

ONE YEAR SEPARATION DIVORCE PACKAGE

NOTICE

You are first advised to consult an attorney. The information provided in this package is not intended to be legal advice and you should not rely on it as such. The staff of the Circuit Court Clerk's Office and the judicial law clerks cannot assist you by answering legal questions or questions regarding what the law is or what your rights are, etc.

This package is provided as a guide if you should decide to represent yourself before the Court in your divorce action. **YOU** will be responsible for following the instructions. We take no responsibility beyond making this package available to you, and these examples may not be suitable for some situations. Please do not just submit every document in this packet. Read through carefully and submit only what applies to you and your situation.

This example package is **NOT** intended to be used as a fill-in the blank form. **You must type all your papers in the acceptable format.**

Clerk of the Circuit Court
Prince William County
Civil Division—Room 314
9311 Lee Avenue
Manassas, Virginia 20110-5598
(703) 792-6029

Revised: 4/30/20

GENERAL INFORMATION FOR ALL PRO SE DIVORCE SUITS

Virginia Code Section 20-91 (and following) and the Rules of the Virginia Supreme Court Practice and Procedure in Actions at Law Rule 3:1 (and following).

There are no specific forms to fill out to complete your divorce. You must prepare all documents. An expedited divorce process, called *Ore Tenus*, is available if both parties are in complete agreement as to getting a divorce. These expedited divorces are called “uncontested” divorces. If you have a contested divorce you cannot proceed by *ore tenus*. Instead, you must file all the same paperwork but after you file the paperwork you will need to schedule a Trial Date. To schedule a Trial Date you will need to file a praecipe stating your desire to set a “Motion to Set Date for Trial” on the Friday Motion’s Day Docket. If you must take this step -- after filing all of the preliminary paperwork -- please go the Clerk’s Office in person for instructions on how to place your case on the Motions Day Docket.

Additionally, the *Ore Tenus* docket is available only for divorces based on Virginia’s “no-fault” grounds of divorce. There are two “no-fault” grounds recognized in Virginia: (1) one year of continuous separation without cohabitation, and (2) *if and only if* the parties have no children, *and* a property settlement agreement, then only six months of continuous separation without cohabitation will suffice. For parties seeking a divorce based on only six months of separation, a property settlement agreement is required before you file for divorce, even if the parties are not seeking support payments and have no property together. Please see the six month divorce packet if you want to proceed on the ground of six month separation. The next page will explain in more detail the requirements for the ground of divorce you are seeking.

This packet is intended to help parties seeking a divorce based on continuous separation without cohabitation for one year. If you and your spouse have been separated for less than one year, you do not qualify for this ground of divorce, and you cannot file for divorce on this ground at this time. You may wish to review the six-month separation divorce packet to see if you qualify for that ground of divorce – be advised, the six-month ground of divorce includes additional criteria over and above merely having been separated for six months. Accordingly, if you have been separated for more than one year, it may be preferable to proceed on one-year separation, and continue to review this packet. Moreover, if you and your spouse are approaching a separation period of over one year, you may find it easier and faster to wait until you qualify based on a one year ground, rather than attempting to file immediately for a divorce based on six-months of separation.

If you have children or property, or if you are alleging fault by your spouse, you are best protected by hiring an attorney. Further, if you do not know the whereabouts of your spouse, or if he/she is in jail for committing a felony, you should hire an attorney. We cannot make recommendations for specific attorneys, but you may call the Virginia Lawyer’s Referral Service at 1-800-552-7977 or the Prince William County Bar Association at 703-393-2306 for referral to an attorney.

If you decide to proceed on your own, you will be expected to follow the same procedures as an attorney. **Please do not ask court personnel for legal advice or assistance. We are not attorneys and, therefore, are not permitted to give you legal advice.** The filing fee is \$86.00 and service fee is \$12.00. The process will take approximately three to four months if everything flows smoothly.

Each document you submit must be typed and double-spaced, on 8 ½ inch by 11 inch white paper, allowing proper margins in all directions. Each document submitted must contain your name, address, and a **daytime phone number**, and you must sign each document. Provide information specific to your situation and change the documents as necessary. If you submit materials which are lacking in either substance or form, you will be asked to correct and re-submit your documents. Each document must be submitted at the proper time. **Save electronic copies of all documents filed with the court and/or ask the Clerk's to make you a copy of all documents filed. Most people need to correct and resubmit the documents. Saving a copy will help you make the necessary changes and resubmit the documents more quickly.**

Before you begin, you may wish to review the appropriate divorce laws in the Virginia Code. The laws may be found at your local library, in the Law Library at the Judicial Center on the lower level, or online at: <http://leg1.state.va.us/000/src.htm>. A review of these laws may help you to understand the divorce process.

Send all mail to: Clerk of the Circuit Court, Civil Division, Room 314, 9311 Lee Avenue, Manassas, Virginia 20110-5598. If you bring documents in person, take them to Room 314.

If any of your pleadings or orders are incorrect, a Judicial Law Clerk will notify you. The Law Clerk **CANNOT** give you legal advice or help you with preparation of your documents. Once you are advised that you have a problem, it is your responsibility to correct it. You may wish to contact an attorney to correct the problem.

You will be representing yourself, “*pro se*” if you make the decision to move ahead and not hire an attorney. We cannot assist you beyond this handout and sample forms.

PREREQUISITES FOR DIVORCE BASED ON ONE YEAR SEPARATION

STEP ONE: The Complaint

Part A: Drafting the Complaint

As is indicated on every page of the examples below, **YOU** must type your Complaint. You cannot simply “fill in the blanks” or use a former divorce file and make a few changes. Instead, it is critical that you create a Complaint that is specific to your situation, and what you want. **It is your responsibility to read the Complaint before you file it, make sure it makes sense, is grammatically correct, and accurate, and if it is not, to make all the changes on a new copy before filing it with the Clerk’s Office.**

Your Complaint must “allege” specific grounds upon which a divorce may be granted. These allegations are listed in numbered paragraphs. Normally, these paragraphs are no more than two sentences in length, and, preferably, are only one sentence. These allegations are the Plaintiffs characterization of the facts of the case, and are, ultimately, the facts which the Plaintiff must prove to gain the relief sought (i.e. the Court granting you a divorce). It is essential that the allegations appear in complete sentences (*i.e.* are not fragments, and are not run-on sentences), and that they are grammatically correct. This way, everyone who reviews the Complaint can be clear about what happened. But most importantly, the allegations must be made in good faith, which means that they must be true. Keep in mind, it is a crime to make up facts and pass them off to the Court as true.

