DIVORCE WITHOUT CHILDREN
For Petitioner Only

1

To file for Divorce

Part 1: Petition and First Court Papers
(INSTRUCTION PACKET)

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"DISSOLUTION OF MARRIAGE (DIVORCE) WITHOUT CHILDREN" FOR PETITIONER ONLY

PART 1 -- PETITION AND FIRST COURT PAPERS

How to assemble these documents

This packet contains general information and instructions about filing a divorce petition for a non-covenant marriage and other papers when there are no minor children. Be sure the documents are in the following order:

Order	File Number	Title	No. Pp.
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INSTRUCTIONS: HOW TO FILL OUT "*PETITION FOR DISSOLUTION OF MARRIAGE (DIVORCE)-- WITHOUT CHILDREN"* PAPERS

DOMESTIC VIOLENCE:

Domestic violence can be part of any marriage. Domestic violence includes **physical violence**, such as hitting, slapping, pushing or kicking, OR **threats** of physical violence, directed against you and/or your child(ren). Domestic violence also includes **verbal abuse** used to control you and/or your child(ren).

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 in order 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.

FAMILY COURT COVERSHEET:

Print or type in black ink.

Case Type: Check only one box that matches the legal procedure for which you are filing the documents in this packet.

Information About the Petitioner: Write in your name, address, home telephone number, work telephone number, cell phone/pager number, date of birth, social security number, and e-mail address in the space provided. If your address and telephone numbers are protected, you do not need to fill in this information. However, you must let the Clerk of the Court know how to reach you. If a lawyer represents you, the Petitioner, you must also write in the lawyer's name and bar number.

Information about the other party, the Respondent: Write in the name of the Respondent. If you know the Respondent's address, home telephone number, work telephone number, cell phone/pager number, date of birth, social security number, and e-mail address, you must write in this information.

Other court cases: Check the appropriate box to tell this Court if either you or your spouse have been involved in any other cases, except a minor traffic offense, in any other court. If you check the Yes box, please describe the case, including case numbers and court location.

Domestic Violence Section: Answer the questions listed regarding domestic violence. This information will help court staff determine if this issue is relevant to this case.

Location: If you are filing your documents in Phoenix, check the Downtown Phoenix box. If you are filing your documents in Mesa, check the Mesa box.

SUMMONS AND PRELIMINARY INJUNCTION:

Fill in the following information: Your name; street address (if not protected); city, state and zip code; telephone number; ATLAS number; Attorney Bar Number if you are represented by an attorney; then check the box to say whether you are representing yourself or not. Then print the name of Petitioner (your name); name of Respondent (your spouse's name). You will have an ATLAS number ONLY if you receive, or have received, AFDC or other public benefits for the children who are common to you and your spouse. **DO NOT** fill out the rest of the form, except on Page 2 of the ***"Preliminary Injunction"*** where you must provide a description of the other party. The Clerk of Court will complete it later.

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"PETITION FOR DISSOLUTION OF MARRIAGE (DIVORCE) WITHOUT CHILDREN"

A. Use this form **ONLY** if you are getting a divorce and there are no children under the age of 18, common to you and your spouse, whether by birth or adoption, AND you do **not** have a "covenant" marriage. Make sure your form is titled ***"PETITION FOR DISSOLUTION OF MARRIAGE (DIVORCE) WITHOUT CHILDREN."***

B. In the top left corner of the first page, fill out the following: your name (if you are the person filling out the petition and filing the petition with the court); your address (if not protected); your city, state and zip code; your 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 represented by a lawyer; then check the box to say whether you are representing yourself or not.

C. Fill in your name in the space that says "Name of Petitioner." Remember, you will be the PETITIONER through the whole case. (This includes any emergency petitions, temporary petitions, and post-divorce decree petitions.) In the space that says "Name of Respondent," fill in the name of your spouse. Your spouse will be the RESPONDENT for the rest of this case. (This includes any emergency petitions, temporary petitions, and post-divorce decree petitions.)

