

FAMILY COURT MATTER

Answer and Counterpetition in Response to Petition for Dissolution of Marriage with Children

Helpful materials may be found at your public county law library. For a directory, see <http://mn.gov/law-library/research-links/county-law-libraries.jsp> . For more information, contact your court administrator or call the Minnesota State Law Library at 651-297-7651.

IMPORTANT NOTICES

- **STOP: THE LAW STATES THAT BEFORE YOU CAN BEGIN A DIVORCE IN MINNESOTA, EITHER (1) YOU OR YOUR SPOUSE MUST HAVE LIVED IN MINNESOTA FOR THE LAST SIX (6) MONTHS, OR (2) YOU OR YOUR SPOUSE MUST BE A MEMBER OF THE ARMED FORCES STATIONED IN MINNESOTA FOR THE LAST SIX (6) MONTHS. IF ONE OF YOU HAS NOT LIVED IN MINNESOTA FOR THE LAST SIX (6) MONTHS, STOP, YOU CANNOT GET A DIVORCE YET. YOU MUST WAIT UNTIL YOU HAVE LIVED IN MINNESOTA FOR AT LEAST SIX (6) MONTHS. THERE IS A LIMITED EXCEPTION TO THIS RULE FOR SAME SEX COUPLES WHO WERE MARRIED IN MINNESOTA.**
- **STOP: YOU SHOULD USE THIS PACKET OF FORMS ONLY IF YOU AND THE OTHER SPOUSE HAVE AT LEAST ONE CHILD TOGETHER, OR IF A SPOUSE IS PREGNANT, OR IF A CHILD WAS BORN AT ANY TIME AFTER THE MARRIAGE AND THE CHILD IS NOT THE BIOLOGICAL CHILD OF THE SPOUSES.**
- **WARNING: YOU HAVE THIRTY (30) DAYS FROM THE DATE YOU WERE SERVED WITH THE *PETITION FOR DISSOLUTION OF MARRIAGE* IN WHICH TO RESPOND. IF YOU DO NOT RESPOND WITHIN THE THIRTY (30) DAY PERIOD, THE COURT MAY GIVE YOUR SPOUSE EVERYTHING HE OR SHE ASKED FOR IN THE *PETITION*.**
- THE COURT EXPECTS EVERY PERSON WHO APPEARS IN COURT WITHOUT A LAWYER TO KNOW THE LAW. IF YOU ACT AS YOUR OWN LAWYER, YOU MUST DO WHAT A LAWYER WOULD DO.
- YOU SHOULD SEE A LAWYER IF YOU DON'T KNOW HOW TO ANSWER THE QUESTIONS ON THESE FORMS OR IF YOU THINK THE OTHER PARTY WILL HIRE A LAWYER.
- AS YOU FILL IN THE FORM(S), YOU **MUST** FOLLOW THE INSTRUCTIONS INCLUDED WITH THIS PACKET.
- TYPE YOUR ANSWERS OR PRINT NEATLY USING DARK INK.
- IF YOU NEED MORE SPACE TO ANSWER A QUESTION, USE AN ADDITIONAL FULL SHEET OF PAPER.

Confidential Information and Documents

NOTE! Most documents filed with the court are considered public documents and are available to the public. Certain information that is filed with the court may be considered confidential based on court rule and not available to the public. To keep this information confidential and not available to the public, you must take certain steps that are described below.

The steps listed below are for filers who are filing paper documents. Filers who are using eFS to submit their court documents must identify and designate their filings as required in Minn. Gen. R. Prac. 11.03 and 14.06.

Confidential Information Form 11.1

All social security numbers, employer identification numbers, and financial account numbers (also called “restricted identifiers”) must not be listed on papers you file with the court. This is to protect your privacy, the other parties and your children. Only provide social security numbers, employer identification numbers, and financial account numbers when the court requires this information to be provided to the court. For example, if you must provide the court with bank account numbers, or medical account numbers, do not include any account number in your document (your motion, supporting affidavit, etc.). Instead, you must use Form 11.1 to list these confidential numbers.

If account numbers are not required to be provided to the court, and the numbers appear on documents that are considered available to the public, (such as medical invoices or credit account numbers on statements) you must remove the number on the document before filing the document with the court.

Cover Sheet for Non-Public Documents Form 11.2

Most documents filed with the court are public. However, some documents are considered non-public documents based on court rules. You **must** identify these documents as non-public at the time you file the documents with the court. You must complete and file the “Cover Sheet for Non-Public Documents Form 11.2 (also called Form 11.2 cover sheet) when you file non-public documents. The most common non-public documents are called “financial source documents.” Examples of financial source documents include:

- Paycheck stubs, employer statements, W-2 forms, or business income and business expenses
- Copies of your tax returns and schedules
- Bank statements
- Credit card statements
- Check registers

You may also need to submit other documents that court rules identify as non-public documents, such as a medical record. For example, a report from a doctor that provides a medical diagnosis or treatment plan for you or your child would qualify as a medical record.

