

**PACKET E INSTRUCTIONS**  
**UNCONTESTED DIVORCE WITH CHILDREN**  
**(Petition –Simple)**

**This packet is for people with children and simple property or debt issues.**

**You may use these forms if they fit your case. There are many other forms that you could use or that a lawyer might suggest that you use. You are not required to use these particular forms.**

**Use these forms to file for divorce if:**

You and your spouse

- . HAVE children, under age 18, from this marriage; AND
- . DO NOT have a retirement savings plan like an IRA, a retirement account, pension plan or 401(k) that you are dividing; AND
- . DO NOT OWN a house, mobile home, lot, car, truck or other vehicle together; AND
- . Have NOT filed any other papers in this case; AND
- . AGREE on how you are going to **divide all** the property and debt from your marriage, AND
- . AGREE on a parenting plan for your children and on the amount of child support you want to ask the Judge to order; AND
- . Are BOTH willing to **sign** these forms.

**This is a very difficult packet to complete without a lawyer. The forms are complex. This packet will probably take you several hours to complete. We HIGHLY recommend that you consult with a LAWYER before submitting these forms to the Judge. These forms affect your rights and obligations. There can be serious consequences regarding the decisions you make. GET THE HELP YOU NEED BEFORE YOU SUBMIT THESE FORMS.**

### **How to Get Help**

When you file court papers or appear in court as a self-represented person, you are your own LAWYER.

**GET THE HELP YOU NEED BEFORE YOU SUBMIT THESE FORMS.**

**A LAWYER** specializing in divorce matters is the **BEST** person to answer your questions. You may hire a lawyer to answer your specific questions **OR** hire a lawyer to represent you through the process. One lawyer may represent only **ONE** of you. It is a conflict for one lawyer to represent both of you in a divorce.

**COURT CLERKS** are not lawyers and **CANNOT** give you advice about how to fill out the forms or advice about issues that are not covered in the forms. They **CAN** give you information about how to file these forms with the Court.

**THE JUDGE** decides the issues in your case, but cannot represent either one of you. The judge cannot and will not give you advice about how to fill out these forms.

**GENERAL INSTRUCTIONS.** The Court has prepared general instructions on each of the forms that you need to complete.

**FILING INSTRUCTIONS.** The Court has prepared a court information sheet with filing instructions to help you file the forms with the Court.

**SEE A LAWYER WITH QUESTIONS YOU MAY HAVE.**

**COURT STAFF CANNOT TELL YOU HOW TO FILL OUT THESE FORMS.**

## **FORMS**

**There are 8 forms in this packet: 6 required forms and 2 optional forms.**

**Required Forms (6) 5 forms are included here. 1 form can be completed on the Internet.**

- |  |   |
|--|---|
| <b>1. Domestic Relations Information Sheet</b>   | <b>1 Page</b>                           |
| In this form you ask the judge for a divorce.  |   |
| <b>2. Petition for Dissolution of Marriage</b>   | <b>4 Pages</b>                          |
| In this form you ask the judge for a divorce.  |   |
| <b>3. Parenting Plan and Child Support Agreement</b>   | <b>9 Pages</b>                          |
| In this form you make parenting decisions about your children and the Judge decides the amount of child support to be paid in your case. |   |
| <b>4. Child Support Worksheet</b>  | <b>1 Page completed on the Internet</b> |
| You are <b>REQUIRED</b> to complete and <b>SIGN</b>  |   |

this worksheet before the Judge will decide the amount of child support to be paid in your case.

This form is much easier to complete on the Internet at [http://www.nmcourts.com/cgi/prose\\_lib/index.htm](http://www.nmcourts.com/cgi/prose_lib/index.htm), family law forms.

