

# DISSOLUTION OF MARRIAGE

## NO CHILDREN

## PUBLICATION

(Packet #21)

### USE THIS PACKET IF:

- 1) YOU ARE MARRIED AND ARE SEEKING A DIVORCE, and
- 2) NO CHILDREN HAVE BEEN BORN TO THE WIFE DURING THE MARRIAGE (even if they are not the Husband's children), or ALL OF THE CHILDREN BORN DURING THE MARRIAGE ARE OVER 18 AND ARE NOT DEPENDENT, and
- 3) YOUR SPOUSE LIVES OUT OF STATE OR IN ANOTHER COUNTRY or CANNOT BE FOUND AFTER A DILIGENT SEARCH.

**Marriage is a legal relationship. A court case (lawsuit) must be filed to end a marriage. If you choose to represent yourself (*pro se*) in your divorce, you should be aware that you will be required to follow the same rules that are required in cases filed by persons represented by attorneys. The judge assigned to your case is not necessarily required to grant what you request in a form. If you do not like the outcome of your case, you may not be able to change it. If you have any questions or concerns about your case, you should consult with an attorney.**

If you do not know an attorney, you may call the Lawyer Referral Service at 221-7780. If you do not have the money to hire an attorney, you may apply to Bay Area Legal Services by calling 232-1343. You may also obtain legal information at the Legal Information Center at the George Edgecomb Courthouse (call 864-2280 for hours and information).

All instructions and forms distributed by the Thirteenth Judicial Circuit are provided merely as a public service to persons seeking to represent themselves in court without the assistance of an attorney. These documents are meant to serve as a guide only, and to assist *pro se* (self-represented) litigants with their cases. The Thirteenth Judicial Circuit does not guarantee that either the instructions or the forms will achieve the result desired by the parties or ensure that any individual judge will follow the procedures exactly or accept each and every form as drafted. Any person using these instructions and/or forms does so at his or her own risk, and the Thirteenth Judicial Circuit shall not be responsible for any losses incurred by any person in reliance on the instructions and/or forms.

**In no event will the Florida Supreme Court, The Florida Bar, or anyone contributing to the production of these forms, commentary, instructions, and appendices be liable for any direct, indirect, or consequential damages from their use.**

<b><u>FORMS CONTAINED IN THIS PACKET</u></b>	<b><u>FORM #</u></b>	<b><u>WHEN TO USE</u></b>
<a href="#"><u>General Information for Self-Represented Litigants</u></a>	Appendix C	For your information only
<a href="#"><u>12 Rules of Courtroom Civility</u></a>	12 Rules	Required to start case
<a href="#"><u>Nonlawyer Disclosure</u></a>	12.900(a)	Required if someone who is not a lawyer helps you with the forms
<a href="#"><u>Civil Cover Sheet</u></a>	12.928	Required to start case
<a href="#"><u>Petition for Dissolution of Marriage</u></a>	12.901(b)(2)	Required to start case
<a href="#"><u>Financial Affidavit - Short Form</u></a>	12.902(b)	Required if your income is less than \$50,000/year
<a href="#"><u>Financial Affidavit - Long Form</u></a>	12.902(c)	Required if your income is more than \$50,000/year
<a href="#"><u>Affidavit of Corroborating Witness</u></a>	12.902(i)	Required if you cannot prove your 6-month Florida residency with a current Driver's License, FL State ID, or Voter ID – cannot be signed before the date you file your case
<a href="#"><u>Notice of Social Security Number</u></a>	12.902(j)	Required to start case
<a href="#"><u>Notice of Action for Dissolution of Marriage</u></a>	12.913(a)	Required to start case
<a href="#"><u>Affidavit of Diligent Search and Inquiry</u></a>	12.913(b)	Required to start case
<a href="#"><u>Notice of Related Cases</u></a>	12.900(h)	Required
<a href="#"><u>Nonmilitary Affidavit</u></a>	12.912(b)	Use only if the other party is NOT in the military and they do not file an answer
<a href="#"><u>Motion for Default</u></a>	12.922(a)	Use if no answer is filed within 20 days after service
<a href="#"><u>Default</u></a>	12.922(b)	Use if no answer is filed within 20 days after service
<a href="#"><u>Fee Schedule for Family Law Cases</u></a>	Fee	A schedule of fees for Family Law related cases
<a href="#"><u>Office of Vital Statistics DH513</u></a>	DH513	This form must be completed for submittal to the Office of Vital Statistics
<a href="#"><u>Notice of Confidential Information Within Court Filing</u></a>	2.40(d)(2)	Use to notify the clerk of documents containing confidential information

