SELF-SERVICE CENTER

INSTRUCTIONS: HOW TO FILL OUT PAPERS FOR DISSOLUTION OF A NON-COVENANT MARRIAGE (DIVORCE) WITH MINOR CHILDREN

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 children **and/or** verbal abuse used to control 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 on the form where you are asked for this information. You must tell the Clerk of the Court your address and phone number as soon as possible so the court can get in touch with you. The court will keep your address protected.

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FAMILY COURT / SENSITIVE DATA COVER SHEET
(All Forms: TYPE OR PRINT IN BLACK INK)

- **Write in the information requested about petitioner, respondent, and any children under the age of 18.**
- **DO NOT INCLUDE MAILING ADDRESS ON THIS FORM IF REQUESTING ADDRESS PROTECTION.**
- **Case Type: Mark only one box that matches the legal procedure for which you are filing the documents in this packet: [x] Dissolution (Divorce).**
- **Interpreter: Check "yes" or "no" to indicate whether an interpreter is needed. If "yes", write in what language(s).**
- **No additional copies needed. Do NOT serve this document on the other party.**

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; 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 your minor child(ren) that are common to you and your spouse. If you are represented by an attorney, write in the attorney's bar number. Tell the court whether you represent yourself or are represented by an attorney. DO NOT fill out the rest of the form except on Page 2 of the Preliminary Injunction, fill out the description of other party. The Clerk of Court will complete it later.

"PETITION FOR DISSOLUTION OF A NON-COVENANT MARRIAGE (DIVORCE) WITH MINOR CHILDREN"

A. Use this form **ONLY** if you are getting a divorce and there are children under the age of 18 years involved who are common to you and your spouse, and you have a non-covenant marriage. Arizona laws regarding "covenant" marriages went into effect August 21, 1998. See ARS §25-901. If you have a covenant marriage, you and your spouse were asked to sign an affidavit that included a statement similar to this: "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 regarding covenant marriages and we promise to love, honor and care for one another as husband and wife for the rest of our lives." (This paperwork will **not** work if you have a

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covenant marriage. If you have questions about whether you have a "covenant" marriage, look at your marriage license and/or see a lawyer for help.) Make sure your form is titled ***"Petition for Dissolution of Non-Covenant Marriage (Divorce) With 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 and the attorney bar number if you are represented by an attorney. Then check the box to say whether you are represented or not. If an attorney represents you, write in your name in the space after "Attorney for."

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 the space for Case No. _____ blank. When you file your papers, you will receive a case number.

STATEMENTS MADE TO THE COURT, UNDER OATH OR BY AFFIRMATION:

1. **INFORMATION ABOUT ME, THE PETITIONER.** Fill in your name, address (**if not protected**), date of birth, occupation, and length of time in Arizona.

2. **INFORMATION ABOUT MY SPOUSE, THE RESPONDENT.** Fill in your spouse's name, address, (if you know it) date of birth, 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 601 West Jackson Street 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.

NEXT: Read the statements that follow the checkboxes. Check the box for each statement that is TRUE. If any statement is NOT true *or if you fail to check the box to indicate the statement is true*, your case may not proceed. If the fourth box (regarding custody) is not checked, the Court may not be able to enter orders regarding custody of the children.

Check the first box to indicate that you do <u>not</u> have a "covenant" marriage.*
Check the second box to indicate your marriage is irretrievably broken.*
Check the third box to indicate you have been to marital counseling – or that it would not help.*
Check the fourth box to indicate this court has the power to decide child custody issues.*

* **To have a "Covenant Marriage", both husband and wife would have had to:**

1. **sign papers requesting** to have a covenant marriage or to convert to a covenant marriage,
2. **attend pre-marital counseling** (unless converting an existing marriage to a covenant marriage, ***AND***
3. ***Your marriage license would say* "Covenant Marriage".**

If you still have questions about whether you have a "covenant" marriage, contact a lawyer for help.

