

No-Fault Divorce Under § 3301(c) of the Divorce Code Instructional Checklist

MUTUAL CONSENT

This section explains the basic forms needed for a plaintiff to file a simple Mutual Consent No- Fault Divorce in Pennsylvania in a step-by-step format. IF YOU HAVE ECONOMIC ISSUES - DIVISION OF PROPERTY, ALIMONY, ATTORNEYS' FEES - **THESE FORMS ARE NOT FOR YOU. IF YOU ARE SEEKING A DIVORCE INVOLVING A TWO (2) YEAR SEPARATION - SEE INSTRUCTIONS AND FORMS RELATED TO A SECTION 3301(d) DIVORCE**

Divorce in Pennsylvania involves important legal rights involving money, property, and custody of children. The forms provided are **not appropriate for everyone**. If you and/or your spouse have property, such as real estate, automobiles, life insurance, pension and retirement benefits, stocks, bank accounts, credit cards, mortgages, loans, or other assets and debts, **you should seek the advice of an attorney**. Marital property is all property acquired during marriage, regardless of whose name is on a title, policy, or account. IF YOU DO NOT FILE A CLAIM FOR ALIMONY, DIVISION OF PROPERTY, LAWYER'S FEES OR EXPENSES BEFORE A DIVORCE IS GRANTED, YOU MAY LOSE THE RIGHT TO CLAIM ANY OF THEM.

These instructions pertain to a mutual consent//no equitable distribution (no property or financial issues) claims.

For a non-contested Mutual Consent Divorce to be granted, **plaintiff must**:

1. **Prepare** Notice to Defend and Divorce Complaint and **file** with Prothonotary, paying required fees. Make 2 copies of the original and bring all 3 to the Prothonotary's Office. If unable to pay fees, must file Petition for InForma Pauperis and obtain an Order waiving fees.
2. **Serve** certified copy of Notice to Defend and Divorce Complaint upon Defendant.
3. Must **file** proof of service by filing green return receipt card from post office.
4. **Wait** ninety (90) days.
5. File **signed** Affidavits of Consent and Waivers of Notice of Intention to Seek Divorce from **each party**. May not be filed until 90 days have lapsed from service of complaint **and** must be filed within 30 days of being executed or when they were signed. **Both** plaintiff and defendant must have individually signed waivers and affidavits.
6. **File** Praecipe to Transmit Record and submit Decree.
7. **Parties must sign all affidavits where instructed.**
8. Plaintiff should **keep** time stamped copies of all filings made to the Prothonotary.

SUMMARY OF FORMS AND TIME REQUIREMENTS:

Form 1-Notice to Defend

Form 2-Complaint

Form 3-Affidavit of Service of the Complaint.

Form 4- Exhibit A-Return Receipt Card (From 3811) attached.

Form 5-Notice of Intention to Request Divorce Decree

Form 6-Affidavit of Consent (cannot be filed before 90 days have lapsed from the service of Complaint on the Defendant. Affidavits must be filed within 30 days of being signed.

Form 7-Praecipe to Transmit Record (Essentially tells Prothonotary that all filings have been made and the file should be sent to Court for review and signing of decree)

Form 8-Decree

IN THE COURT OF COMMON PLEAS OF WAYNE COUNTY, PENNSYLVANIA

Plaintiff
Vs. _____ : No. _____ 201__ DR

Defendant : In Divorce
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NOTICE TO DEFEND AND CLAIM RIGHTS

You have been sued in Court. If you wish to defend against the claims set forth in the following pages, you must take prompt action. You are warned that if you fail to do so, the case may proceed without you and a decree of divorce or annulment may be entered against you by the Court. A judgment may also be entered against you for any other claim or relief in these papers by the plaintiff. You may lose money or property or other rights important to you, including custody or visitation of your children.

When the ground for divorce is indignities or irretrievable breakdown of the marriage, you may request marriage counseling. A list of marriage counselors is available in the office of:

Wayne County Prothonotary
925 Court Street
Honesdale, Pa. 18431
(570) 253-5970 Ex. 1210

If you do not file a claim for alimony, division of property, attorney's fees or expenses before a divorce or annulment is granted, you may lose the right to claim any of them.

You should take this paper to your lawyer at once. If you do not have a lawyer, go to or telephone the office set forth below. This office can provide you with information about hiring a lawyer.

If you cannot afford to hire a lawyer, this office may be able to help to provide you with information on programs that may offer legal services to eligible persons at a reduced fee or no fee.