You may also pick up a packet to complete this form at the court. It is NOT included here. **The judges typically follow this worksheet.**

- |   |                |
|---|----------------|
| <b>5. Verified Marital Settlement Agreement</b>   | <b>8 Pages</b> |
| In this form you describe and divide your property and debt.  |                |
| <b>6. Final Decree of Dissolution of Marriage</b>   | <b>3 Pages</b> |
| In this form the Judge grants the divorce.  |                |
| <b>Optional Forms (2)</b>   |                |
| <b>1. Application and Order for Free Process</b>  | <b>1 Page</b>  |
| Use this form if you cannot afford to pay the filing fee.   |                |
| <b>2. Wage Withholding Order</b>  | <b>2 Pages</b> |
| This is an optional form that allows child support to be taken from the wages of one parent. If you or your wife/husband or your children are receiving welfare, AFDC or other State support you <b>MUST</b>      |                |
| <ul style="list-style-type: none"><li>○ choose the wage withholding provision</li><li>○ send notice to the Child Support Enforcement Division and</li><li>○ complete the <i>Wage Withholding Order</i>.</li></ul> |                |

### **GENERAL INSTRUCTIONS**

1. Fill out the required forms and the optional forms, if the optional forms apply to you.
2. You must **type or print** all of the information on the forms that you fill out. If there is not enough room for your answer on the form, write your answer on a separate page and staple the page to the form.

3. After you have filled out the *Petition for Dissolution of Marriage*, the *Verified Marital Settlement Agreement* and the *Parenting Plan*, you and your wife/husband must **sign** both documents **before a notary**. You are swearing, under oath and penalty of perjury, that the information in the forms is true and correct. **Make sure that the information IS true and correct.**
4. After you have filled out and signed the forms you must **file** them with the Court Clerk. When you are ready to file your forms you should bring:

- |  |                          |
|--|--------------------------|
| • <i>Domestic Relations Information Sheet</i>  | original and 2<br>copies |
| • <i>Application and Order for Free Process</i>  | original and 2<br>copies |
| • <i>Petition for Dissolution of Marriage</i>  | original and 2<br>copies |
| • <i>Parenting Plan and Child Support Agreement</i>  | original and 2<br>copies |
| • <i>Child Support Worksheet</i> , signed by each of you and attached to the <i>Parenting Plan</i> | original and 2<br>copies |
| • <i>Wage Withholding Order</i> , (if you want to file this)                                       | original and 2<br>copies |
| • <i>Verified Marital Settlement Agreement</i>   | original and 2<br>copies |
| • <i>Final Decree of Dissolution of Marriage Decree</i>  | original and 2<br>copies |

**THESE FORMS DO NOT TRANSFER (CHANGE) LEGAL TITLE TO:**

- **PROPERTY (such as land, a house or a lot).** Typically you need to prepare, sign and record a deed in the real property records in the county in which the property is located.
- **CARS, TRUCKS, OR OTHER VEHICLES.** Typically you need to change the title at the Department of Motor Vehicles.
- **RETIREMENT ACCOUNTS.** You will need a court order called a *Qualified Domestic Relations Order* in order to transfer retirement accounts. You will need a lawyer's help with this. **THERE ARE SERIOUS TAX CONSEQUENCES FOR FAILING TO CORRECTLY TRANSFER RETIREMENT ACCOUNTS.**

A **LAWYER** specializing in divorce matters is the **BEST** person to answer your questions on how to transfer these kinds of property.

**SEE A LAWYER IF YOU HAVE QUESTIONS.**

### **Domestic Relations Information Sheet**

You must both fill out the *Domestic Relations Information Sheet* to start your case. The *Domestic Relations Information Sheet* will not be filed in your court file and the public will not be able to get your social security number from the *Domestic Relations Information Sheet*.

1. The Court Clerk will fill in the information in the “case number” and “assigned judge” in spaces of the official use section.
2. Even though your case is uncontested and you are filing together one of you must be the Petitioner and the other must be the Respondent.
3. **Each of you must** fill in:
  - your name starting with your last name first
  - your address
  - date of birth, and
  - social security number
4. If you have more than one social security number, write in all your social security numbers.
5. Because you have children, please complete the section requesting information about children. **If you DO NOT have minor children from this marriage you are filling out the wrong packet.**
6. Read the Court Information Sheet for information about how to file this form with the Court.

**SEE A LAWYER IF YOU HAVE QUESTIONS.**

### **Application and Order for Free Process**

The Court uses this form to decide if you qualify for “free process.” Free process means that you do not have to pay all or part of the \$137.00 filing fee. You may qualify for free process if you have very little money and no property. If you think that you qualify for free process fill out this form.