You must use the Form 11.2 cover sheet when filing other non-public documents, such as medical records, with the court. One Form 11.2 cover sheet can be used for submitting all non-public documents.



The failure to use Form 11.2 or Form 11.1 may result in your document being rejected by court administration, being available to the public, stricken from the court record, and sanctions from the court.

See Rule 11 of the Minnesota General Rules of Practice for more information about how to file documents containing social security numbers, financial account numbers, “financial source documents” and other non-public documents.

Form 11.1 and Form 11.2 can be found at www.mncourts.gov/forms under the court forms category of “Confidential Information” and is court form number CON111 and CON112.

INSTRUCTIONS

Step 1

Fill Out the *Answer and Counterpetition* Form

This Dissolution of Marriage (divorce) proceeding started when you were served with a copy of the *Summons* and a copy of the *Petition for Dissolution of Marriage*. You have thirty (30) days from the date you were handed the *Summons* and *Petition* in which to respond. If you do not respond within the thirty (30) day period, the court may give your spouse everything he or she has asked for in the *Petition*.

The following forms will be needed in a Dissolution of Marriage Response:

1. *Answer and Counterpetition*
2. *Financial Affidavit*
3. *Confidential Information Form 11.1*
4. *Cover Sheet for Non-Public Documents Form 11.2*
5. *Affidavit of Personal Service*
6. *Affidavit of Service by Mail*
7. *Parenting / Financial Disclosure Statement*

To respond to the *Petition for Dissolution of Marriage*, fill out the *Answer and Counterpetition* form. The *Answer* form is divided into three (3) parts. The first part of the form (Questions 1-4 on Page 1) are known as your *Answer to the Petition for Dissolution of Marriage* and tells the court and your spouse whether you believe the information in the *Petition* is true or not true. The second part of the form (Questions 1-39 starting on Page 2) gives the court information about you, your spouse, your children, your finances, and your property. The third part of the form (Questions 1-24 starting on Page 25) tells the court and your spouse what you are asking for from the court.

FILL IN THE TOP PART OF THE FORM

NOTE: This information is known as “the caption” and will be the same on every form you fill out. The information to fill out the top part of the *Answer and Counterpetition* form can be found on the top part of the *Petition for Dissolution of Marriage*.

- Fill in the “Case No.” as found at the top of the *Petition*, if provided.
- On the line marked “Name of Petitioner,” write the full name of your spouse as found on the *Petition*. From now on, your spouse will be called Petitioner.
 - On the line marked “Name of Respondent,” write your full name. From now on, you will be called Respondent.

ANSWER QUESTIONS 1 – 4 ON PAGE 1 OF THE FORM, WHICH ARE YOUR ANSWERS TO THE *PETITION FOR DISSOLUTION OF MARRIAGE*

NOTE: The instructions that follow are numbered the same as the questions on the *Answer and Counterpetition* form.

For each of the following four questions, look at each paragraph numbered 1 through 39 in the *Petition for Dissolution of Marriage*.

1. If a paragraph is true, put the paragraph number(s) on the lines provided.
2. If a paragraph is not true, put the paragraph number(s) on the lines provided.
3. If a paragraph is partly true and partly not true, put the paragraph number(s) on the lines provided.
4. If you don't know whether a paragraph is true or not true, put the paragraph number(s) on the lines provided.

ANSWER QUESTIONS 1 – 39 STARTING ON PAGE 2 OF THE FORM, WHICH GIVES THE COURT INFORMATION ABOUT YOU AND YOUR SPOUSE

1. Throughout this case, your spouse will always be known as the Petitioner. Print your spouse's full name, street address, city, county, state, zip code, and date of birth. List all of your spouse's former or other names or write "none."
2. Throughout this case, you will always be known as the Respondent. Print your full name, street address, city, county, state, zip code and date of birth. List all of your former or other names or write "none."
3. Provide information about the date and location of your marriage.
4. Check YES if your spouse has lived in Minnesota for the last six months. Otherwise, check NO. Check YES if you have lived in Minnesota for the last six months. Otherwise, check NO.

STOP: The law states that before you can begin a divorce in Minnesota, either: (1) you or your spouse must have lived in Minnesota for the last six months; or (2) you or your spouse must be a member of the armed forces stationed in Minnesota for the last six months. If neither you nor your spouse has lived in Minnesota for the last six months, you cannot file for a divorce yet. You must wait until one of you has lived in Minnesota for at least six months. If one of you has lived in Minnesota for the last six months, then go on to answer the rest of the questions.

NOTE: If you and your spouse are a same sex couple who were civilly married in Minnesota, but no longer live in Minnesota, based on a new law effective August 1, 2013, you and your spouse may file an action for dissolution in Minnesota if there is no other state that will allow an action for dissolution because of the sex or sexual orientation of you and your spouse.