It is essential that you properly allege the necessary facts in your Complaint. This is because some of the allegations are “jurisdictional,” or necessary before the Court can even consider your case. Specifically, in order to obtain a divorce in Virginia, either you or your spouse must have been a bona fide resident and domiciliary of the Commonwealth of Virginia for at least six months prior to filing the suit. Therefore, you must include these facts as allegations in your Complaint. Refer to the Code of Virginia, Section 8.01-261(19) to determine the most proper circuit court in which to file your divorce.

Next, you must adequately allege your grounds of divorce. The two most common grounds are a six-month separation or a one-year separation. *This package provides information for a divorce based on a one year separation.* To be eligible for a divorce based on a one year separation, you must have been separated for the required amount of time **before** filing your suit, i.e., you must have been separated for at least one year before filing your Complaint. The date you and your spouse separated must be clearly alleged in your Complaint, by day, month and year. If you do not remember the exact day, you must use the last day of the month. The Code of Virginia does not require you to have a Property Settlement Agreement (“PSA”) before filing for a divorce based on a one year separation. However, it is strongly advised that you and your spouse enter into a PSA to resolve all your property and support issues. If you have a PSA, the Complaint must state that a PSA has been signed by both parties and, if you so desire, request that the PSA be incorporated, but not merged, into the Final Decree. The PSA should address **both** equitable distribution and spousal and child support, if relevant.

This PSA must be signed by both you and your spouse, and notarized. A sample PSA is included in this package for your reference. However, the sample PSA provided is only applicable to parties who have no children and have no real property to be divided. If you have children or property to divide, you must alter the sample PSA to reflect your agreements on those matters. We suggest you retain an attorney to help you write a PSA that adequately protects your interests.

Matters regarding the children of the marriage, such as custody, support and/or visitation may be handled through the Intake Office of the Juvenile and Domestic Relations Court. The telephone number is 703-792-6210 in Manassas, or 703-792-7350 in Woodbridge. If you have already resolved these matters in the Juvenile and Domestic Relations Court, you do not need to address them again in your divorce proceeding, and you may **NOT** adopt or ratify an order from these Courts as part of the divorce. *It is best for pro se litigants to pursue matters concerning custody, support, and/or visitation in the Juvenile and Domestic Relations District Court. The Juvenile and Domestic Relations District Court is equipped to handle matters for parties without attorneys, and is normally the more cost-effective option. If matters of custody, visitation, and/or child support are asked for in the Complaint and ordered in your Final Decree of Divorce (“FDD”), you will be required to include a number of notices in your FDD which **must** be complete and correct. It will also prevent you from seeking to remedy future problems in Juvenile and Domestic Relations District Court without further action in the Circuit Court, which may be confusing, time consuming, or otherwise difficult.*

If you and your spouse have resolved all other issues besides your divorce by agreement, or if the issues have been resolved by prior Court order (perhaps in the Juvenile and Domestic Relations Court, as indicated above), your Complaint should state this fact as an allegation. (There are other examples in the materials below for other situations, like, for instance, prior resolution of issues relating to the children of the marriage by the Juvenile and Domestic Relations District Court.)

In addition to stating the grounds and residency requirements, the Complaint must also include allegations as to the current residence of the parties, the date and place of marriage, a statement that the parties are age 18 or older, are mentally competent, a statement of the parties’ military status, and the names and ages of your children, if any. If you are a party who changed your name as a result of marriage and you want your former name or maiden name restored, you **must** ask for it in the Complaint and submit a **separate** order changing your name. **DO NOT** include the name-change request in your Final Divorce Decree. Only a person who has changed his or her name may request this, i.e., a husband filing for divorce cannot ask to change his wife’s name. For other name changes, or for more information on name changes, please refer to the Name Change Packages available in the Clerk’s Office.

Finally, your Complaint should include a “Prayer for Relief” – or a section where you request the relief you are seeking from the Court (*i.e.* a divorce). The prayer should state not only that you seek a divorce. The prayer should state that you request a divorce based on a specific ground, or request a divorce pursuant to a specific section of the Code of Virginia (*i.e.* Virginia Code Section 20-91(A)(9)(a)). Furthermore, if you have a PSA and are requesting that

it be affirmed, ratified and incorporated, but not merged, into a Final Order of the Court, you should also include a paragraph that says so.

Part B: Filing the Complaint/Service of Process (Summons)

After you type your Complaint, print **three copies**. Submit your typed Complaint, plus one extra copy and a filing fee of \$86.00. **Keep the third copy for yourself**. If your spouse resides in Virginia, and you are having service done by a Sheriff's Department, you will need to pay an additional \$12.00 for serving the Complaint on your spouse, for a total of \$98.00. However, the Complaint does not have to be served through the Sheriff's office. See "Types of Service" below for additional information on service. If you are requesting service through the Sheriff's office, please allow a minimum of four weeks to have the service perfected.

Upon the filing of your case, you will receive a civil (CL) number. This is the number by which the Court refers to your case, and it **must** appear on all documents regarding your case. Write this number down and anytime you inquire with the court you should refer to your case using the CL number.