1. Type or print your answers.

2. You are the Petitioner if you are filling out this form. Your wife/husband is the Respondent.
3. The Court Clerk will fill in the case number.
4. Stop after you sign your name. Do not fill in any information after you sign your name.
5. Read the Court Information Sheet for information about how to file this form with the Court.

**SEE A LAWYER IF YOU HAVE QUESTIONS.**

### **Petition for Dissolution of Marriage**

This is the form that tells the Court that you want a divorce and that you have agreed on how you will divide all of your property and debts.

1. Type or print your answers.
2. If you have filed an *Application and Order for Free Process* copy the “Petitioner,” “Respondent” and case number from that form onto this form.
3. If you have not filed an *Application and Order for Free Process* fill in the “Petitioner” and “Respondent” information. Even though you are filing together, one of you will need to be the Petitioner and the other will need to be the Respondent. The court clerk will fill in the case number.
4. When you have finished the *Petition for Dissolution of Marriage* the Petitioner must sign the *Petition for Dissolution of Marriage* in front of a notary. You are swearing, under oath and penalty of perjury, that the information in the form is true and correct. **Make sure that the information IS true and correct.**
5. After the *Petition for Dissolution of Marriage* has been signed and notarized make two copies of the *Petition for Dissolution of Marriage*.
6. Read the *Court Information Sheet* for information about how to file this form with the Court.

**SEE A LAWYER IF YOU HAVE QUESTIONS.**

## Parenting Plan and Child Support Agreement

This form tells the Court how you will take care of your children after your divorce. ONCE THE JUDGE SIGNS THE *PARENTING PLAN AND CHILD SUPPORT AGREEMENT* FORM, YOU ARE ORDERED BY THE COURT TO DO THE THINGS THAT YOU HAVE AGREED TO DO IN THIS FORM.

1. Type or print your answers. Copy the “Petitioner” “Respondent” and case number information from the *Motion for Entry of Final Decree*.
2. Before you fill in the child support information on page 9 of the *Parenting Plan and Child Support Agreement* you must fill out the *Child Support Worksheet* and attach a copy of your *Child Support Worksheet* to the *Parenting Plan and Child Support Agreement*.
3. Fill in the child support amount from the *Child Support Worksheet* on page 9 of the *Parenting Plan and Child Support Agreement*.
4. If you are not using the child support amount from the *Child Support Worksheet* **you must explain why**. The judge or the hearing officer will decide if you can use a child support amount that is different than the child support amount from the *Child Support Worksheet*.
5. New Mexico law allows child support to be taken out of your paycheck. If a parent has received welfare, AFDC or other state support, the child support money **MUST** be sent to the Child Support Enforcement Division (CSED). CSED will then mail the child support to your wife/husband. If you want child support taken out of your paycheck you must complete the *Wage Withholding Order*.
6. If you or your wife/husband or your children are receiving welfare, AFDC or other State support you **MUST** choose the wage withholding provision and you must complete the *Wage Withholding Order*.
7. If you do not want child support to be taken out of your paycheck you must tell the judge how child support will be paid. If you do not pay child support for one month, the judge can order the child support taken out of your paycheck. The judge can also require that you pay interest on any unpaid child support.
8. When you finish filling out the *Parenting Plan and Child Support Agreement* you must both **sign it before a notary**. You are swearing, under oath and penalty of perjury, that the information in the form is true and correct. **Make sure that the information IS true and correct.**
9. When you have finished and signed the *Parenting Plan and Child Support Agreement* staple the *Child Support Worksheet* to the *Parenting Plan* and make 2 copies.

10. Read the *Court Information Sheet* for information about how to file this form with the Court.

**SEE A LAWYER IF YOU HAVE QUESTIONS.**

### **Child Support Worksheet**

#### **Child Support Worksheet**

**1 Page completed on the Internet**

You are REQUIRED to complete and SIGN this worksheet before the Judge will decide the amount of child support to be paid in the case.

This form is much easier to complete on the Internet at [http://www.nmcourts.com/cgi/prose\\_lib/index.htm](http://www.nmcourts.com/cgi/prose_lib/index.htm), family law forms. You may also pick up a packet to complete this form at the court. It is NOT included here.

The judges typically follow this worksheet.