"Irretrievably broken" means that your marriage is broken beyond repair and there is no chance of getting back together with your spouse.

"Power to decide custody." Generally, the children must have lived in Arizona for the past six (6) months, or since birth if younger than 6 months.

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4. **90-DAY REQUIREMENT.** Before you file for Divorce, this **MUST** be true. **IF IT IS NOT TRUE, YOU CANNOT FILE FOR DIVORCE** in Arizona until it becomes true.

5. **DOMESTIC VIOLENCE.** This tells the court if domestic violence was in the marriage, which affects a request for joint legal decision making (custody), (if you intend to ask for joint custody). If you are not sure what domestic violence means, see the "Domestic Violence" section on the first page of these instructions. Check the box that applies to your situation.

6. **CHILDREN COMMON TO THE PARTIES WHO ARE LESS THAN 18 YEARS OF AGE.** If there are no children under the age of 18 born to, or adopted by, you and your spouse, you should use the ***"Petition for Dissolution of a Non-Covenant Marriage - Without Minor Children"*** Packet. Otherwise, check the second box and provide the name, birth date and current home address including city, state, and zip code for each minor child born to, or adopted by, you and your spouse.

7. **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.

INFORMATION ABOUT PROPERTY AND DEBT: The information you give in paragraphs 8a through 9b 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 inheritance, all property gotten (acquired) during the marriage up until the time when the Respondent is served with the Petition for Dissolution is generally 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 up until the time the Respondent is served with the Petition for Dissolution, no matter who spent the money.**
- If you have questions, or have a lot of community property or debt, you should speak with an attorney **BEFORE** filing your Petition and other papers.

8.a **PROPERTY ACQUIRED DURING THE MARRIAGE. COMMUNITY PROPERTY.** If you and your spouse do not have any property from the marriage, check the first box. If you and your spouse 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, unless there are good reasons not to. 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 what 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. Use the brand name, model and serial numbers, where applicable.

Types of property:

a) **Real Property (property or home).** Check who you want to get the property. You can ask the court to give you the home, to give the home 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 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 description.

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A cemetery plot is considered real property.

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

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

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

e) **Pension/retirement fund/profit sharing/stock plans/401K.** You and your spouse each generally have an interest of up to 50% (one-half) of the other spouse's plan, for the number of years you were married. The longer the marriage, the greater your financial interest in your spouse's plan (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 court **do not** have Qualified Domestic Relations Order forms.

f) **Motor vehicles.** List the vehicle identification number, the year and make of the car (Ford, Honda) and the model (Mustang, Lumina).

8.b. **PROPERTY ACQUIRED BEFORE MARRIAGE. SEPARATE PROPERTY.** If you did not have 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 brought property into the marriage or acquired property after the Respondent was served with the Petition for Dissolution, 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. 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. You can use the brand name and model and serial numbers where applicable.

9.a **DEBTS INCURRED DURING THE MARRIAGE.** If you and your spouse do not owe money on any debts from the marriage, check the first box and go on. If you and your spouse owe money on any debts from the marriage, 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. Generally, the court will attempt to make a fair division of the debts. If you get property that has debt on it, you will probably also be given the debt. Ordering one person to pay all the debt is unusual. Think about what is a fair division of the debts before answering this question. Put enough information to identify each debt.

If you and your spouse have been separated and have acquired new debts on your own since the separation and before filing for divorce, you may want the court to order that each of you pay for any new debt after the date you separated. You can make this request on the last page of your Petition under Letter I, “Community Debts."

9.b. **SEPARATE DEBTS. DEBTS INCURRED PRIOR TO MARRIAGE.** If you and your spouse did not owe money on any debts before you were married, check the first box and GO ON. If you owed money on debts before you were married, check the second box. If your spouse owed money on debts before you were married, check the third box. If either you or your spouse owe money on any debts you or your spouse brought into the marriage, describe the debts, and tell the court which debts you should pay and which debts your spouse should pay.