# STEP BY STEP INSTRUCTIONS

## **STEP ONE - Complete the forms to start the case and have them notarized**

- 1) **FORMS MUST BE COMPLETED AND SIGNED IN BLACK INK AND MOST MUST BE NOTARIZED.** The clerk's office will notarize documents and charge a fee (see attached schedule). Please bring a valid ID.
- 2) **Names must be written the same way on all documents (no full names on one document and initials on another).**
- 3) **Complete the following forms and notarize the ones with a notary signature line:**
  - A) Civil cover sheet - (does not need to be notarized)
  - B) 12 Rules of Courtroom Civility - (does not need to be notarized)
  - C) Petition for Dissolution of Marriage, Form 12.901(b)(2)
  - D) Financial Affidavit
    - Short form, Form 12.902(b), if you make \$50,000/year or less
    - or**
    - Regular form, Form 12.902(c), if you make more than \$50,000/year
  - E) Notice of Social Security Number, Form 12.902(j)
  - F) Proof that you have been a Florida resident for at least the last 6 months
    - Affidavit of Corroborating Witness, Form 12.902(i) (cannot be signed before the date you file your case)
    - or**
    - Current Florida Driver's license indicating you have been a Florida resident for at least the last 6 months
    - or**
    - Current Florida ID card indicating you have been a Florida resident for at least the last 6 months
    - or**
    - Current voter's registration card indicating you have been a Florida resident for at least the last 6 months
  - G) Notice of Action for Dissolution of Marriage, Form 12.913(a) - (needs to be signed by the clerk, not by you)
  - H) Affidavit of Diligent Search and Inquiry, Form 12.913(b)
  - I) Notice of Related Cases, Form 12.900(h)
  - J) DH513 form for the Office of Vital Statistics to be filed with the Clerk.

## **STEP TWO – Make copies**

After you have completed the forms and have signed and notarized them, make at least 1 complete copy of everything you have signed and a copy of your Driver's License. Copies can be obtained for a fee in the Court Business Center, on the 6<sup>th</sup> floor of the George Edgecomb Courthouse. You may also purchase copies for \$0.15 per page, before filing your case, from the Family Law Intake staff in room 101.

## **STEP THREE - Filing your case**

- 1) Take the *original* set of completed and signed forms to the clerk on the 1<sup>st</sup> floor of the main courthouse and pay the filing fee. The clerk will assign a case number and division.
- 2) Notice of Action: The clerk will sign the Notice of Action and give it back to you.

#### **STEP FOUR – Notifying your spouse**

NOTICE OF ACTION – Take the Notice to the Hillsborough County newspaper in which it will be published and pay the fee for publication. A legal notice will run in the newspaper once a week for four consecutive weeks. The cost varies with the newspaper you choose. If you have filed an Application for Civil Indigency and the clerk has marked that you are indigent, the clerk will post the Notice of Action in the courthouse and you do not have to pay to have it published in a newspaper.

#### **STEP FIVE – Obtain proof of service**

NOTICE OF ACTION – The newspaper (or the clerk, if your notice was posted) should provide you with a copy of the ad. Tape the ad to a blank piece of paper. Write your name, your spouse’s name, and your case number at the top of the paper. File this with the clerk.