1. Fill in the worksheet on the Internet. Print out the completed form.
2. See the *Court Information Sheet* for places where you may be able to get help filling out this worksheet if you need help.
3. When you and your wife/husband agree on all of the information on the worksheet, each of you must SIGN the worksheet.
4. Read the *Court Information Sheet* for information about how to file this form with the Court.

**SEE A LAWYER IF YOU HAVE QUESTIONS.**

### **Wage Withholding Order**

Use this form if you want child support to be taken out of your husband/wife's paycheck and sent to the Child Support Enforcement Division and then sent to your husband/wife. The form is optional UNLESS you are receiving welfare, AFDC or other State support.

If you or your wife/husband or your children are receiving welfare, AFDC or other State support you MUST

- choose the wage withholding provision
- send notice to the Child Support Enforcement Division and

- complete the *Wage Withholding Order*.
1. Type or print your answers.
  2. Copy the “Petitioner” “Respondent” and case number information from the *Motion for Entry of Final Decree*.
  3. Obtain an account number from the Child Support Enforcement Division (CSED). Read the Court Information Sheet for information about how to get a CSED account number.
  4. You must both fill in your name, address and telephone number on page 2. Do not write on the line that says “DISTRICT COURT JUDGE.”
  5. After you have filled in and signed the *Wage Withholding Order* make two copies of the *Wage Withholding Order*.
  6. Read the *Court Information Sheet* for information about how to file this form with the Court.

**SEE A LAWYER IF YOU HAVE QUESTIONS.**

**Verified Marital Settlement Agreement**

- THIS IS THE **MOST IMPORTANT** FORM IN THIS PACKET.
- MAKE SURE IT IS COMPLETE AND CORRECT.
- WE RECOMMEND THAT YOU SEE A **LAWYER** TO MAKE SURE THIS FORM IS CORRECTLY FILLED OUT.

This form describes and explains your agreements about your divorce. ONCE THE JUDGE SIGNS THE *FINAL DECREE OF DISSOLUTION OF MARRIAGE* FORM, YOU ARE ORDERED BY THE COURT TO DO THE THINGS THAT YOU HAVE AGREED TO DO IN THIS FORM.

1. Type or print your answers.
2. Copy the “Petitioner” “Respondent” and case number information from the *Motion for Entry of Final Decree*.
3. Fill out all of the details of the agreement between the two of you. Fill out Attachment A if you need more space or include a separate sheet of paper.

4. When you have finished the *Verified Marital Settlement Agreement* both of you must sign the document in front of a notary. You are swearing, under oath and penalty of perjury, that the information in the form is true and correct. **Make sure that the information IS true and correct.**
5. When you have finished and signed the *Verified Marital Settlement Agreement*, make two copies of the form.
6. Read the *Court Information Sheet* for information about how to file this form with the Court.

**SEE A LAWYER IF YOU HAVE QUESTIONS.**

### **Final Decree of Dissolution of Marriage**

This is the form that grants you a divorce. ONCE THE JUDGE SIGNS THIS FORM, YOU ARE ORDERED BY THE COURT TO DO THE THINGS THAT YOU HAVE AGREED TO DO IN THE *VERIFIED MARITAL SETTLEMENT AGREEMENT*.

1. Type or print your answers.
2. Copy the “Petitioner” “Respondent” and case number information from the *Motion for Entry of Final Decree*.
3. On page 2, Wife must indicate whether or not to change her name. NOTE: Wife may want to get a *certified copy* of this form in order to prove that her name has been changed. A *certified copy* of the name change is typically needed to change a social security card.
4. On page 3, sign your name where it says Husband’s Name or Wife’s Name. Do not sign your name on the line that says “DISTRICT COURT JUDGE.” The District Court Judge will put his or her name on that line. **Make sure that the information IS true and correct.**
5. When you have finished and signed the *Final Decree of Dissolution of Marriage*, make two copies of the form.
6. Read the *Court Information Sheet* for information about how to file this form with the Court.

**SEE A LAWYER IF YOU HAVE QUESTIONS.**

**This packet has been pre-approved by the Supreme Court for use by self-represented litigants. Lawyers may use this packet but should review the forms to determine their appropriateness in each case.**