5. Answer the questions about the military status of both you and your spouse. If either spouse is a member of the armed forces, there are special procedures under the Servicemembers Civil Relief Act. Contact an attorney.
6. In Minnesota, a marriage can be dissolved even if only one of the parties states that the marriage relationship is over. You do not need to add any information in this section.
7. Check YES if you are still living together; check NO if you are not. If NO, print the date you physically separated. If YES, describe why you are living together at this time.
8. (a) Check YES if you or your spouse has already started another dissolution, legal separation or annulment proceeding in Minnesota or any other state.

(b) Check Yes if there is a child support or spousal maintenance case that was started involving you and your spouse or your joint children.

WARNING: If you or your spouse have already started a divorce or legal separation or annulment case in Minnesota or in any other state and it has not been dismissed, you CANNOT proceed with this divorce. You could either complete the other action, or you could have the other action dismissed and then start this divorce.

9. Check YES if there is an existing *Order for Protection* or an existing *Harassment Restraining Order* against the Petitioner or Respondent; complete this question and **submit a copy of the order to the completed *Answer and Counterpetition***. If your spouse attached a copy of the order to the *Petition*, you do not need to attach it to your *Answer*. Check NO if there is no Order.
10. Check YES if there is an existing Child Protection case and fill in all information. Check NO if there is no existing case.
11.
 - (a) List each child **under the age of 18** you and your spouse have together, including children born of you and your spouse before or during the marriage, and children adopted into your marriage. These children are called "joint children." Also include a child age 18 or 19, if the child is still in high school. Check who the children currently live(s) with.
 - (b) Answer whether all the children listed in (a) have lived in Minnesota for the past six months.
12. List any adult dependent joint children who are unable to live on their own because of a physical or mental condition.
13. Answer the questions about pregnancy.
14.
 - (a) Check YES only if the spouse (Petitioner) has any children **under the age of 18** that were born **prior** to the marriage from a different marriage or relationship. These are called nonjoint children. List all minor children that were born prior to the marriage.
 - (b) Check whether the Petitioner has given birth during the marriage to a child (or children) who is not a child of the Respondent (including children who were born while the parties were separated). If **YES**, answer (i), (ii), (iii) and (iv).
 - (i) List the name(s) and date of birth of the children.
 - (ii) Check whether there is a Court Order naming someone other than the Respondent as the other parent of the child. If YES, you must attach a copy of the Order to the completed *Petition*.
 - (iii) Check whether the Petitioner and the other biological parent have signed a Minnesota Recognition of Parentage. If YES, include a copy of the Recognition of Parentage. **Certified Copies** of the Recognition of Parentage can be obtained by mail by completing the required form provided by the Minnesota Department of Health. You can get the form from the Minnesota Department of Health website at: <http://www.health.state.mn.us/divs/chs/osr/cerropsnpsiao.pdf> or you can call 651-201-5970 to request a copy of the form. The fee for a certified copy is \$9.00 per copy. The completed form and fee should be mailed to:

**Minnesota Department of Health
Central Cashiering – Vital Records**

**P. O. Box 64499
St Paul, MN 55164-0499**

- (iv) Check whether the Respondent has signed the “Spouse’s Non-Parentage Statement” for any of the children listed in (i). If YES, attach a copy. If NO, describe why not.
15. (a) Check YES only if you (Respondent) has any children **under the age of 18** that were born **prior** to the marriage from a different marriage or relationship. These are called nonjoint children. List all minor nonjoint children that were born prior to the marriage.
- (b) Check whether the Respondent has given birth during the marriage to a child (or children) who is not a child of the Petitioner (including children who were born while the parties were separated). If YES, answer (i), (ii), (iii) and (iv).
- (i) List the name(s) and date of birth of the children.
- (ii) Check whether there is a Court Order naming someone other than the Petitioner as the other parent of the child. If YES, you must attach a copy of the Order to the completed *Petition*.
- (iii) Check whether the Respondent and the other parent have signed the Minnesota Recognition of Parentage. If YES, a copy of the Recognition of Parentage must be attached. If your spouse attached copies to the *Petition*, you do not need to attach copies to your *Answer*. **Certified Copies** of the Recognition of Parentage can be obtained by mail by completing the required form provided by the Minnesota Department of Health. You can get the form from the Minnesota Department of Health website at: <http://www.health.state.mn.us/divs/chs/osr/cerropsnpsiao.pdf> or you can call 651-201-5970 to request a copy of the form. The fee for a certified copy is \$9.00 per copy. The completed form and fee should be mailed to:

**Minnesota Department of Health
Central Cashiering – Vital Records
P. O. Box 64499
St Paul, MN 55164-0499**

- (iv) Check whether the Petitioner has signed the “Spouse’s Non-Parentage Statement” for any of the children listed in (i). If YES, attach a copy. If NO, describe why not.
16. Legal Custody identifies which parent(s) has / have the right to make decisions regarding the upbringing of the children, including education, health care, and religious training. Legal Custody can either be sole or joint. Sole Legal Custody means that only one parent has a right to make major decisions regarding the upbringing of the children. Joint Legal Custody means both parents share in the decision-making.