D. Leave line blank for Family Court Case Number. When you file your papers, you will receive a case number from the Clerk of the Court.

GENERAL INFORMATION:

1. **INFORMATION ABOUT YOU, THE PETITIONER.** Fill in the Petitioner's name, address (if not protected), date of birth, social security number, occupation, and length of time in Arizona.

2. **INFORMATION ABOUT YOUR SPOUSE, THE RESPONDENT.** Fill in the Respondent's name, address, (if you know it) date of birth, social security number, occupation, and length of time in Arizona.

3. **INFORMATION ABOUT YOUR MARRIAGE.** Fill in the date you were married, and the city and state where you were married. If you do not know this information, and you were married in Maricopa County, you may get a copy of your marriage license from the Clerk of the Court at 201 West Jefferson in downtown Phoenix. If you were married in another county in Arizona, go to the Clerk of the Superior Court at the county seat where you were married. To use these forms, your marriage cannot be a "covenant" marriage. One way to tell whether you have a covenant marriage is to find out whether you signed a document with language similar to this on it: "We solemnly declare that marriage is a covenant between a man and a woman who agree to live together as husband and wife for as long as they both live. We have chosen each other carefully. We understand that a covenant marriage is for life. If we experience marital difficulties, we commit ourselves to take all reasonable efforts to preserve our marriage, including marital counseling. We declare that our marriage will be bound by Arizona law on covenant marriages and we promise to love, honor and care for one another as husband and wife for the rest of our lives." Check the box to say that your marriage was **not** a "covenant" marriage. If your marriage was a "covenant" marriage, or if you have questions about whether you have a "covenant" marriage, contact a lawyer for help.

4. **90-DAY REQUIREMENT.** This tells the court that you **OR** your spouse have lived in Arizona, or been stationed in Arizona while in the Armed Forces, for at least 90 (ninety) days prior to the day you filed the ***"Petition for Dissolution of Marriage (Divorce) Without Children."*** Before you file for divorce, this **MUST** be true. **IF IT IS NOT TRUE, YOU CANNOT FILE FOR DIVORCE.**

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INFORMATION ABOUT PROPERTY AND DEBT:

READ ME!!!!!! The information you give in paragraphs 5 and 6 tells the court about your property and debts, and how you think your property and debts should be divided. Community property is generally any property you and your spouse purchased during your marriage or paid for during the marriage, no matter WHO uses the property or WHO paid the money. Unless property was a gift or an inheritance, or acquired after the Petition for Dissolution was served on the Respondent, generally all property gotten (acquired) during the marriage is community property, and both you and your spouse are entitled to roughly an equal share of this property. Community debts or bills are generally any debt you and your spouse acquired during your marriage, no matter WHO spent the money. Separate property and/or separate debt is generally any property you had, or brought into the marriage. HOWEVER, there are exceptions to these statements. For example, some property acquired during the marriage is still considered separate property. For example, if you were involved in an automobile accident, and received damages for pain and/or suffering or will receive damages for pain and suffering, the money you received, or will receive, for pain and suffering is your separate property. If you have questions, or have a lot of community property or debt, you should speak with an attorney BEFORE filing your Petition or other papers.

5.a. **COMMUNITY PROPERTY:** If you and your spouse **do not** have any property from the marriage, check the first box. If you and your spouse **do** have property together, check the second box. If you checked the second box, you must tell the Court what property should go to you and what property should go to your spouse. Generally, the Court will divide the property 50-50 as of the time the Respondent was served with the Petition for Dissolution, unless there are good reasons why this should not happen. It is unlikely that the Court will give most, or all, of the property to either spouse, so put some thought into what you think would be a fair division before answering this question. Usually, if you and your spouse cannot decide which spouse should receive which property, the Court will order that the property be sold and any money received divided between you and your spouse.

