how you proceed, you can still get help from Conciliation Court, for either conciliation or mediation. You can ask for an appointment to discuss your marriage with these professionals, by filing a written Petition. The forms for an appointment are available at the Law Library Resource Center.

COMPLETING YOUR WRITTEN RESPONSE TO THE PETITION:

- A. Make sure your form is titled ***“RESPONSE TO PETITION FOR DISSOLUTION OF A NON-COVENANT MARRIAGE --WITHOUT MINOR CHILDREN.”***
- B. In the top left corner of the first page, fill out the following: YOUR name; address (if not protected); city, state and ZIP code; telephone number; and your ATLAS number, if you are receiving or have received AFDC from the Arizona Department of Economic Security; Attorney Bar Number if you are represented by an attorney; then check the box to tell the court whether you represent yourself or are represented by an attorney.
- C. Fill in the name of “Petitioner” and “Respondent” the same way as it looks on the Petition. Do that for every document you ever file with the court regarding this case from now on.
- D. Use the case number stamped in the upper right-hand corner of the Petition. Do that for all documents you ever file with the court regarding this case from now on.

STATEMENTS UNDER OATH OR AFFIRMATION:

1. **INFORMATION ABOUT MY SPOUSE, THE PETITIONER.** Fill in your spouse’s (the Petitioner’s) name, address (if not protected), date of birth, occupation, and length of time domiciled (lived) in this state. This is basic information about the Petitioner.
2. **INFORMATION ABOUT ME, THE RESPONDENT.** Fill in your name, address, date of birth, occupation, and length of time domiciled (lived) in this state. This is basic information about YOU, the Respondent.
3. **INFORMATION ABOUT MY MARRIAGE.** This is general information about your marriage. Fill in the date that you were married, and the city and state where you were married. Then check the box to indicate whether you have a “covenant” marriage or a “non-covenant” marriage. If you have questions about whether you have a covenant marriage, read your marriage license, and/or ask a lawyer for help.

If you disagree with the type of marriage your spouse says you had, **attach a copy of your marriage license to the Response.**

4. **90-DAY REQUIREMENT.** This tells the court that you OR your spouse have lived in Arizona, or been stationed here while in the Armed Forces, for at least 90 (ninety) days before the Petition for Dissolution was filed. Before you file a Divorce, this **MUST** be true. If it is not true, the Petition was filed too soon and the case must be dismissed until the 90 days passes. You or the petitioner can file a motion to dismiss.

PROPERTY AND DEBTS: The information you give in paragraphs 5 and 6 tells the court about your property and debts and how you think property and debts should be divided. Community property is generally any property you and your spouse purchased during your marriage or that was paid for during the marriage, no matter who uses the property or who actually paid the money. Unless property was a gift or inheritance, all property gotten during the marriage up until the day the Respondent is served with the Petition for Dissolution is community property, and both you and your spouse are entitled to a roughly equal share of this property. Community debts, are debts acquired during the marriage, and likewise, belong to both spouses, no matter who spent the money. If you have questions, or have a lot of community assets, you may want to consult an attorney regarding issues of community property and debts **BEFORE** filing your Response and/or any other papers.

- 5a. **COMMUNITY PROPERTY.** If you and your spouse do not have any property from the marriage, mark the first box. If you have property together check the second box. If you checked the second box, you will then tell the court first what property should go to you and second, what property should go to your spouse. Generally, the court will try to divide the property 50-50, unless there are good reasons not too. Realize that it is unlikely that the court will give most or all of the property to either spouse, so try to think about what would be a fair split of the property before answering this question.

First, you will list the property that you want the court to award to you. Next you will list the property that you want the court to award the Petitioner. Put a mark in the boxes corresponding to which property you want to go to which person. You should describe the property as thoroughly as you need to for identification purposes. You can use the brand name and model where applicable, as well as serial numbers. Where asked, state the value of the property.

Types of property include:

- a) **Real estate (property or home)** - Mark who you want to get the property. You can ask the court to give you the home, to give it to your spouse, or to sell the home and divide the proceeds. You should write the complete address of the property under "Real estate located at." Most property also has a legal description such as "LOT 77, PINE TREE ACRES, according to Book 111 of Maps," etc. You should use this description, which will appear on your deed papers, if you have it. Cemetery plots are also considered real property.
- b) **Household furniture** - This includes sofas, beds, tables, etc.
- c) **Household furnishings** - This generally includes other things in the house other than furniture, e.g. dishes, small appliances, rugs, etc.
- d) **Other (explain)** - List any thing that you specifically want to go to one person or another that has not already been listed.
- e) **Pension/retirement fund/profit sharing/stock plan** - You and your spouse each generally have a right to an interest in each other's plan, **ONLY** for the number of years you were married. The longer you have been married, the greater your financial interest in a spouse's plan, up to 50 percent if you have been together the whole period of the plan. **Mark this box if you want to divide your interest in a retirement or profit sharing/retirement/401K plan. If you mark this box, you should see an attorney about a document called a Qualified Domestic Relations Order or QDRO.**

A QDRO is a very specialized legal document that requires a professional's assistance to prepare.

Motor vehicles - List the vehicle identification number, the year and make of car (Ford, Chevrolet) and the model (Mustang, Camaro), etc.