#### **STEP SIX – Check for answer / default**

- 1) Call the Clerk of the Circuit Court (276-8100 ext. 4358) after the date listed on the Notice of Action to see if your spouse filed an answer.
- 2) If no answer was filed and your spouse is not in the military, complete the following forms: Nonmilitary Affidavit - Form 12.912(b), Motion for Default - Form 12.922(a), and a Default - Form 12.922(b). Take the Nonmilitary Affidavit, Motion for Default, Default, and your proof of publication to the clerk.
- 3) If no answer was filed and your spouse is in the military STOP HERE and consult an attorney.
- 4) If an answer was filed, obtain a copy in Room 101 of the courthouse (if your spouse did not send you a copy).
- 5) If your spouse filed a counterpetition, you have 20 days to file a written answer to the counterpetition. You can use Form 12.903(d) – Answer to Counterpetition. File the original with the clerk, send a copy to your spouse, and keep a copy for your records.

#### **STEP SEVEN – Mediation** (only if your spouse files an answer denying any allegations or files a counterpetition)

If your spouse filed an answer and disputes any of the allegations in your petition, you and your spouse will need to go to mediation to see if the disputed issue(s) can be resolved. Call the Mediation and Diversion office at 813-272-5642 and ask them to schedule a mediation date. If your spouse does not contact the mediation department or the issue(s) cannot be resolved in mediation, the final hearing will be set on the judge’s contested docket.

#### **STEP EIGHT – Preparing your case / gathering evidence** (if you and your spouse do not agree and your case is contested)

If your spouse is contesting issues in your divorce, you will need to be prepared to present evidence to the judge which supports your position(s). Gathering evidence is called “discovery.” Discovery is governed by Florida Family Law Rules of Procedure 12.280 – 12.410 and Florida Rules of Civil Procedure 1.280 – 1.410.

Some discovery methods are:

1. Interrogatories – written questions you send to your spouse. See Forms 12.930(a), Notice of Service of Standard Family Law Interrogatories, and 12.930(b), Standard Family Law Interrogatories for Original Proceedings, and their instructions.
2. Notice of Production from Non-Party/Subpoena – a request to someone who is not a party in the case (not your spouse) to provide copies of documents to you or to produce documents to be copied by you. See Forms 12.931(a), Notice of Production from Non-Party, and 12.931(b), Subpoena for Production of Documents, and their instructions.
3. Depositions – taking someone’s testimony (a party or non-party) under oath before a court reporter.
4. Request for Production of Documents and Things – a written request that your spouse provide specified documents or things for you to copy or examine. See Florida Rule of Civil Procedure 1.350.

Not all evidence can be considered by the judge. Evidence must conform to the Rules of Evidence in Chapter 90 of the Florida Statutes to be admissible in court. The duty of establishing the facts that you want to present to the court, or the burden of proof, is on YOU. You should provide the judge with admissible evidence to support the claims in your petition and your statements in court.

## **STEP NINE – Scheduling the final hearing**

### IF YOUR SPOUSE DOES NOT HAVE AN ATTORNEY

1. Contact the Case Management Unit (813-272-5173) to schedule the final hearing.
2. You will be contacted by mail regarding a court date.

### IF YOUR SPOUSE IS REPRESENTED BY AN ATTORNEY

1. Contact the judicial assistant (J.A.) for the Judge to whom your case is assigned and ask the J.A. for 3 possible hearing dates and times.
2. Call the opposing attorney and ask which of those dates and times is best for him/her.
3. Call the J.A. and tell her which date and time you have chosen.
4. Complete a Notice of Hearing, Form 12.923 (not included), with the place, date, and time of the hearing.
5. Sign the Notice of Hearing and complete the Certificate of Service part of the notice which states the date you are filing the notice and how you are providing a copy to the opposing attorney.
6. Make 3 copies of the Notice of Hearing.
7. File the original Notice of Hearing with the clerk.
8. Give a copy of the Notice of Hearing to the J.A., send a copy of the notice to your spouse's attorney, and keep a copy of the notice for your records.

### COURT REPORTER?

If you want a court reporter for the hearing, you must arrange for this in advance and you must pay the court reporter's fee. If there is no record of the hearing and the judge rules against you, you may not be able to appeal the decision.