Northern Pennsylvania Legal Services
925 Court Street
Honesdale, Pa. 18431
(877) 953-4250

Americans with Disabilities Act of 1990

The Court of Common Pleas of Wayne County, Pennsylvania is required by law to comply with the Americans with Disabilities Act of 1990. For information about accessible facilities and reasonable accommodations available to disabled individuals having business before the Court, please contact the Court Administrator's Office at (570) 253-0101. All arrangements must be made at least 72 hours prior to any hearing or business before the Court. You must attend the scheduled conference or hearing.

IN THE COURT OF COMMON PLEAS OF WAYNE COUNTY, PENNSYLVANIA

Plaintiff
Vs. _____ : No. _____ 201__ DR

Defendant : In Divorce
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COMPLAINT IN DIVORCE
UNDER SECTION 3301 (c) or (d) OF THE DIVORCE CODE

And now, this ____ day of _____ 201__ comes the plaintiff _____
who files this Complaint in Divorce a statement of which is as follows:

1. The Plaintiff _____, is an adult individual residing
(Name)
at _____.
(Address) (City) (State/zip) (County)
2. The Defendant _____, is an adult individual residing
(Name)
at _____.
(Address) (City) (State/zip) (County)
3. Plaintiff and/or Defendant have been bona fide resides of the Commonwealth of Pennsylvania for
at least six (6) months immediately previous to the filing of this Complaint.
4. Plaintiff and Defendant were married on _____ (Date) in

(City/State or Country)
5. There have been no prior actions for divorce or for annulment of the marriage between the parties
in this or any other jurisdiction.
Except _____.
6. Plaintiff avers that the Defendant is not a member of the armed services of the United States and so
the protections afforded under the Service members Civil Relief Act are not applicable.
7. Plaintiff has been advised of the availability of marriage counseling and the Plaintiff may have the
right to request that the Court require the parties to participate in counseling. Plaintiff hereby waives
whatever rights he/she may have to request marriage counseling.

8. Plaintiff avers there are **no children** of the parties under the age of eighteen (18).
- Plaintiff avers that the **is/are children** of the parties under the age of eighteen (18).

Name

Birth Date

9. Plaintiff avers that the marriage is irretrievably broken.

WHEREFORE, Plaintiff requests this Honorable Court to enter a Decree in Divorce upon the following grounds:

- A. Plaintiff avers that the marriage between the parties is irretrievably broken and believes that the Defendant will consent to the entry of a divorce decree under 23 Pa. C.S.A. §3301(d) of the Divorce Code, and that the parties will have lived separate and apart for at least two (2) years at the time of the hearing of this matter and/or at the time the Plaintiff will file an Affidavit under 23 Pa.C.S.A § 3301(c), after at least ninety (90) days have passed from the date of service within the complaint.

Print Name: _____

Signature: _____

Address: _____

Phone: _____

VERIFICATION

I verify that the statements made in the foregoing Complaint in Divorce are true and correct to the best of my knowledge, information and belief. I understand that false statements herein are made subject to the penalties of 18 Pa.C.S.A. §4904 relating to unsworn falsification to authorities.

Date: _____

Plaintiff: _____

IN THE COURT OF COMMON PLEAS OF WAYNE COUNTY, PENNSYLVANIA

Plaintiff
Vs. _____ : No. _____ 201__ DR

Defendant : In Divorce

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AFFIDAVITT OF SERVICE OF THE COMPLAINT

And now, the _____ (date) the undersigned Plaintiff, _____ hereby certifies that the **Complaint in Divorce** was mailed to the Defendant by Certified Mail, Restricted Delivery and same was received on _____ (date), a copy of which is attached hereto as "Exhibit A" and made part hereof.

Verification

I verify the statements made in this affidavit are true and correct. I understand that false statements herein are made subject to the penalties of 18 Pa.C.S.A. §4904 relating to unsworn falsification to authorities.

Plaintiff, _____

IN THE COURT OF COMMON PLEAS OF WAYNE COUNTY, PENNSYLVANIA

Plaintiff
Vs. : No. _____201__ DR

Defendant : In Divorce

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AFFIDAVIT OF SERVICE-“EXHIBIT A”

Attached the Domestic Return Receipt here
(green post card Form 3811)

IN THE COURT OF COMMON PLEAS OF WAYNE COUNTY, PENNSYLVANIA

Plaintiff

Vs. _____ : No. _____ 201_ DR

Defendant : In Divorce

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WAIVER OF NOTICE OF INTENTION TO REQUEST ENTRY OF A DIVORCE DECREE UNDER §3301 (c) OF THE DIVORCE CODE

1. I consent to the entry of a final decree of divorce without notice.
2. I understand that I may lose my rights concerning alimony, division of property, lawyer’s fees or expenses if I do not claim them before a divorce is granted.
3. I understand that I will not be divorced until a divorce decree is entered by the Court and that a copy of the Decree will be sent to me immediately after it is filed with the Prothonotary.