When you file your Complaint, the Clerk's Office will file-stamp your document, and in approximately one week, will prepare a Summons for your case. Once this has been done, the Clerk's Office will need to know how you wish to serve your spouse. You may advise us of your intentions by attaching a cover letter of instruction. There are several types of service you may want to consider:

Types of Service

1. **Sheriff's Department – State of Virginia.** Pay \$12.00, checks made payable to the Clerk of the Circuit Court. We will forward process papers to the Sheriff.
2. **Sheriff's Department – Out of State.** You will be responsible for contacting the Sheriff's Department of the County where the Defendant resides to obtain local regulations/fees for service. You must include a stamped, self-addressed envelope if you want process papers returned to you, or we can call you when these papers are ready and you may come to pick them up. You then need to forward the process papers for service and appropriate fees to the Sheriff.
7. **Acceptance of Service.** Your spouse may accept service of the Complaint by signing a notice of acceptance, in person before any Notary Public or in the Clerk's Office. The Acceptance of Service will traditionally also include a Waiver of Notice to all further proceedings in the case. The Acceptance and Waiver form is provided in this package. This is usually the fastest method of service. An Acceptance and Waiver form must be signed and dated under oath (in front of a Notary Public or a Circuit Court Clerk) by the Defendant. The Defendant's signing of an Acceptance and Waiver form does not exempt your spouse from signing the Final Divorce Decree.
3. **Order of Publication.** *You may only attempt this method if you cannot use*

any of the above types of service. If you do not have a current address for your spouse, you may attempt to use this method of service. This is often a difficult process and at this point you are **strongly** advised to consult an attorney. If you do decide to proceed on your own, consult the “Service by Publication” Package available in the Clerk’s Office. This form of service will severely delay your divorce.

If your spouse chose not to sign a waiver, you must wait at least 21 days from the date your spouse is served with the Complaint before proceeding to Step Two.

STEP TWO: Submitting the Final Order of Divorce and Requesting an *Ore Tenus* Hearing

Part A: Submitting the Final Order of Divorce

If you are proceeding on your divorce through an *ore tenus* hearing, you must wait to submit the FDD and VS-4 form until after your spouse signs an Acceptance and Waiver and signs the FDD, your spouse is personally served with the Complaint and you have waited 21 days, or a proof of publication has been filed with the Court.

The FDD must re-list all the basic information contained in the Complaint (*i.e. the allegations discussed in **STEP ONE** above*). This is essential because, if and when a Judge signs a Final Decree of Divorce, it becomes the language of the Court, and the Court thereby “finds” the allegations to have been proven. Without making certain of these findings, the Court is not permitted under Virginia law to divorce the parties.

Regarding minor children and spousal support:

- If you have any minor children and your FDD provides for child or spousal support, then your FDD must comply with Virginia Code Section 20-60.3.
- If the FDD contains provisions for child custody and/or visitation, it will need to comply with Virginia Code Section 20-124.5. It is discretionary whether or not to comply with Virginia Code Section 20-124.6.
- If you have minor children, but your FDD does not include a provision for child custody, support or visitation, you must include a statement that: “All issues relating to child support, custody and/or visitation, are not before this Court at this time.”
- The FDD **CANNOT** incorporate any order from the Juvenile and Domestic Relations Court.
- If you do not have any minor children and your FDD provides for spousal support, then your FDD must comply with Virginia Code Section 20-107.1(H).

The FDD must grant a divorce to only one party. The FDD must grant a divorce to the party who filed the Complaint, i.e., the Plaintiff. You must then sign the FDD or have your attorney do so, and submit it to the Clerk’s Office for entry by a Judge. If your spouse has signed a Waiver, he/she will not need notice of the *ore tenus* hearing, but your spouse will still need to sign the FDD. If your spouse will not sign the FDD, your divorce will be considered contested and you will need to serve him/her with a Notice to appear in Court on a Motions Day for the purpose of “Setting a Date For Trial”. If you must take this step, please go in-person to the Clerk’s Office for instructions on how to place your case on the Motions Day Docket.

STEP THREE: Requesting an *Ore Tenus* Hearing

In Prince William County, uncontested divorces may proceed by an *ore tenus* hearing before a Circuit Court judge. The *ore tenus* hearing requires testimony from the Plaintiff, and a corroborating witness. The corroborating witness must be someone who is over the age of 18 and otherwise competent to testify, who can show up on the date scheduled, which will be a Thursday, at 9:00am, and who is familiar enough with the circumstances of your marriage and separation to testify as to the facts alleged in your Complaint. This way, you can “prove” those allegations, and the judge can “find” the facts by signing the FDD. The corroborating witness can be a family member, as long as the person is over 18 and not your spouse.

Ore tenus hearings are scheduled on Thursdays at 9:00 a.m. These Thursday dates fill up quickly, so you may not be able to schedule a hearing date that is agreeable to you, your corroborating witness, and the Court until several months after making the request. To proceed by *ore tenus*, your divorce **must** be uncontested. Using this option, you will pay the filing fee of \$86.00 and any additional services fees. **Please note that the special *ore tenus* docket is ONLY available if there has been a waiver accompanied by a fully endorsed FDD, service by publication, personal service, the defendant has signed the Final Decree of Divorce, or other means as prescribed by Virginia Code. Otherwise, please proceed by scheduling a date for a trial on your divorce case via the Court’s regular scheduling procedures.** Also, if your divorce is a contested divorce, you may not use this *ore tenus* package and are strongly advised to consult an attorney.

To request an *ore tenus* hearing, submit a written request **along with** your FDD and the completed VS-4 form (Report of Divorce or Annulment) to Room 314 of the Circuit Court. The VS-4 form is a simple statistical form required by the State and is available in Room 314 of the Clerk’s Office. You must obtain an original form and it must be properly completed in black ink (typed or printed) and signed, and it must be in your file before your divorce can be finalized. You must include all the information requested on the VS-4 form, including your and your spouse’s middle names **AND** the legal ground for divorce, this should match the ground of divorce you included in your proposed FDD. If you or your spouse do not have a middle name, write the letters “NMN” where the middle name would otherwise be. Also, while the VS-4 allows for it, a divorce cannot be granted to both parties, so you must check party A in no. 26 (the Plaintiff is party A). **The VS-4 form should be completely filled out.** Failure to complete all boxes of the VS-4 form will result in a delay in your divorce and require you to submit a new VS-4 form. Also note that the grounds for divorce in the VS-4 form should be either 6 months separation or 12 months separation.