Physical Custody identifies which parent will handle the routine daily care and control of the children. Generally, the child lives with the parent who has physical custody. Physical custody can either be sole or joint. If Sole Physical Custody is awarded, the parent with whom the child does not live with will have scheduled parenting time (visitation) rights unless the court "reserves" parenting time. If parenting time is "reserved" there is no order made for parenting time. You must give the court reasons why parenting time should be reserved. Joint Physical Custody means that the children lives with both parents based upon a schedule that best meets the needs of the children and parents, and that the parents have joint responsibility and control in the daily care of the children. If you request joint physical custody, you must be able to show that you and the other parent can cooperate and work together to resolve problems that arise in

raising your children. The court may require you and the other parent to agree to mediate any disputes regarding joint physical custody before bringing a custody dispute back to court.

17. Parenting Time is the time a parent spends with a joint child, regardless who has custody of the child. You must say if you want parenting time to be unsupervised, supervised, or reserved. If you think your children would not be safe alone with your spouse, you can ask the court to make parenting time "supervised." You must explain at 16 a) and b) why supervision is needed, and who will do the supervising and pay any costs. The court may order parenting time to take place at a parenting time center, or the court may order a family member or someone from social services to supervise the parenting time. If you check "unsupervised" the parent can visit the children without anyone else watching. If you check "reserved", you are asking that the court give that parent NO parenting time. If you check "reserved" answer part (c) describing why "reserved" parenting time is best for the children. If parenting time is "reserved" either parent can ask the court to make a new order about parenting time in the future, by filing a motion with the court.
18. This question asks about "Public assistance" paid by the State of Minnesota. Public Assistance means MFIP, Tribal TANF, General Assistance, MinnesotaCare, Medical Assistance, or Child Care Assistance. Check YES or NO. If YES, write in the name of the county paying the assistance. Minnesota law requires the Petitioner to notify the public authority paying assistance that a divorce action has been filed.
19. Answer whether you, your spouse, or your joint children receive Supplemental Security Income (SSI) from the federal government. This is an income supplement program based on need. To get it, you must be low income and over 65, blind or disabled. SSI is different from Social Security retirement or other benefits based on qualifying years of work.
20. "School" includes high school, college, vo-tech, and night classes. Check YES or NO. If YES, answer (a) – (c).
21. This question is about your spouse's employment status. Provide the requested information about your spouse's employer. If your spouse is self-employed, list the business name and address. For purposes of setting child support, there is a presumption that both parents can work full-time. If your spouse is unemployed or works less than 40 hours/week, answer subparagraphs b) i. and ii. to explain why your spouse is not employed full-time and describe your spouse's past work experience. If you do not know the information, answer "unknown."
22. This question asks for your spouse's monthly income. If you don't have any information about your spouse's income, check the first box. If you have information about your spouse's pay, but do not know if your spouse has other types of income, check the second box. If you know all of your spouse's sources of income, check the third box and complete the income information.

Minnesota law defines "income" a certain way for purposes of setting child support.

- When you enter income amounts, enter the "gross" amount, not the "net". Gross income is the amount received before taxes or other deductions are taken out.
- If your spouse has a job, the most accurate way to calculate gross monthly income is to multiply hourly wage by the number of hours your spouse works per week by 4.33. 4.33 is the average number of weeks in a month.

- Overtime pay is generally excluded from income, but may be included depending on the circumstances. Look at the Minnesota laws or consult a lawyer if you have questions about overtime pay or other categories of income.
- Public assistance benefits available to low-income people are not included in "income". Do not include MFIP, General Assistance, SSI or other public benefits as income.
- Look at each category of income and enter the amount your spouse receives per month (before taxes or deductions). Enter "zero" if your spouse does not have income of that type.
- If your spouse has a type of income not listed at #21, enter that income under "Other".
When you have entered all monthly income amounts, total the numbers and enter that on the line "Total monthly income".

The 3 final questions at #22 are important for calculating child support.

1. "Enter the amount of child support your spouse is court-ordered to pay for nonjoint children." Does your spouse pay child support for a child that is his/her legal child, but not your legal child? If yes, write in the amount your spouse is court ordered to pay each month.

2. Enter the amount of spousal maintenance your spouse is court-ordered to pay to you or to a former spouse.

3. Enter the amount of Social Security of Veteran's Benefits provided to a joint child because of your spouse's retirement, disability, or other eligibility. If a joint child of you and your spouse receives SS or VA benefits due to your spouse's eligibility, enter the monthly amount of the child's benefit here. Which parent receives the check on the child's behalf? Check the box for Petitioner if your spouse receives the check, and check the box for Respondent if the check goes to you on your child's behalf.