I verify that the statements made in this affidavit are true and correct. I understand that false statements made herein are subject to the penalties of 18 Pa.C.S.A. §4904 relating to unsworn falsification to authorities.

DATE: _____ (Plaintiff / Defendant)

IN THE COURT OF COMMON PLEAS OF WAYNE COUNTY, PENNSYLVANIA

Plaintiff

Vs. _____ : No. _____ 201__ DR

Defendant : In Divorce

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AFFIDAVIT OF CONSENT

1. A Complaint in Divorce was filed on _____ (date).
2. The marriage of the plaintiff and defendant is irretrievably broken and ninety (90) days have elapsed from the date of the service of the Complaint.
3. I consent to the entry of a final divorce decree after service of Notice of Intention to Request Entry of the Decree.

I verify that the statements made in this Affidavit are true and correct. I understand that false statements made herein are made subject to penalties of 18 Pa. C.S.A. §4904 relating to unsworn falsification to authorities.

Date: _____

Plaintiff / Defendant

IN THE COURT OF COMMON PLEAS OF WAYNE COUNTY, PENNSYLVANIA

Plaintiff
Vs. _____ : No. _____ 201__ DR

Defendant : In Divorce
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PRAECIPE TO TRANSMIT RECORD

TO THE PROTHONOTARY:

Transmit the record, together with the following information, to the Court for the entry of a divorce decree.

1. Ground for divorce: irretrievable breakdown under §3301(c) of the Divorce Code.
2. Date and manner of service of the complaint _____.
3. Date of execution of the affidavit required by §3301(c) of the Divorce Code:
By plaintiff _____ By Defendant _____
4. Related claims pending: NONE
5. Complete either (a) or (b);
6.
 - (a) Date and manner of service of the Notice of Intention to file Praecipe to Transmit Record _____.
 - (b) Date Plaintiff's Waiver of Notice in §3301(c) Divorce filed with the Prothonotary _____.
 - (c) Date Defendant's Waiver of Notice in §3301(c) Divorce filed with the Prothonotary _____.

Plaintiff / Defendant

Print / Type Name

IN THE COURT OF COMMON PLEAS OF WAYNE COUNTY, PENNSYLVANIA

Plaintiff
Vs. _____ :
No. _____201__ DR

Defendant : In Divorce
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DECREE

AND NOW, _____201____, it is **ORDERED AND DECREED** that

Plaintiff and _____ Defendant
are divorced from the bonds of matrimony.

BY THE COURT:

_____ J.

cc: Plaintiff
Defendant

1. Ensure when filing any documents, the case number is listed on the caption (i.e. No. 000-2014 DR). This number is assigned to the case by the Prothonotary upon filing of the Divorce Complaint. Always ensure that the names of the parties are listed in the areas provided on the top of each form together with the case number.
2. There must be **proof of service** of the Complaint in order for the case to move forward. If the Court is unsure as to whether the other party has been advised of the proceedings, they will not move forward. It is your responsibility to advise the Court, via Proof of Service, that the other side has been advised of the proceedings and has been sent the appropriate filings.
3. Proof of Service is obtained by going to the post office and sending the Notice to Defendant and Divorce Complaint via certified mail, return receipt requested, restricted delivery. Upon successful delivery, the other party signs a green receipt card (Form 3811) which will be returned to you. This form should be attached as Exhibit A and filed along with the Affidavit of Service of the Complaint.
4. It is your responsibility to file signed waivers and affidavits from yourself and the other party. You should send the other party the Waiver and Consent Affidavit and a self-addressed stamped envelope with instructions to date and sign and return the forms to you. You then file them with the Prothonotary.

Waivers/Consent Affidavits – Should not be signed until 90 days have lapsed from the service of the complaint.

Waivers & Affidavits – Must be filed within 30 days of their signing.

5. Plaintiff should photocopy all filings made with the Prothonotary for their own records.

AGAIN, these forms and instructions do not meet the requirements of ALL divorce proceedings. It is strongly urged that should you have any questions or concerns regarding the filing of this action, **YOU SHOULD CONSULT WITH AN ATTORNEY**.