First, list the property that you want the court to award to you, the Petitioner, and list the property that you want the court to award to your spouse, the Respondent. Put a check in the box that matches the property you want to go to which person. **You should describe the property thoroughly for identification purposes and state its value when asked.** You can use the brand name and model where applicable, and serial numbers.

Types of property:

a) **Real Property (property (land) or home).** Check who you want to get the property. You can ask the court to give you the property (land/home), to give the property (land/home) to your spouse, or to sell the property (land/home) and divide the proceeds. You should write the complete address of the property under "Real Estate Located at." Most property has a legal description such as "LOT 77, PINE TREE ACRES, according to Book 111 of Maps," which appears on your deed papers. You should use this legal description. A cemetery plot is considered real property**.**

b) **Household furniture.** This includes sofas, beds, tables, and so forth.

c) **Household furnishings.** This includes things in the house **other than furniture,** for example: dishes, small appliances, rugs, and so forth.

d) **Other.** List things that you want, or you want your spouse to have, that have not been listed.

e) **Pension/retirement fund/profit sharing/stock plans/401K.** You and your spouse each generally have a right to a one-half interest in the other spouse's plan, based upon the length of your marriage. The longer the marriage, the greater your financial interest in your spouse's plan. (Your interest, usually, includes **up to** 50 percent of the benefits/plan if you have been married the whole time the plan has existed.) Check this box if you want to divide your interest in a retirement or profit sharing/retirement/401K plan. If you check this box, you must see an attorney about a document called a Qualified Domestic Relations Order or QDRO. A QDRO is a very specialized legal document that requires professional assistance to prepare. The Self-Service Center and the

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court do not have Qualified Domestic Relations Order forms.

f) **Motor vehicles.** List the vehicle identification number (VIN), the year and make of the car (Ford, Honda) and the model (Mustang, Lumina). Then state its estimated value.

5.b. **SEPARATE PROPERTY:** If **you did not** have property, or bring any property into the marriage, check the first box. If **your spouse did not** have or bring any property into the marriage, check the next box. If you or your spouse **did** have property and brought property into the marriage or if you or your spouse have separate property, check the third and/or fourth box. If you checked the third and/or fourth box, you must tell the court what property you brought into the marriage and what property your spouse brought into the marriage or what property is separate property. List the property that you want the court to award to you, the Petitioner, and list the property that you want the court to award to your spouse, the Respondent. Put a check in the box that matches the property you want to go to which person. You should describe the property thoroughly for identification purposes and state its value. You can use the brand name, model and serial numbers when applicable.

6.a. **COMMUNITY DEBTS:** If you and your spouse **do not** owe money on any debts from the marriage or **do not** owe community debt, check the first box and go directly to paragraph 7. If you and your spouse **do** owe money on any debts from the marriage or any community debt, check the second box. If you check the second box, tell the court which debts you should pay and which debts your spouse should pay. The court will attempt to make a fair division of the debts. If you get property that has a debt on it, you will probably also be given the debt. Ordering one person to pay all the debt(s) is unusual. Think about what is a fair division of the debts before answering this question. Provide enough information to accurately identify each debt.

If you and your spouse have been separated and have acquired new debts on your own before filing for divorce, you may want the court to order that each of you personally pay for any new debt(s) incurred after the date you separated. You can make this request on the last page of your Petition under letter E "Community Debts."

6.b. **SEPARATE DEBTS:** If you and your spouse do not owe money on any debts incurred prior to the marriage, and do not have separate debt, check the first box and go directly to number 7. If you owe money on debts incurred prior to the marriage, or have separate debt, check the second box. If your spouse owes money on debts incurred prior to the time you were married, or has separate debt, check the third box. If either you or your spouse owe money on any debts you or your spouse brought into the marriage, or have separate debt, describe the debts, and tell the court which debts you should pay and which debts your spouse should pay.