If you attach a stamped, return addressed envelope to your proposed FDD the Clerk’s Office will send you a copy of your FDD once the judge signs it. If you do not include a stamped, return addressed envelope to your proposed FDD you will need to come to the Clerk’s Office in-person to get a copy of the FDD signed by the judge. Further, if you would like the Clerk’s Office to send a copy to your spouse, you will need to include a second stamped envelope addressed to your spouse.

Upon receipt of a written request for an *ore tenus* hearing and submission of all required documents, a law clerk will review your file. After approximately 4-6 weeks you will either receive a letter from a law clerk or a call from the calendar clerk. If the law clerk sends you a letter it will be to detail any problems with your documents. Any documents you are required to re-submit must be hand-delivered or mailed to the Clerk's Office, Room 314. The Clerk's Office will ensure all FDD or VS-4s are directed to the correct law clerk. If you resubmit a document other than a FDD or VS-4 let the Clerk's Office know that the law clerk is expecting it. After all problems are resolved, you will be called by a calendar clerk to schedule an *ore tenus* hearing date.

A HEARING DATE WILL NOT BE SCHEDULED UNTIL APPROVAL BY A LAW CLERK. The law clerk cannot grant approval until **ALL** of your paperwork is complete and complies with Virginia law. Any mistakes or omissions in your paperwork will cause a delay in scheduling your *ore tenus* hearing. The Court will then place your case on a Thursday docket that is agreeable to both you and the Court. Remember that you should clear the dates you have available with your corroborating witness. Both you and the corroborating witness will need to be able to show up on the Thursday you schedule by 9:00am. Failure to do so can result in extreme delay.

At the *ore tenus* hearing itself, you must be prepared to present evidence to the court to support every allegation in your Complaint. The Judge will ask questions of you and your corroborating witness. Your witness can be anyone over the age of 18 even if that person is related to you. However, your witness cannot be your spouse. The hearing will start at 9:00am on a Thursday and you and your witness must arrive at least 10 minutes before for your hearing and immediately present the following to the deputy in the courtroom: your driver's license and your witness' driver's license.

Sample *Ore Tenus* Testimony for Plaintiff

1. My name is _____, and my address is _____.
2. I am the Plaintiff in this divorce action.
3. The Defendant and I were married on (date) in (city, state).
4. Both the Defendant and I are over 18 years of age.
5. I am / am not a member of the armed forces of the United States, and the Defendant is / is not a member of the armed forces of the United States.
6. The Defendant and I have not had or adopted any children – OR – The Defendant and I have (number) child(ren). Their / His / Her name(s) is / are _____, and their / his / her birthday(s) is / are _____.
8. I have been a resident of Virginia since _____, which was more than 6 months before I filed this action for divorce – OR – The Defendant has been a resident of Virginia since _____, which was more than 6 months before I filed this action for divorce. (must show proof)
9. The Defendant and I separated from each other on (date).
10. I / the Defendant intended the separation to be permanent on the day we separated, and I / the Defendant still intend the separation to be permanent.
11. Since the day we separated, the Defendant and I have lived separate and apart continuously without any cohabitation and without interruption.
12. There is no hope or probability that the Defendant and I will reconcile.
13. I ask that the Court grant me a final decree of divorce on the grounds of having lived separate and apart without any cohabitation and without interruption for a period in excess of 1 year / 6 months (choose the same grounds of divorce stated in your Complaint and Final Decree).

If you changed your name to match your spouse's name and want to change your name back to your maiden or former name, state the following:

13. I ask that the Court restore my maiden/former name.

If your proposed Final Decree of Divorce incorporates a PSA state the following:

14. [ask to see the Property Settlement Agreement from the court's file] This is the Agreement the Defendant and I entered into on (date on which it was last signed).
15. I affirm that this is my signature, and that this is the Defendant's signature.
16. This Agreement resolves all the issues pending before this Court.
17. I request that the Court affirm, ratify, and incorporate this Agreement into the Final Decree of Divorce.

Sample *Ore Tenus* Questions to Witness

1. Please state your name and current address.
2. Do you know the Plaintiff/Defendant in this divorce action?
3. How long have you known the Plaintiff/Defendant?
4. To the best of your information were Plaintiff and Defendant married on the date of _____ in the place of _____?
5. How long have the Plaintiff/Defendant lived in Virginia and considered Virginia their home?
6. Are the Plaintiff/Defendant residents and domiciliaries of the Commonwealth of Virginia, and have they been residents and domiciliaries for more than six (6) months immediately prior to the filing of this Bill of Complaint for divorce?
7. Are the Plaintiff and Defendant over eighteen (18) years of age?
8. Are Plaintiff or Defendant now, or at anytime during the pendency of this divorce action, members of the armed forces of the United States?
9. Did there come a time when you learned that the Plaintiff and Defendant separated from one another? How did you learn of the separation?
10. How often have you visited at the Plaintiff/Defendant's premises since the date of separation through the present?
11. During your visits to the Plaintiff/Defendant's premises did you see any evidence that would indicate to you that the Plaintiff and Defendant cohabited in any fashion?
12. Do you feel like you know the Plaintiff/Defendant well enough that if they had cohabited in any fashion that you would know of it?
13. Since the date of separation, to the best of your information, have the Plaintiff and Defendant lived separate and apart continuously without any cohabitation and without interruption?
14. To the best of your information, when did either the Plaintiff/Defendant form the intent to have a separation be permanent? Has that intention continued through the present?
15. In your opinion, is there any hope or probability of reconciliation?