## **STEP TEN – The final hearing**

Normally the final hearing is when the divorce will be granted and all issues will be decided. If you do not go to the final hearing your case may be dismissed.

**HOW TO DRESS** - Dress appropriately. No shorts, tank tops, or sandals. Do not chew gum.

### WHAT TO BRING

- 1) Your proof of residency
- 2) All evidence you want the court to consider in deciding your case, if your case is contested
- 3) A stamped envelope addressed to your spouse, if he/she will not be attending the hearing

### WHAT TO EXPECT

The hearing will take place in a hearing room or a courtroom. You will not be in front of a jury, just the general magistrate or judge. Do not interrupt the magistrate or judge when he or she speaks. When speaking to the magistrate or judge, address him or her as "Your Honor" or "Judge."

Each court has at least one bailiff who is a deputy sheriff and is there to maintain order. When you arrive for your hearing, let the bailiff know that you are present and ready. He or she will announce your case when it is time for your hearing, and will tell you where to sit and where to place your belongings as you enter the hearing room. A bailiff will usually remain inside the room during your hearing. If witnesses are called, the bailiff will step out to bring the witness into the hearing room.

At your hearing, be prepared to discuss any issues covered in the petition (and the counterpetition, if one was filed) and be able to provide proof of any disputed facts by presenting evidence. Evidence is proof presented at a hearing in the form of witnesses (people), exhibits (documents), and objects (things). Not all evidence can be considered by the judge, however. Evidence must conform to the Rules of Evidence in Chapter 90 of the Florida Statutes to be admissible in court. Remember, the duty of establishing the facts that you want to present to the court is on YOU. You should provide the judge with admissible evidence to support the claims in your petition and your statements in court. Telling your story may not be enough to win your case.

Once both sides have presented their evidence, the judge will make a decision and sign your divorce judgment. The final judgment will contain all the details of your divorce and the court's decision, or will incorporate your Marital Settlement Agreement. Once the judge signs your divorce order, a copy will be given or mailed to you. The original order will go to the clerk's office to be recorded in the public records, and filed in your court file. When the judge signs the final judgment, your divorce will be final.

### **Family Forms and Packets - available for purchase at the Court Business Center**

#### **Form Packets with Instructions:**

- 1) Complete packets with all forms and self-help instructions are priced individually and available at the Court Business Center (CBC), in Room 630 (6th Floor) of the George Edgecomb Courthouse, 800 E. Twiggs Street, Tampa, Florida.
- 2) Free online at:
  - a) [www.fljud13.org/Portals/0/Forms/pdfs/family/packetList.pdf](http://www.fljud13.org/Portals/0/Forms/pdfs/family/packetList.pdf)
  - b) [www.hillsclerk.com/en/About-Us/Forms](http://www.hillsclerk.com/en/About-Us/Forms) → then click on "Family Law"

#### **Individual Forms (may not include necessary instructions):**

- 1) For \$.10 per page at the Court Business Center (CBC), in Room 630 (6th Floor) of the George Edgecomb Courthouse, 800 E. Twiggs Street, Tampa, Florida.
- 2) Free online at: [www.flcourts.org](http://www.flcourts.org) → then click on "Family Law Forms"

### **YOU MAY FILE FORMS AT THE FOLLOWING LOCATIONS:**

#### **Tampa - George Edgecomb Courthouse – Main Location**

Clerk of the Circuit Court, 800 E. Twiggs Street, Room 101, Tampa, FL 33602

#### **Brandon – Brandon Regional Service Center**

Clerk of the Circuit Court, 311 Pauls Drive, Suite 110, Brandon, FL 33511

#### **Plant City – Plant City Courthouse**

Clerk of the Circuit Court, 301 N. Michigan, Room 1071, Plant City, FL 33563

#### **Ruskin/Sun City – SouthShore Regional Service Center**

Clerk of the Circuit Court, 410 30th Street SE, Ruskin, FL 33570