23. Provide the requested information about living expenses for the family.
24. Answer whether you and your spouse have a joint child with special needs and extraordinary medical expenses. If YES, provide the name of the child, describe the needs, and answer (b) and (c).
25. This question is about your employment status. Provide the requested information about your employer and jobs. If you work less than full-time, explain why you are not working full-time and what your past work experience is at paragraph c) i. and ii.
26. This question asks about your monthly income. Complete the questions.
27. Complete the questions about child care costs necessary so that you or your spouse can work or attend school.
28. Complete the questions about medical and dental insurance. The court needs to know what coverage you, your spouse and your joint children have now and what it costs. If the children do not have health coverage, the court needs to know if you or your spouse could purchase health coverage through your work (question 27 f.)

NOTE: If you, your spouse, or your children are covered by medical or dental insurance through your job or your spouse's job, that coverage can be continued even after the divorce. If you want the insurance coverage to continue after the divorce, call the Employment Benefits Office of you or your spouse's employer and ask for "COBRA" coverage.

29. This question is about spousal maintenance. Spousal maintenance is money paid by one spouse to help support the other spouse (formerly called alimony). If you check YES for either (a) or (b), you need to provide details about the length of marriage, education of the spouse who would receive maintenance, gross monthly income, and reasons why the spouse would not be able to maintain the standard of living established during the marriage.
30. List all the vehicles owned by Petitioner and Respondent together or separately.

WARNING: Questions 31-32 ask about marital and non-marital property. Dividing marital property and non-marital property can be complicated. You should talk to an attorney. For example, a house purchased by one spouse before the marriage, then lived in by both spouses will generally be part marital and part non-marital property. An attorney can advise you on the law and how to divide the value of the house between you.

- **Marital Property means almost anything that you or your spouse own that you or your spouse received during the marriage, even during the times that you and your spouse were separated. This includes real estate, boats, cabins, household goods, furniture, jewelry, and other things.**
 - **Non-marital Property means: (1) anything that you or your spouse owned before the marriage; (2) anything that you or your spouse received as a gift, bequest, devise, or inheritance; (3) anything that you or your spouse got in trade or in exchange for your non-marital property; (4) anything that is an increase in the value of non-marital property; (5) anything you or your spouse received after the valuation date set by the court; or (6) anything included by a valid antenuptial contract (STOP: If you have an antenuptial contract, you should stop here and talk to an attorney.)**
31. Check YES or NO whether you and your spouse have divided the **marital property** to your mutual satisfaction, including household goods, furniture, furnishings, and other belongings. If you have **NOT** divided the marital property, list the items that you want.
32. (a) Check YES or NO whether your spouse claims **non-marital property**. Non-marital property is property owned before the marriage or acquired during the marriage by inheritance or gift. List all non-marital property your spouse owns.
- (b) Check YES or NO whether you claim **non-marital property**. Non-marital property is property you owned before you got married or acquired during the marriage by inheritance or gift. List all non-marital property you own.
33. Check YES or NO whether you or your spouse has money in banks, savings, cash or investments. If YES, fill in all columns in the box.
34. Check YES or NO whether you and/or your spouse own part or all of a business. If YES, fill in the name, address and value of the business.
35. Check YES or NO if either you or your spouse owns a manufactured (mobile) home. If YES, complete the detail questions.

WARNING: Question 36 asks you to list all **real property**. Real property is land and the buildings on the land. You must list all real property owned by you and your spouse together, separately, or with others. Failure to list all property will create serious problems and expense in the future. **Dividing real property is complicated. You should talk to an attorney if you and/or your spouse own any real property.** You and your spouse both have an interest in all real estate owned by either you or your spouse until the divorce is finalized and the Decree awards the property to just one party. For example, a deed given by one spouse to the other spouse before the divorce is finalized does **not** transfer all interest to the grantee spouse.

36. (a) Check YES or NO if you and your spouse own any real property together.
(b) Check YES or NO if your spouse owns real property solely in his/her name or with someone other than you.
(c) Check YES or NO if you own real property solely in your name or with someone other than your spouse.
(d) Answer how many properties are owned by you and your spouse in total.
If YES to (a), (b) or (c), complete the Real Property Information questions for each piece of property. (1) List the full names of all owners of the property. (2) Fill in the legal description of the property (the legal description is not the same as the street address). *Example of Legal Description: Lot 1, Block 4, Hamden Edition, Hennepin County, Minnesota.* You can get a copy of the legal description from the Deed or Contract for Deed at the office of the County Recorder or Registrar of Titles in the County where the real property is located. **WARNING:** Be sure to copy the legal description **exactly** as is on the Deed or Contract for Deed. (3) Fill in the street address, city, county, and state where your property is located. (4) State the date the property was purchased and its purchase price. (5) State the amount of any existing loans or mortgages. (6) State the current market value of the property and describe how you came up with that value. (7) Check YES if this property is the homestead.