***** THIS IS A SAMPLE ONLY AND NOT A FILL IN THE BLANK FORM. YOU MUST RETYPE A NEW COMPLAINT – IT SHOULD APPEAR IN THE SAME FORMAT AS THIS SAMPLE, BUT IT MUST BE TYPED AND INCLUDE THE SPECIFIC CIRCUMSTANCES OF YOUR CASE ACCURATELY. DO NOT retype the language in the parenthesis () when you retype this form. The information in each paragraph needs to be changed as necessary for your particular case. This form is NOT intended to be legal advice and should NOT be relied upon as such. You are encouraged to consult an attorney. *****

VIRGINIA:

IN THE CIRCUIT COURT OF 31ST JUDICIAL CIRCUIT

_____ (*full name*))
Plaintiff)
)
v.) CL No. _____
)
_____ (*full name*))
Defendant)

SERVE: _____ (*Full Name of Defendant*)
_____ (*Complete Address of Defendant*)

COMPLAINT FOR DIVORCE
ON GROUND OF ONE YEAR SEPARATION

Plaintiff says:

1. The parties were married on the ___ day of _____ (*month*), _____ (*year*)
in the City/County of _____, State of _____;

2(a). There is/are _____ (*number*) child[ren] was/were born of the marriage, namely:
_____; (*list all children's names and their date of births*);

2(b). There are no children born or adopted of this marriage under the age of 18 years;

(Choose either # 2(a) OR #2(b) – NOT BOTH. Renumber as #2).

3. Plaintiff is domiciled in and is and has been an actual bona fide resident of the Commonwealth of Virginia for at least six months immediately before bringing this suit;

4. Both parties are of sound mind, over the age of 18 years, and neither is an active member of the military service of the United States;

(If the Defendant is in the military, he/she must sign a Soldier's and Sailor's Civil Relief Act Waiver)

5. The parties have lived separate and apart without cohabitation and without interruption for more than one year; to wit: since _____ (month), _____ (day, if you do not remember the exact day, use the last day of the month you just listed), _____ (year); and

6. There is no hope or possibility of reconciliation between the parties.

7. The parties have entered into a Property Settlement Agreement dated _____ (day) _____ (month), _____ (year).

(If you do not have a Property Settlement Agreement delete #7 above)

WHEREFORE, Plaintiff prays as follows:

That he/she (*pick only one*) be granted a divorce from the bond of matrimony on the ground that the parties have lived separate and apart without cohabitation and without interruption for more than one year; to wit: since _____ (month) _____ (day, if you do not remember the exact day, use the last day of the month you just listed), _____ (year); and

That the Property Settlement Agreement dated _____ (month) _____ (day), _____ (year) hereby be incorporated but not merged into the Final Order of Divorce; and
(If you do not have a PSA, delete the paragraph above)

That the Plaintiff's maiden name be restored to _____ (*Plaintiff's full maiden name; you may ONLY ask for this if you are the wife. The husband cannot ask to restore his wife's name*).

I ASK FOR THIS:

_____ (*your signed name*)

(*Type your full name*)

(*Type your complete address*)

(*Type your daytime phone number*)

*** * * THIS IS A SAMPLE ONLY AND NOT A FILL IN THE BLANK FORM. YOU MUST RETYPE YOUR ACCEPTANCE AND WAIVER FORM. DO NOT retype the language in the parenthesis () when you retype this form. The information in each paragraph needs to be changed as necessary for your particular case. This form is NOT intended to be legal advice and should NOT be relied upon as such. You are encouraged to consult an attorney. * * ***

**ACCEPTANCE OF SERVICE/WAIVER OF NOTICE IN A DIVORCE
SUIT (Virginia Code Sections 20-99.1:1)**

**PART ONE
ACCEPTANCE OF SERVICE BEFORE A NOTARY PUBLIC/DEPUTY CLERK**

_____ v. _____, CL # _____
(Plaintiff) (Defendant)

I, _____ (Defendant's Name), Defendant in the above styled suit, hereby swear/affirm under oath that I have received a copy of the Complaint and Summons and voluntarily accept service of process in the above styled suit.

_____ (Defendant's Signature)

Address: _____ Phone: _____

**PART TWO
WAIVER OF NOTICE BEFORE A NOTARY PUBLIC/DEPUTY CLERK**

I, _____ (Defendant's Name), Defendant in the above styled suit now do hereby swear or affirm:

1. That I do not desire to contest this matter nor delay a hearing on the Complaint for Divorce;
2. That I freely and voluntarily waive any and all notice to which I may be entitled in connection with said suit, including, but not limited to:
 - a) Any further service of process
 - b) The notice of the appointment a *ore tenus* hearing
 - c) The notice of entry of any order or decree, including the Final Order of Divorce

_____ (Defendant's Signature)

Address: _____ Phone: _____

COMMONWEALTH OF VIRGINIA, County/City of _____

SUBSCRIBED AND SWORN TO/AFFIRMED before me this day by _____
(*Defendant's Name*).

DATE: _____

My Commission expires: _____

Notary Public

2(b). There are no children born or adopted of this marriage under the age of 18 years;

3. Plaintiff is domiciled in and is and has been an actual bona fide resident of the Commonwealth of Virginia for at least six months immediately before bringing this suit;

4. Both parties are of sound mind, over the age of 18 years, and neither is an active member of the military service of the United States;

5. The Plaintiff's driver license number is _____, and the Defendant's driver license number is _____; *(in the alternative, if either you or your spouse do not have a driver's license number, or if your and your spouse's driver license numbers are the same as your social security numbers, please place your social security numbers in the Private Addendum (see below for the form) and write See Private Addendum. You do not need to list any of the party's social security number if there is a driver's license number for that party. **DO NOT PLACE ANY PARTY'S SOCIAL SECURITY NUMBER ON THIS ORDER!!!! USE THE PRIVATE ADDENDUM.**)*

6. The parties have lived separate and apart without cohabitation and without interruption for more than one year; to wit: since _____ (month) _____ (day, if you do not remember the exact day, use the last day of the month you just listed), _____ (year); and

7. There is no hope or possibility of reconciliation between the parties.

8. The parties have entered into a Property Settlement Agreement dated _____ (day) _____ (month), _____ (year); it is therefore, _____ (If you do not have a PSA, delete #8 above)

Notice is hereby given pursuant to Section 20-111.1(E) of the 1950 Code of Virginia, as amended:

Beneficiary designations for any death benefit, as defined in subsection B of § 20-111.1 of the Code of Virginia, made payable to a former spouse may or may not be automatically revoked by operation of law upon the entry of a final decree of annulment or divorce. If a party intends to revoke any beneficiary designation made payable to a former spouse following the annulment or divorce, the party is responsible for following any and all instructions to change such beneficiary designation given by the provider of the death benefit. Otherwise, existing beneficiary designations may remain in full force and effect after the entry of a final decree of annulment or divorce.