10. **TAX RETURNS.** Decide what you want to do about any income tax refund. Check the box that applies to you. If you have questions about which box you can check, you should see a lawyer, an accountant, and/or contact the Internal Revenue Service (IRS).

11. **SPOUSAL MAINTENANCE /SUPPORT** 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. Spousal maintenance/ support is designed as a safety net for a spouse who cannot provide for his/her needs or who meets other

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requirements listed on the Petition under paragraph 11. 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 11 to see if spousal maintenance/support applies to you or your spouse. Check as many boxes as apply to your situation. Spousal maintenance/support is paid separately from child support and is **not** a substitute for, or a supplement to, child support.

12. WRITTEN LEGAL DECISION MAKING (CUSTODY) AGREEMENT. Check this box **ONLY** if you and your spouse have a written agreement regarding legal decision making, visitation and child support that **both** of you signed **BEFORE** you filed the ***"Petition for Dissolution of Marriage"***. If you have only discussed these issues and do **not** have a written agreement, do **NOT** check this box.

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

A. DISSOLUTION. This is your request to end your non-covenant marriage by a divorce.

B. NAMES. Write in this section only 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 who is requesting to have your former name restored, the court must have a written request from the party who wants his or her name restored in order to change the name.

C. PRIMARY RESIDENTIAL PARENT, PARENTING TIME, AND AUTHORITY FOR LEGAL DECISION MAKING (CUSTODY): If you want sole custody, check the box that applies, including the parenting time you are asking for. Tell the court whether you want custody of the minor child(ren) to go to you (the Petitioner) or your spouse (the Respondent).

C.1 PARENTING TIME: Check only one box. You can ask that the non-custodial parent (the parent having physical custody of the minor child less than 50% of the time) have one of the following types of parenting time. (If you want to know more about custody and parenting time, refer to "**Planning for Parenting Time: Arizona's Guide for Parents Living Apart**". The ***Guide*** is available for purchase at all Superior Court Self-Service Center locations, **or** may be viewed online and downloaded for **free** from the state courts' web page at: **http://azcourts.gov/Portals/31/ParentingTime/PPWguidelines.pdf**

Reasonable parenting time. This suggests an amount of parenting time appropriate to the age of the child(ren). The court offers suggested amounts of parenting time, but the amount can vary by agreement of both parents.

Supervised parenting time to the non-primary residential parent. You should request supervised parenting time if the non-primary residential parent cannot adequately care for the minor child(ren) without another person present. You may request this if the parent whose home is not the primary residence has a problem with drugs or alcohol; is violent or abusive; or does not have the parenting skills to care for the minor child(ren) without another adult present. Remember, supervised parenting time is not intended to punish the parent, but to protect the minor child(ren).

No parenting time to the non-primary residential parent. You should mark this option only if the non-primary residential parent has seriously harmed, abused, or otherwise is a serious danger to the minor child(ren)'s physical and/or emotional health, or if there is a criminal court order stating no contact between the minor child and the parent whose home is not the primary residence of the children. You may use this as a last resort to protect the minor child.

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C.2. **LEGAL DECISION MAKING** (CUSTODY)**:** Award legal decision making (custody) concerning the child(ren) as follows:.

☐ **AWARD SOLE LEGAL DECISION-MAKING to**: ☐ **Mother** ☐ **Father**

OR

☐ **AWARD JOINT LEGAL DECISION MAKING to BOTH PARENTS.** Mother and Father will agree to act as joint legal decision makers concerning the minor child(ren) and will submit a Parenting Plan and Joint Legal Decision Making Agreement signed by the both parties.