WARNING: Question 37 asks about pension, profit sharing, and retirement plans. Dividing pension, profit sharing, and retirement plans is complicated. You or your spouse could face large losses if the divorce decree does not divide the pension or retirement plan according to the laws that apply. You should talk to an attorney if you or your spouse have any of these types of plan.

36. (a) Check YES or NO if your spouse has an IRA, 401(k), 403(b) or other retirement plan. If YES, list the last four digits of the account number, the name of the bank, and the current account balance.
(b) Check YES or NO if your spouse's past or present employer, union, or other group, paid money into a pension, profit-sharing, or other retirement plan for your spouse. If YES, list the name of the plan, the name of the group employer, union, or group providing the plan, the date your spouse began working at the job or joined the plan, the type of plan, and the present value of the plan.
(c) Check YES or NO if you have an IRA, 401(k), 403(b) or other retirement plan. If YES, list the last four digits of the account number, the name of the bank, and the current account balance.
(d) Check YES or NO if your past or present employer, union, or other group, paid money into a pension, profit-sharing, or other retirement plan for you. If YES, list the name of the plan, the name of the group employer, union, or group providing the plan, the date you began working at the job or joined the plan, the type of plan, and the present value of the plan.
38. Check YES or NO if you and/or your spouse have outstanding debts (owe money) either together or separately. If YES, list all of the debts you and your spouse now have, even if only one of you created the debt and even if only one of your names is on the credit card, loan or

note. List all debts still owed from before you were married, from during the marriage but before separation, and after separation. The *Judgment and Decree* (divorce decree) will state who is responsible for paying each debt. Include credit card bills, gas bills, water bills, telephone bills, school loans, car loans, home loans and mortgages, and other bills and loans. List to whom the debt is owed (such as Sears); how the money was used (such as “clothing for the children”); whose name is on the account and when the debt was created (if you cannot get the exact date the debt was created, at least state if the debt is from before the marriage, or during the marriage and before separation, or after separation); the current balance due; and the monthly payment. Attach another sheet of paper if you need more space. You must disclose all debts.

39. You may change your name as part of the divorce, but you do not have to do so. You can change your name to a maiden name, or some other name. You cannot make your spouse change his or her name, and your spouse cannot make you change your name. If you want to change your name, check YES and answer (a) – (c). If you do not want to change your name, check NO.

(a) Print the new name you want (*first, middle, and last*). **Do not use initials unless you want only an initial instead of a full name.** Check whether this is a former legal name or maiden name. If not, explain why you want to change to this name.

(b) You cannot change your name if your reason for changing your name is to defraud or mislead anyone. Mark True or False to the statement “Respondent has no intent to defraud or mislead anyone by changing his/her name.”

(c) If you have a felony conviction, you cannot change your name unless you notify the prosecuting authority that you intend to change your name. The prosecuting authority has 30 days after being served with your notice to object to the name change. If you have been convicted of a felony anywhere in the United States, answer (c) YES. Ask Court Administration to give you the *Felon Name Change Instructions* or you can download the forms at www.mncourts.gov/forms.

Warning: If you do not notify the prosecuting authority of the request for name change and you use your new name, you may be guilty of a gross misdemeanor.

40. List any other facts you would like the court to know.

INSTRUCTIONS FOR ANSWERING QUESTIONS 1-24, WHICH TELL THE COURT AND YOUR SPOUSE WHAT YOU WANT THE COURT TO ORDER

1. This tells the court that you want your marriage dissolved. You do not need to write anything here.

QUESTIONS 2 and 3 tell the court and your spouse who you think should have legal custody and physical custody of the joint children. The court will decide who should have custody based on what is best for the children.

- **Legal Custody identifies which parent(s) have the right to make decisions regarding the upbringing of the children, including education, health care, and religious training. Legal Custody can either be sole or joint. Sole Legal Custody means that only one parent has a right to make decisions regarding the upbringing of the children, and Joint Legal Custody means both parents share in the decision-making.**

- **Physical Custody identifies which person(s) will handle the routine daily care and control of the children. Generally, the child lives with the parent who has physical custody. Physical custody can either be sole or joint. If Sole Physical Custody is awarded, the non-custodial parent will have scheduled parenting time (visitation) rights unless the court "reserves" parenting time. If parenting time is "reserved" there is no order made for parenting time. But either parent can request a schedule in the future by filing a motion. Joint Physical Custody means that the children lives with both parents based upon a schedule that best meets the needs of the child and parents, and that the parents have joint responsibility and control in the daily care of the children. If you request joint physical custody, you must be able to show that you and the other parent can cooperate and work together to resolve problems that arise in raising your children.**
2. Write the name of each joint child who is under age 18, or is 18 or 19 and still in high school. For each child, check the box to show what you want for legal custody.
 3. Again, write the name of each joint child who is under age 18, or is 18 or 19 and still in high school. For each child, check the box to show what you want for physical custody.
 4. Write down what parenting time arrangements you want. First, check the boxes to show if parenting time should be unsupervised, supervised, or reserved. This should match what you said at #17 of the Findings section on the *Answer and Counterpetition*. Then, describe the parenting time schedule you want. It should be clear from your schedule which parent is taking care of each child at all times (24 hours a day/7 days a week). Include the time of day that the child will be exchanged. For example, a weekday schedule might be "the children are with Mother every Monday through Friday, except that Father has parenting time every Wednesday from 4pm to 8am Thursday." What is appropriate for parenting time can depend on the age of the child.