ADJUDGED, ORDERED and DECREED that the Property Settlement Agreement dated _____(month)____(day), ____ (year), be and hereby is affirmed, ratified and incorporated, but not merged herein; and it is further (*If you do not have a PSA, delete this paragraph*)

ADJUDGED, ORDERED, and DECREED that the Plaintiff is hereby granted a divorce, *a vinculo matrimonii* from the Defendant on the ground that the parties have lived separate and apart without cohabitation and without interruption for more than one year, to wit: since _____ (month) _____(day, *if you do not remember the exact day, use the last day of the month you just listed*), _____ (year); and it is further

(The following paragraphs numbered 1-6 must be included ONLY if spousal support is awarded in the PSA or the FDD and there are NO minor children; otherwise, skip this section and continue to next section)

ADJUDGED, ORDERED and DECREED that in accordance with the provisions of Section 20-107.1(H) of the 1950 Code of Virginia, as amended, the following information is provided:

1. The following information is provided for the parties:

Plaintiff

Name: _____

Residential Address: _____

Mailing Address: _____

Date of Birth: _____

Soc. Sec. No.: _____ See private addendum _____

*(Do **NOT** list any party's SSN in this form – place such in the Private Addendum)*

Employer: _____

Employer's Address: _____

Work Phone No.: _____

Home Phone No.: _____

Driver License No.: _____

Defendant

Name: _____

Residential Address: _____

Mailing Address: _____

Date of Birth: _____

Soc. Sec. No.: _____ See private addendum _____

*(Do **NOT** list any party's SSN in this form – place such in the Private Addendum)*

Employer: _____

Employer's Address: _____

Work Phone No.: _____

Home Phone No.: _____

Driver License No.: _____

2. The _____ (*Plaintiff/Defendant – choose only one*),

_____, (*full name of person paying support*) has a duty to pay

spousal support in the monthly amount of \$_____ (*dollar amount of how much support will be paid each month*) to the _____ (*Plaintiff/Defendant – choose only one*), due every month, with the first payment due on _____ (*month*) _____ (*day*) _____ (*year*) (*date payment starts*);

3. The Order of this Court as to health care coverage for spouse or former spouse is as follows: (*List in this notice any agreement you may have as to health care coverage, for example: The _____ (Plaintiff/Defendant – choose only one) is to provide at _____ (his/her – choose only one) expense adequate hospitalization and major medical insurance for the benefit of _____ (list name of the spouse to be covered by insurance). Such coverage is currently provided through _____ (name of insurance company), policy number _____; (Note that if neither party is responsible for providing health care coverage to the other, then you must state that in this paragraph – for example: “Neither party is responsible for providing health care coverage for their former spouse.”)*)

4. No support arrearage currently exists. (*If there are support arrearages, list the amount of the arrearage and the period of time for which such arrearage is calculated*). At any time that support arrearages should exist, all payments made are to be credited to current support obligations first, with any payment in excess of the current obligation applied to the arrearage;

5. Notice is hereby given that the parties shall give each other and the court at least 30 days' written notice, in advance, of any change of address and any change of telephone number within 30 days after the change; and

6. Notice is hereby given that in determination of a support obligation, the support obligation as it becomes due and unpaid creates a judgment by operation of law.

(The following paragraphs numbered 1-17 must be included where there are minor children whom the parties have a mutual duty to support and there is spousal support and/or child support awarded in the PSA or the FDD; otherwise, skip this section and continue to next section)

ADJUDGED, ORDERED and DECREED that in accordance with the provisions of Section 20-60.3 of the 1950 Code of Virginia, as amended, the following information is provided:

1. Notice is hereby given that support payments may be withheld as they become due pursuant to Section 20-79.1 or Section 20-79.2 of the 1950 Code of Virginia, as amended, from income as defined in Section 63.2-1900 of the 1950 Code of Virginia, as amended, without further amendments of this Order and Decree or having to file an application for services with the Department of Social Services;

2. Notice is hereby given that support payments may be withheld pursuant to Chapter 19 (Section 63.2-1900, *et seq.*) of Title 63.2 of the 1950 Code of Virginia, as amended, without further amendments to this Order and Decree upon application for services with the Department of Social Services;

3. A duty of support is owed to: _____ (*list the name, date of birth, last four SSN digits of the child or spouse who support is paid to*). The party responsible for paying support is: _____ (*give name of party who will be paying the support, the Plaintiff and/or the Defendant*);

4. The following information is provided for the parties:

Plaintiff

Name: _____
Residential Address: _____
Mailing Address: _____
Date of Birth: _____
Soc. Sec. No.: See private addendum

*(Do **NOT** list any party's SSN in this form – place such in the Private Addendum)*

Employer: _____
Employer's Address: _____
Work Phone No.: _____
Home Phone No.: _____
Driver License No.: _____

Defendant

Name: _____
Residential Address: _____
Mailing Address: _____
Date of Birth: _____
Soc. Sec. No.: See private addendum

*(Do **NOT** list any party's SSN in this form – place such in the Private Addendum)*

Employer: _____
Employer's Address: _____
Work Phone No.: _____
Home Phone No.: _____
Driver License No.: _____

5. Notice that pursuant to Section 20-124.2 support will continue to be paid for any child over 18 who is a full-time high school student, not self-supporting, and living in home of party seeking child support until child reaches 19 or graduates from high school, whichever is first,

and that court may order continuation of support for those over 18 if mentally or physically disabled, unable to support himself, and living with parent seeking child support.

