SELF SERVICE CENTER

INSTRUCTIONS: HOW TO RESPOND TO A PETITION FOR LEGAL SEPARATION WITHOUT MINOR CHILDREN

COMPLETING YOUR WRITTEN RESPONSE TO THE PETITION:

STEP INSTRUCTION

A Type or print with **black ink** only.

B Complete the ***"Sensitive Data Sheet"*** (Do **NOT** copy or provide this document to the other party).

C Make sure your form is titled ***"RESPONSE TO PETITION FOR LEGAL SEPARATION WITHOUT MINOR CHILDREN."***

D 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. Then state whether you are representing yourself or whether an attorney represents you.

E Fill in the name of Petitioner and Respondent exactly the same way as it looks on the Petition. Do this for every document you file with the court regarding this case from now on.

F Use the case number that is stamped in the upper right-hand corner of the Petition. Do this for all documents you file with the court regarding this case from now on.

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STATEMENTS MADE TO THE COURT UNDER OATH OR AFFIRMATION:

GENERAL INFORMATION:

1. **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. **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. **ABOUT OUR 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.

4. **ABOUT THE LEGAL SEPARATION.** Check one box only to tell the Judge that you want to be legally separated, or that you do not want to be legally separated but that you want to be divorced. If you or your spouse have lived in Arizona for more than 90 days prior to filing the Petition for Legal Separation, the judge has the discretion to change the Petition for Legal Separation to a Petition for Dissolution of Marriage (Divorce) if one of the parties believes the marriage is over and wants a divorce instead of a legal separation.

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,

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regardless of who uses the property or who actually paid the money. Unless property was a gift or inheritance, all property gotten during the marriage is community property, and both you and your spouse are entitled to a roughly equal share of this property. Community debts, likewise, belong to both people, regardless of 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 other papers.

It is very important that you be specific in your responses about the property and debt. Describe the property and debt that should go to or be paid by you in detail and describe the property and debt that should go to or be paid by your spouse in detail. Never list an item and check both the Petitioner and the Respondent box.

5a **COMMUNITY PROPERTY.** If you and your spouse do not have any community property from the marriage, mark the first box. If you had 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 to. Realize that it is unlikely that the court will give most or all of the property to either spouse, so try to put some thought into what you think would be a fair split 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.

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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 items (explain).** List the things that you specifically want to go to one person or another that have not already been listed.

e) **Pension/retirement fund/profit sharing/stock plan.** You and your spouse each generally have a right to a one-half interest in any spouse'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. To find out what the actual cash value and present day value of the pension plan is, you may want to consult with an accountant experienced in valuing pension plans.

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

5b **SEPARATE PROPERTY.** If you do not have any separate property, mark the first box. If your spouse does not have any separate property, mark the second box. If you have separate property, check the third box. If your spouse has separate property, check the fourth box. Then describe the property and who should get the property. Separate property is usually property an individual had prior to the marriage. Separate property also includes gifts, devises, and inheritances. There are other times that property can be separate property so it is always a good idea to talk to a lawyer before you fill out any court papers.

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 have debt, 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.

If you and your spouse have been separated and have acquired new debts on your own before filing for legal separation or divorce, you may want the court to Order that each of you pay for any new debts you have gotten after the date you separated. You can make this request on the page of your Response under “Community Debts."

6b **SEPARATE DEBTS**. If you and your spouse do not have separate debt, check the first box. If you have separate debt, check the second box. If your spouse has separate debt, check the third box. Then describe the debt and who should pay for it. Separate debt is usually debt acquired prior to the marriage.

7. **TAX RETURNS.** Mark this box if this is how you want to handle income tax refunds. If you want some other arrangement, write that in instead. It is always a good idea to talk to a lawyer and an accountant about your taxes.

8. **SPOUSAL MAINTENANCE/SUPPORT.** Spousal maintenance/support is the term used to describe money paid from one spouse to the other spouse as part of a Divorce or Legal Separation 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 or 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 a marriage. Look at the list of boxes to see if any of these 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 or that spousal maintenance/support not be awarded at all. Mark as many boxes as apply to your situation. If none apply, go on with the form. **Spousal maintenance/ support is paid separate from child support and is NOT a substitute for or supplement to child support.**

9. **PREGNANCY.** Check the box that tells the Judge whether the wife is pregnant or not and fill in the information requested if wife is pregnant.

10. **SUMMARY.** Since you are responding to what your spouse asked for in the Petition, you should summarize what you want that is different than what your spouse wants.

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11. **CONCILIATION**. Here you must state that the conciliation requirements under Arizona law, A.R.S. 25-381.09 do not apply or have been met. The court has a service called Conciliation. Conciliation allows you to meet with trained professionals to resolve the issues of your marriage or the issues in dispute. You must agree that conciliation would not be helpful to you and your spouse, or that you have gone to conciliation.

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

REQUESTS TO THE COURT: This section of the Response formally requests that the court grant or not grant you and your spouse the legal separation, and tells the court other requests you are making:

A **LEGALLY SEPARATE OR CHANGE TO DIVORCE.** This is your request to be legally separated from your spouse, or if you do not want to be legally separated, but want a divorce from your spouse instead. See a lawyer for help on this, if you are not sure.

B **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 based on the receiving party's need and the income of the spouse paying this money. Remember, spousal maintenance/support is not a substitute for, or supplement to, child support that may be ordered.

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

D **COMMUNITY DEBT.** This tells the court that your requested division of the debts is fair, and that the court should divide the debts as requested by you in your Response. 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 of you to pay the debts you caused after you separated.

E **SEPARATE PROPERTY AND DEBT**. This states you want you and your spouse to keep property you each owned before you were married or that is separate property, and to pay debt that was acquired before you were married or that is separate debt.

F **OTHER ORDERS.** Tell the court anything else you may want Ordered in your Legal Separation that has not been covered elsewhere in your Response.

OATH OR AFFIRMATION : Sign this form in front of a notary. By doing so you are telling the court that everything contained in the Response to Petition for Legal Separation is true.

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