(For the court to order joint legal decision making, there must have been no "significant" domestic violence or find it in the best interests of the child(ren) despite any such violence according to Arizona law, A.R.S. § 25-403.03)

D. **CHILD SUPPORT:** Tell the court who you think should pay child support. The person who has sole legal decision making (sole custody) of the minor child(ren), **or** who has physical care of the minor child(ren) more than 50% of the time, is the person who should receive the support. The other spouse, often called the "non-custodial" parent, must pay the support. The income of the parties generally determines the amount of the support according to the child support guidelines. Check only one box.

E. **INSURANCE AND HEALTH CARE EXPENSES FOR MINOR CHILDREN:** Check only one box. Tell the court which parent should provide insurance for the minor children. Whichever parent has the most affordable insurance plan available through work, generally should pay for insurance. Adjustments can be made to child support to reflect the costs of insurance for the children.

F. **TAX EXEMPTION.** Decide how you and your spouse will declare the tax dependency exemptions, for which child(ren), for which years. Federal Tax law also determines this for you. If you are not sure, see a lawyer and/or an accountant for help.

G. **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. You can check a box **only if** you checked the same box in the spousal maintenance/support section on page 5, paragraph 11.
If you believe **neither** you nor your spouse should pay spousal maintenance: Do **not** check a box; Proceed to next section. **Check the first box if YOU** (the Petitioner) will be paying spousal maintenance. Check the second box if **YOUR SPOUSE** (the Respondent) will be paying. If you request spousal maintenance, 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 paying this money.

Spousal maintenance is not a substitute for, or a supplement to, court ordered child support.

H. **COMMUNITY PROPERTY.** This tells the court that your division of the property is fair.

I. **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 long enough that you or your spouse may have additional debts, write down the date of your separation on the line provided if you want each spouse to pay his/her debts incurred after you separated.

J. **SEPARATE PROPERTY and DEBTS.** This states that you will keep the property you owned before the marriage and that your spouse will keep the property he/she owned before the marriage. It also says that you will pay your separate debts and your spouse will pay his/her separate debts.

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

OATH OR AFFIRMATION AND VERIFICATION OF PETITIONER: Sign this form in front of a Clerk of the Superior Court or a notary public. By doing so, you are telling the Court that everything contained in the Petition is true, under penalty of perjury.

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 minor child(ren). Read it carefully, and be sure a copy is served on your spouse, along with the other divorce papers.

AFFIDAVIT REGARDING MINOR CHILDREN: You must complete this document. Fill in the information completely and to the best of your knowledge.

ORDER and NOTICE REGARDING THE PARENT INFORMATION PROGRAM: This is an important document. You and the other parent must attend and complete a class in the Parent Information Program. This is a very exciting and wonderful class. It was designed to help you. The purpose of the Parent Information Program is to give parents information about the impacts that divorce, the changes in the family unit, and court involvement have on minor children involved in a divorce, paternity, or custody case. This Notice applies to **all** parents who file an action for dissolution of marriage or legal separation, or any paternity proceeding, in which a party has requested that the court determine custody, parenting time or support, and to all other domestic relations cases if ordered by the court. **Make sure you read this order and notice and serve the other party with it.**

NOTICE REGARDING CREDITORS: This is an important document that tells you and your spouse that you are 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.

OTHER IMPORTANT PAPERS IN THIS PACKET: Before you get an order from the Judge you must complete the court papers on what you want the Judge to order about child custody and parenting time, and for child support. The court papers you need, with guidelines and/or instructions, are included in packet four, the court order packet. These court forms, and those prepared by the other party, are what the Judge will use when it is time to sign the order about legal decision making (custody), parenting time and support. You can complete the papers about legal decision making, parenting time and support now, and serve or provide copies to the other party. Or, you can complete the papers before the final court hearing date. The online child support calculator at: http://www.azcourts.gov/familylaw/childsupportcalculator.aspx will perform the child support calculations for you and produce a neat, legible Parents Worksheet for Child Support and Child Support Order as well.

You may also call 602-506-3762 for an appointment for assistance (in English or Spanish) at the Phoenix courthouse. Ask for the "Calculations Department". There is a FEE for this service.

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