After you have set out the weekday and weekend schedule, you can request a different schedule for summer, holidays, birthdays, or school release days. Holidays may include, but are not limited to, the following: New Years Day, Easter, Memorial Day weekend, Fourth of July, Labor Day weekend, Thanksgiving Day, and Christmas. Some parents alternate holidays each year so that, for example, on Memorial Day weekend the children would be with the mother in odd-numbered years and with the father in even-numbered years. The next holiday would be Fourth of July and the children would be with the father in odd-numbered years and with the mother in even-numbered years. Other parents keep the same holidays each year so that, for example, the children spend every Christmas Eve with one parent and every Christmas Day with the other parent. Under "Other," you may want to include how you would like to handle Mother's Day, Father's Day, and any days or events that are special to you.

Some parents include transportation details in the parenting time schedule. If you want to say who is responsible for transporting the child for parenting time, enter that under "Other." Some parents make very detailed parenting plans that address many more issues that come up in raising the children. If you would like a more detailed parenting plan, you can create one and attach it to your Counter Petition. The court does not have a form for a more detailed plan. It is also possible to request "reasonable parenting time." With reasonable parenting time, there is no schedule in the divorce order. Instead, the parents work out parenting time themselves, on an on-going basis. If you want "reasonable parenting time" write that phrase under "Other" and leave the rest of the schedule blank.

5. The court will make an order regarding child support. Child support includes costs for the children for basic support for daily living expenses, health care coverage, uninsured and unreimbursed health care expenses, and child care expenses if child care is needed so the parent can work or attend school. You do not need to fill in anything at #5. However, at some point in the proceedings, you will need to be specific about the amount of child support that is needed. The Minnesota Department of Human Services has created an online calculator for child support at:

<http://childsupportcalculator.dhs.state.mn.us>

You need income information for yourself and your spouse to use the calculator. This calculator is intended for use by the public, and after you enter the required information, the calculator produces dollar amounts for support based on Minnesota law. If you think that support should be higher or lower in your case, you need to add a statement to your *Answer and Counterpetition*, requesting a "deviation" in child support and stating facts that support your request. You should research the law or get help from a lawyer if you wish to request a deviation.

6. At 6a. check off whether you want to pay for the children's medical and/or dental insurance through employment or private insurance or whether you want your spouse (Petitioner) to pay for the children's medical and/or dental insurance through employment or private insurance. If the children are covered by Medical Assistance or Minnesota Care, check box 6b. instead. If you think the court should make no orders about health coverage for the children at this time, check box 6c. to "reserve" the issue. Reserving the issue means that in the future either parent can file a motion in court asking for an order deciding who must provide health coverage for the joint children.
7. Usually medical and dental insurance does not pay every bill. For example, co-payments and medicine might not be covered. These costs are called unreimbursed costs. Uninsured costs are expenses for treatment not covered by the health plan. These costs are part of the child support obligation. The child support calculator provides a percentage allocation of these costs, based on the relative incomes of the parents. Check box 7a. to ask that these expenses be shared. Or check box 7b. if you want the court to reserve this issue and not make an order about these expenses at this time.
8. This paragraph states how you want to handle the health insurance coverage costs for you and your spouse (not your children). Check box (a) if you want you and your spouse to be responsible for your own insurance after the divorce. Check box (b) if you want one of you to pay the insurance costs for the other after the divorce. Box (c) is for COBRA coverage. COBRA coverage exists under federal law and it allows a spouse to continue to be covered under the other spouse's work insurance even after the divorce. For more information on costs, whether this coverage is available, and how to get it, check with the employer of the person who has health coverage. If you have other questions, or if the boxes provided do not explain what you want the court to order, ask an attorney for help.
9. Minnesota law requires the parents to share work-related and school-related childcare costs. This is part of the child support obligation. You can check the box to have the judge determine the share of monthly child care expenses according to Minnesota law or you can check the box to reserve the issue. The child support calculator will calculate the share each parent should pay, based on their relative incomes.
10. Spousal maintenance is money paid by one spouse to the other to help with the spouse's necessary monthly living expenses. This is separate from child support. If you want spousal

maintenance to be denied, check box 10(a). If spousal maintenance is denied, you and your spouse can not ask for it to be ordered later (after the divorce) even if your circumstances change. If you want to be retain the ability to ask for spousal maintenance after the divorce is final, check "reserved." If you check reserved and the court agrees to reserve maintenance, your spouse can also request maintenance from you at a later date. If you want an order for spousal maintenance now, check box 10(c) and indicate who should pay.