- 5b. SEPARATE PROPERTY.** Check the boxes that apply. If you have separate property, describe the separate property, tell the court who should get the property, and then state its value.
- 6a. COMMUNITY DEBTS.** If you and your spouse do not owe money on any debts from the marriage, mark the first box and GO ON. If you did get some debts, mark the second box. If you mark the second box, tell the court first which debts the Petitioner should pay and then which debts you should pay. Generally, the court will attempt to make a fair split of the debts, and if you get the property that money is owed on, you probably will also be given the debt. It is unusual that the court will order one person to pay all the debts. Think about what is a fair split of the debts before answering this question. Put enough information to identify the specific debt.
- 7. TAX RETURNS.** Mark this box if this is how you want to handle income tax refunds.
- 8. SUMMARY.** Since you are responding to what your spouse asked for in the Petition, you should now summarize for the judge how your ideas about the division of property and debt is different from those of your spouse. This is because the form of Petition your spouse used might not be from the Law Library Resource Center, so it might be arranged a little differently than this form of Response.

SPOUSAL MAINTENANCE/SUPPORT (ALIMONY)

- 9. SPOUSAL MAINTENANCE/SUPPORT** is the term used to describe money paid from one spouse to the other as part of a Divorce agreement or order. You may know the term as alimony. The money is designed as a safety net for a spouse who cannot provide for his/her needs or who meets other requirements listed. The idea behind spousal maintenance/support (alimony) is that accomplishments during your marriage, including increases in earning potential and living standards are shared and earned by BOTH parties to the marriage. Look at the list of boxes and see if any of these conditions apply to you or your spouse. If so, you can decide to make a request that spousal maintenance/support be awarded to the appropriate party. Mark as many boxes as apply to your situation. **Spousal maintenance/support is paid separate from child support and is NOT a substitute for child support.**
- 10. SUMMARY.** Since you are responding to what your spouse asked for in the petition, you should now summarize for the judge how your ideas concerning spousal maintenance/support is different from those of your spouse. This is because the form of Petition your spouse used might not be from the Self-Service Center, so it might be arranged a little differently than this form of Response.
- 11. PREGNANCY.** Tell the judge whether you are pregnant, when the baby is due, and who is the parent of the child. If you are pregnant and the other party is the parent of the child, do **not** use this Response. See the Law Library Resource Center packet for Divorces of Non-Covenant Marriage With Children.

OTHER STATEMENTS MADE IN COURT: In this section you are telling the court what you believe is true as to the following very important matters:

- 12. STATUS OF MARRIAGE AND CONCILIATION:** You are stating under oath that this marriage **IS** or **IS NOT** irretrievably broken and there **IS** or **IS NOT** reasonable prospect of reconciliation. You also state that the conciliation requirements under Arizona law, A.R.S. 25-381.09 **APPLY** or **DO NOT APPLY**, and **HAVE** or **HAVE NOT BEEN MET**, which means that you have attempted to resolve your marital problems using Conciliation Services, or it would **not** help to use Conciliation Services.

13. **GENERAL DENIAL:** This tells the court that even if you did not answer each and everything said in the Petition, you deny any specific issues you did not address. This is extra protection for you.

REQUESTS TO THE COURT: This section of the Response requests that the court GRANT or NOT GRANT you and your spouse the divorce, and tells the court what other requests you are making:

- A. **DISSOLUTION.** This is your request to END or NOT END your marriage by a Divorce (Dissolution of Marriage). Arizona is a “no fault” state, which means that neither party must prove a good reason for the divorce as long as you have met the other statutory requirements, unless you have a “covenant” marriage.
- B. **NAMES.** Mark this box if you are requesting to be legally known by your maiden or former name. Write in the appropriate former name on the space provided.
- C. **SPOUSAL MAINTENANCE/SUPPORT (ALIMONY).** This tells the court that you or your spouse should pay money to the other spouse on a monthly basis to help with living expenses. If you **do** want one party to receive spousal maintenance/support, check the Petitioner or Respondent box, the monthly amount, and the time period. If you do **not** want spousal maintenance/support ordered, do not mark anything, GO ON.

You can only mark a box here if you marked the same box in the section above. If you request spousal maintenance/ support, choose what you believe to be a reasonable monthly amount and tell the court how long the money should be paid. Base the amount of any request on the receiving party's need and the income of the spouse paying this money. Remember, spousal maintenance/support is NOT a substitute for child support.

- D. **COMMUNITY PROPERTY.** This tells the court that the division of property is fair, and that the court should divide the property as requested in your Response.
- E. **COMMUNITY DEBT.** This tells the court that the division of debts is fair, and that the court should divide the debts as requested in your Response. If you have been separated from your spouse long enough that you or your spouse may have additional debts, write the date of separation on the line provided if you want each of you to pay the debts you incurred after you separated.
- F. **SEPARATE PROPERTY AND DEBT.** This states you want you and your spouse to keep property you each owned before you were married or acquired after the Respondent was served with the Petition for Dissolution, and that you and your spouse shall pay for the separate debt acquired before both parties were married.
- G. **OTHER ORDERS.** Tell the court anything else you may want ordered that has not been covered in your Response.

OATH AND VERIFICATION OF RESPONDENT: Sign this form in front of a notary. By doing so you are telling the court that everything contained in the Response is true.

WHAT TO DO NEXT: See the Law Library Resource Center PROCEDURES FOR HOW TO RESPOND TO DIVORCE PAPERS FOR A NON-COVENANT MARRIAGE WITHOUT CHILDREN in this packet.