INFORMATION ABOUT TAX RETURNS:

7. **Tax Returns:** Decide what you want to do about any income tax refund. Check the box if you want income taxes to be paid as stated. If you have questions, you should see a lawyer, an accountant, and/or contact the Internal Revenue Service (IRS).

INFORMATION ABOUT SPOUSAL MAINTENANCE/SUPPORT (ALIMONY):

8. **Spousal Maintenance/Support (Alimony)** is the term used to describe money paid from one spouse to the other spouse as part of a divorce settlement. You may know the term as alimony or spousal maintenance. Spousal Maintenance/Support is designed as a safety net for a spouse who cannot provide for his/her needs or who meets other requirements listed on the Petition under paragraph 8. The idea behind spousal maintenance/support is that accomplishments during your marriage, including increases in earning potential and living standards, are shared, and earned, by **BOTH** parties to a marriage. Look at paragraph 8 to see if spousal maintenance/support applies to you or your spouse. If spousal maintenance/support applies, check the box that **most** applies to you. If none of the boxes apply, or you **do not want** spousal maintenance/support, go to paragraph 9. Check all the boxes that apply to your

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situation. **Spousal maintenance/support is paid separately from child support and is NOT a substitute for child support.**

INFORMATION ABOUT PREGNANCY:

9. **Pregnancy.** If the wife **IS NOT** pregnant at this time, check the first box and go on. If the wife **IS** pregnant, check the second box. Fill out the date the baby is due, and fill in any information regarding the parents of the unborn child. **WARNING**. If the Petitioner and the Respondent are the parents of the unborn child, **STOP**. You must file a ***"Petition for Dissolution of a Non-Covenant Marriage (Divorce) With Children."***

OTHER STATEMENTS TO THE COURT: You are telling the court that you believe the following statements are true:

- Your marriage is irretrievably broken. This means that your marriage is over and you **do not** believe you can get back with your spouse.
- The conciliation requirements **do not** apply or have been met. This means that you **do not** think marriage counseling through the court will help you get back with your spouse.

REQUESTS TO THE COURT: This section requests that the court grant you and your spouse a divorce and tells the court other requests you are making:

A. **DISSOLUTION (DIVORCE).** This is your request to end your marriage by a Divorce (Dissolution of Marriage).

B. **NAMES.** Check this box if you want to use your maiden or former name. Write in your maiden name or former last name in the space provided. If you are **not** the person requesting to have your former name restored, the court must have a written request from the party who wants his/her name restored in order to change the name.

C. **SPOUSAL MAINTENANCE/SUPPORT.** 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. Check the first box if **YOU** (the Petitioner) will be paying spousal maintenance/support. Check the second box if **YOUR SPOUSE** (the Respondent) will be, or should be, paying spousal maintenance/support. If you or your spouse should not pay spousal maintenance/support, **do not** check either box, and GO ON. (You can check a box **only** if you checked the same box in the spousal maintenance/support section, paragraph 8.) 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 party who will be paying this money. Spousal maintenance/support is **not** a substitute for child support.

D. **COMMUNITY PROPERTY.** This tells the court that your division of the property is fair, and that the court should divide the property as requested by you in your Petition.

E. **COMMUNITY DEBT.** This tells the court that your division of the debt is fair, and that the court should divide the debts as requested by you in your Petition. **IF YOU HAVE BEEN SEPARATED FROM YOUR SPOUSE FOR ENOUGH TIME THAT YOU OR YOUR SPOUSE MAY HAVE ADDITIONAL DEBTS, WRITE THE DATE OF SEPARATION ON THE LINE PROVIDED IF YOU WANT EACH SPOUSE TO PAY THE DEBTS INCURRED AFTER YOU SEPARATED.**

F. **SEPARATE PROPERTY.** This states that you will keep the property you owned before the marriage and/or after the Respondent was served with the Petition for Dissolution and that your spouse will keep the property he/she owned before the marriage and/or after the Respondent was served with the Petition for Dissolution.