6. Notice is hereby given that a petition may be filed for the suspension of any license, certificate, registration or other authorization to engage in a profession, trade, business, occupation or recreational activity issued by the Commonwealth of Virginia to a parent as provided in Section upon a delinquency for a period of ninety (90) days or more or in the amount of \$5,000.00 or more. The following party holds a license: _____ (*list any license(s) either of the party made hold or if neither party holds a license, clearly state so in the paragraph above*).

7. The _____ (*Plaintiff or Defendant – choose only one*), _____, (*full name of person paying support*) has a duty to pay _____ (*child and/or spousal*) support in the monthly amount of \$ _____ (*how much support will be paid each month*) on behalf of _____ (*give name(s) of child(ren) and/or spouse support is paid for*) to the _____ (*Plaintiff or Defendant – choose only one*), due every month, with the first payment due on _____ (*month*) _____ (*day*), _____ (*year*) (*date payment starts*);

8. The Order of this Court as to health care coverage for children or former spouse is as follows: (*List in this notice any agreement you may have as to health care for the children or spouse from your PSA*). (*If no health care coverage for spouse or former spouse, please indicate none to be provided*). The _____ (*Plaintiff/Defendant – choose only one*) is to provide at _____ (*his/her – choose only one*) expense adequate hospitalization and major medical insurance for the benefit of _____ (*list name of the child(ren) and/or spouse to be covered by insurance*). Such coverage is currently provided

through _____ (*name of insurance company*), policy number
_____;

8b. *Include a statement as to whether cash medical support, as defined in § 63.2-1900, is to be paid by or reimbursed to a party pursuant to subsections D and G of § 20-108.2, and if such expenses are ordered, then the provisions governing how such payment is to be made, i.e., who will be responsible for payment of cash medical support/unreimbursed medical expenses.*

9. No support arrearage currently exists. (*If there are support arrearages, list the amount of the arrearages*). At any time that support arrearages should exist, all payments made are to be credited to current support obligations first, with any payment in excess of the current obligation applied to the arrearage.

10. If at any time support payments are ordered to be paid through the Department of Social Services or directly to _____ (*name of party support money is paid to*), and unless the Court for good cause shown orders otherwise, the parties shall give each other and the Court, and, when payments to be made through the Department, the Department of Social Services at least thirty (30) days' written notice, in advance, of any change of address and any change of telephone number within thirty (30) days after the change.

11. If at any time support payments are ordered to be paid through the Department of Social Services, _____ (*name of party paying support*) shall keep the Department of Social Services informed of the name, address and telephone number of ____ (*his or her – choose only one*) current employer, or if at any time payments are ordered to be paid directly to _____ (*name of party support is paid to*), _____ (*name of party paying support*) shall keep the Court informed of the name, address and telephone number of ____ (*his or her – choose only one*) current employer;

12. If at any time support payments are ordered to be paid through the Department of Social Services, _____(*name of party paying support*) shall keep the Department of Social Services with updated health care coverage changes for minor, or if direct to the other party, then keep them informed.

13. The separate amounts due to each person under this Order for spousal support, are set forth in the support provisions of this Order;

14. Notice is hereby given that in determination of a support obligation, the support obligation as it becomes due and unpaid creates a judgment by operation of law and interest on the arrearage shall accrue at the judgment rates as established by Section 6.2-302 unless the obligee, in a writing submitted to the court, waives the collection of interest.

15. Notice is hereby given that on and after July 1, 1994, the Department of Social Services may, pursuant to Chapter 19 of Title 63.2 of the 1950 Code of Virginia, as amended, and in accordance with Section 20-108.2 and Section 63.2-1921 of the 1950 Code of Virginia, as amended, initiate a review of the amount of support ordered by any Court.

16. If any arrearages for child support, including interest or fees, exist at the time the youngest child included in the order emancipates, payments shall continue in the total amount due (current support plus amount applied toward arrearages) at the time of emancipation until all arrearages are paid.

17. Notice that in cases the Department of Social Services enforces, the Department of Motor Vehicles may suspend or not renew the driver's license of any delinquent party who is late in paying support by 90 days or in amount of \$5,000 or more, OR has failed to comply with subpoena, summons or warrant relating to paternity or child support proceedings.

*(The following paragraphs must be included if there is an award of **child custody and/or visitation** in the PSA or the FDD; otherwise, skip this section and continue to next section)*

ADJUDGED, ORDERED and DECREED that in accordance with the provisions of Section 20.124.5 of the 1950 Code of Virginia, as amended, that either party who intends to relocate his or her residence shall give thirty (30) days advance written notice of any such intended relocation and of any intended change of address, said notice being given to both the other party and to this Court; and

ADJUDGED, ORDERED and DECREED that in accordance with the provisions of Section 20.124.6 of the 1950 Code of Virginia, as amended, neither parent, regardless of whether such parent has custody, shall be denied access to the academic or health records of that parent's minor child unless otherwise ordered by the court for good cause shown. *(This paragraph is optional.)*

(If the parties have a minor child(ren), but the FDD does not order any provisions of child support, custody and/or visitation, you must state that "All issues relating to child support, custody and/or visitation are not before this Court at this time." If some of these items have previously been addressed, but not all, then specify exactly which are not before this Court at this time and then provide the agreements as to the remaining matters elsewhere in this Order.)

And nothing further remaining to be done herein, it is **ORDERED** that this cause is stricken from the docket and the papers placed among the ended cases.

ENTERED this _____ day of _____, 20_____

Judge
Prince William Circuit Court

I ASK FOR THIS:

_____ (*your signature*)
(*Type your name*)
(*Type your address*)
(*Type your phone number*)

_____ (*Defendant's signature*)
(*Type your name*)
(*Type your address*)
(*Type your phone number*)

CERTIFICATE OF MAILING

I hereby certify that a copy of this Motion for Entry of Final Order of Divorce was mailed, postage prepaid this _____ (day) of _____ (month), _____ (year) to:

_____ (Defendant's Name)
_____ (Defendant's Full Address)

_____ (your signature).

ADJUDGED, ORDERED, and DECREED, pursuant to Section 20-121.4 of the Code of Virginia of 1950, as amended, that the name of _____ (*current name*) be and hereby is changed to _____ (*new name*); and it is further

ORDERED that the Clerk shall spread this Order upon the current Deed Book, index it, and transmit certified copies to State Registrar of Vital Records and the Central Criminal Records Exchange.