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G. **OTHER ORDERS.** Tell the court anything else you may want ordered that has not been covered in your Petition.

OATH AND VERIFICATION OF PETITIONER:

Sign this form in front of a notary public. By doing so, you are telling the court that everything contained in the Petition for Dissolution is true.

NOTICE OF RIGHT TO CONVERT HEALTH INSURANCE:

This is an important document that explains what to do about health care coverage for yourself and your children. Read it carefully, and be sure a copy is served with the other divorce papers on your spouse.

NOTICE REGARDING CREDITORS:

This is an important document that tells you and your spouse that you are **both** responsible for community debts to creditors **even though the court order or decree says that only one of you (either you or your spouse) are responsible**. This notice must be served on your spouse. In addition, read this notice to find out how to obtain information from your creditors about account balances.

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PROCEDURES:
HOW TO FILE DIVORCE PAPERS WITH THE COURT

STEP 1: MAKE 2 COPIES OF THE FOLLOWING DOCUMENTS ONCE YOU HAVE FILLED THEM OUT:

- ✓ ***"Summons"***
- ✓ ***"Preliminary Injunction"***
- ✓ ***"Petition for Dissolution of Marriage (Divorce) Without Children"***
- ✓ ***"Notice of Right to Convert Health Insurance"***
- ✓ ***"Notice Regarding Creditors"***

STEP 2: SEPARATE YOUR DOCUMENTS INTO THREE (3) SETS:

SET 1 - ORIGINALS:	SET 2 – COPIES FOR SPOUSE:
• ***"Family Court Cover Sheet"*** • ***"Summons"*** • ***"Preliminary Injunction"*** • ***"Petition for Dissolution of Marriage (Divorce) Without Children"*** • ***"Notice of Right to Convert Health Insurance"*** • ***"Notice Regarding Creditors"***	• ***"Summons"*** • ***"Preliminary Injunction"*** • ***"Petition for Dissolution of Marriage (Divorce) Without Children"*** • ***"Notice of Right to Convert Health Insurance"*** ***"Notice Regarding Creditors"***
	SET 3 – *COPIES FOR YOU:* • ***"Summons"*** • ***"Preliminary Injunction"*** • ***"Petition for Dissolution of Marriage (Divorce) Without Children"*** • ***"Notice of Right to Convert Health Insurance"*** • ***"Notice Regarding Creditors"***

STEP 3: FILE THE PAPERS AT THE COURT:

GO TO: **GO TO THE COURT TO FILE YOUR PAPERS:** The Court is open from 8am-5pm, Monday-Friday. **You should go to the Court at least two hours before it closes**. You may file your court papers at the following Superior Court locations:

The Clerk of the Superior Court Central Court Building 201 West Jefferson, 1st floor Phoenix, Arizona 85003	The Clerk of the Superior Court Southeast Court Complex 222 East Javelina Drive, 1st floor Mesa, Arizona 85210	The Clerk of the Superior Court Northwest Court Complex 14264 West Tierra Buena Lane Surprise, Arizona 85374

FILE: Go to the Clerk of the Court filing counter to file your documents.

FEES: There is a filing fee and service fees for all petitions. If you think you are entitled to a fee waiver or deferral, you may request a waiver or deferral of the filing fees (and the Sheriff's service fees if you intend to use the Sheriff's office for service) at the time you file your papers with the Clerk of the Court. The Self-Service Center and the Filing Counter have the waiver or deferral forms.

PAPERS: Hand all three **(3)** sets of your court papers to the clerk along with cash, check or a money order for the filing fee of $236.00.

MAKE SURE YOU GET BACK THE FOLLOWING FROM THE CLERK:

- Your Set of Copies
- Your Spouse's Set of Copies

STEP 4: **Read the packet called "Service of Court Papers" that applies to your situation at the Self-Service Center to find out how to serve the other party.**

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