ENTERED this _____ day of _____, 20____,

Judge
Prince William Circuit Court

I ASK FOR THIS:

(Type your full name)
(Type your complete address)
(Type your day time phone number)

***** THIS IS A SAMPLE ONLY AND NOT TO BE USED AS A FILL IN THE BLANK FORM. DO NOT retype the language in the parenthesis () when you retype this form. The information in each paragraph needs to be changed as necessary for your particular case. This form is NOT intended to be legal advice and should NOT be relied upon as such. You are encouraged to consult an attorney. *****

ALL SOCIAL SECURITY NUMBERS SHOULD BE PLACED IN THIS FORM

VIRGINIA:

IN THE CIRCUIT COURT OF 31ST JUDICIAL CIRCUIT

_____ (*full name*))
Plaintiff)
)
v.) CL No. _____
)
_____ (*full name*))
Defendant)

PRIVATE ADDENDUM

Pursuant to Code Section 20-121.03 of the Code of Virginia of 1950, as amended, the social security numbers for the parties are:

1. Plaintiff's Social Security Number: _____
2. Defendant's Social Security Number: _____

_____ (*your signed name*)
(Type your full name)
(Type your complete address)
(Type your day time phone number)

***** THIS IS A SAMPLE ONLY AND NOT TO BE USED AS A FILL IN THE BLANK FORM. DO NOT retype the language in the parenthesis () when you retype this form. The information in each paragraph needs to be changed as necessary for your particular case. This form is NOT intended to be legal advice and should NOT be relied upon as such. You are encouraged to consult an attorney. *****

THIS PSA IS ONLY APPLICABLE TO PARTIES WHO: 1) WAIVE SPOUSAL SUPPORT; 2) HAVE NO PROPERTY TO BE DIVIDED; 3) HAVE NO CHILDREN. IF THESE DO NOT APPLY TO YOU, THEN YOU MUST CRAFT A PSA THAT ADDRESSES YOUR PROPERTY, SPOUSAL, AND/ OR CHILD SUPPORT. THE ADVICE OF AN ATTORNEY IS STRONGLY RECOMMENDED.

The PSA MUST be signed by both you and your spouse.

PROPERTY SETTLEMENT AGREEMENT

THIS AGREEMENT, made this _____ day of _____ (*month*), _____ (*year*), between _____ (*Plaintiff's name*), herein after referred to as the “ _____ ” (*Husband/Wife – choose only one*), and _____ (*Defendant's name*), herein after referred to as the “ _____.” (*Husband/Wife – choose only one*).

WITNESSETH:

WHEREAS, the parties hereto were duly married in _____ (*city*), _____ (*state*) on _____ (*day, month and year of marriage*); and

WHEREAS, there are no children born or adopted of the marriage who is under the age of 18 and none are expected; and

WHEREAS, the parties, in consequence of disputes and irreconcilable differences, have voluntarily agreed to and did separate from each other on _____ (*date of separation*), have separated and are now living separate and apart from each other, and have voluntarily and mutually agreed to continue to live separate and apart; and

WHEREAS, each party has been advised of their rights to obtain full disclosure of the other party's financial condition, including income, expenses, assets, liabilities and assets transferred, and have obtained full and satisfactory disclosure of such; and

WHEREAS, the parties desire to settle their financial, property and other rights and obligations arising out of the marriage and otherwise.

NOW, THEREFORE, in consideration of the mutual promises and agreements herein contained, the parties hereto agree as follows:

1. **Real Property**: The parties acknowledge that there are no real properties to be divided between the parties.

2. **Personal Property:** The parties acknowledge that they will make a division and settlement of their personal property and personal effects. Each party shall own, have and enjoy, free of any right or claim of the other party, all property hereafter acquired by such party.

3. **Responsibility for Debts:** Each party represents and warrants that he or she, as the case may be, has not incurred or contracted any debts or obligations for which the other or any property of the other may be liable, either individually or jointly. Each party agrees that he or she shall be solely responsible for the payment and performances of all debts and obligations presently in his or her respective name and he or she hereafter shall not incur any debts or obligations for which the other may be liable.

4. **Waiver of Maintenance and Support:** Each party represents that he or she is in good health and is self-supporting, and that his or her resources and income are sufficient to provide for his or her own proper maintenance and support, now and in the future, in accordance with the standard of living he or she now enjoys. Each of the parties hereby declares that each does not desire or require any maintenance or support from the other party. Each party hereby waives any claim which he or she may have against the other for alimony, maintenance or support, and agrees that their respective duties to support and maintain the other are extinguished in consideration of the provision of this Agreement. Each party recognizes that this waiver includes rights that he or she otherwise might have or acquire under Virginia Code Section 20.107.1, as amended, and any amendment thereof or any successor statute. Neither party under any circumstances, ordinary or extraordinary, shall hereafter seek or require from the other any alimony, maintenance, support or similar payment. This waiver by the parties of maintenance and support shall survive, and not be merged in, any judgment, decree or order of any court.

5. **Full Acknowledgement:** Each party acknowledges that all of the matters embodied in this Agreement, including all terms, covenants, conditions, waivers, releases and other provisions contained herein, are fully understood by him or her; that he or she is entering into this Agreement freely, voluntarily and after due consideration of the consequences of doing so; and that this Agreement is valid and binding upon him or her.

6. **Full Disclosure:** Each party has made independent inquiry into the complete financial circumstances of the other, and acknowledges that he or she is fully informed of the income, assets and financial prospects of the other, and is satisfied that full disclosure has been made.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the date first above written.

(Plaintiff's Name) (Plaintiff's Signature)

(Defendant's Name) (Defendant's Signature)