11. In question 30 above you listed all of the vehicles owned by you and your spouse. Write down which vehicles you want the court to give to you and which vehicles you want your spouse to have.

WARNING: Dividing marital property and non-marital property is complicated. You should talk to an attorney.

12. Check YES or NO whether you and your spouse have already divided your marital property to your mutual satisfaction. If NO, list the marital property you want to receive and the marital property you want your spouse to receive.
13. Check YES or NO whether you and your spouse have already divided your non-marital property to your mutual satisfaction. If NO, list the non-marital property you want to receive and the non-marital property you want your spouse to receive.
14. State how you want the court to divide the cash and investments listed at #33 above.
15. If you and/or your spouse own a business, state how you want the court to divide the business. Be very specific.
16. If you and/or your spouse own a manufactured home, provide the address of the manufactured home and check off who should get it. If there is a debt on the manufactured home, fill in who the debt is owed to and who should pay the debt.
17. If you or your spouse own real property either separately or together, check off whether you (Respondent) or your spouse (Petitioner) should be awarded that real property, and then list the street address, city, county and state where the homestead is located, and then write the **exact** legal description. You can get a copy of the legal description from the Deed or Contract for Deed at the office of the County Recorder or Registrar of Titles in the County where the property is located. Write in the name of the mortgage company and the amount of the current mortgage balance. If there is additional real property, list it in paragraph 18.
18. If there is additional real property, provide the address and legal description and state how that property should be awarded.
19. Describe how your pension, profit sharing, retirement, IRA or 401 plan should be divided, then do the same with any plan in your spouse's name. Get competent legal and tax advice before making any decisions.
20. If you listed any debts at #38 in your *Answer and Counterpetition*, list those debts again here. State whom the debt is owed to, and then state who should pay this debt - you or your spouse. The court can order one of you to pay a debt, but if both your names are on the debt, the creditor can still go after either of you for payment. Your divorce doesn't eliminate your legal obligation

to pay a debt you promised to pay when the money was borrowed. If you are worried about the debt being paid, ask a lawyer for advice about how to handle the debt in the divorce. Whether or not you have debt, you can check box 20b. asking that you and your spouse both be responsible for non-joint debts you each incurred on your own.

21. If you want to change your name, print **exactly** how your new name should be listed (first, middle, and last). **Do not use initials unless you want only an initial instead of a full name.**
22. List anything else you would like the court to decide.
23. You do not need to write anything for question 23.
24. READ and SIGN the **Verification and Acknowledgments**.

Signing the *Answer and Counterpetition* under penalty of perjury means you are stating that the information in the *Answer and Counterpetition* is true to the best of your knowledge. Perjury is the crime of intentionally lying or misrepresenting the truth, punishable by jail or other sanctions.

Step 2

Fill Out the Financial Affidavit

- Fill out the form called "*Financial Affidavit*." This form asks for your income information. Look at paragraph 26 on your *Answer and Counterpetition*. The information you put on the *Financial Affidavit* should be the same as #26 on the *Answer and Counterpetition*. The *Financial Affidavit* is required to be served on your spouse and filed with the court at the same time you serve and file your *Answer and Counterpetition*. The *Financial Affidavit* has separate instructions that you should read. It is very important to attach to the *Financial Affidavit* any proof you have regarding your income. This proof may include the last 3 months of pay stubs, income tax return, or other documents. Make sure the copy of the *Financial Affidavit* you provide to your spouse also has copies of your proof of income.

To file your *Answer and Counterpetition*, you must pay a court filing fee. If you cannot afford this fee, a Judge may waive it under certain circumstances. Ask court administration for a Fee Waiver form, called In Forma Pauperis application or download the forms at www.mncourts.gov/forms. Fill out this application and sign it under penalty of perjury. Take the In Forma Pauperis application and a copy of your *Answer and Counterpetition* to the Court Administrator's office to have a Judge review your application and decide if you must pay the filing fee. The Court Administrator cannot accept your legal papers without either the filing fee or an *Order* signed by a Judge waiving the fee.

Step 3

Make Copies of Forms

Make two (2) copies of the *Answer and Counterpetition* and *Financial Affidavit* and proof of income (pay stubs or other documents). Keep one for yourself. Step 4 tells you how to serve the second copy on the other party. Step 6 tells you what to do with the *Answer and Counterpetition* and *Financial Affidavit*.

Step 4

Serve the Other Party

A copy of your *Answer and Counterpetition* must be served on your spouse. This is called “service of process.” Service of process may be done **either** by “Personal Service” or by “Mail Service.” If your spouse is represented by an attorney, then a copy of your forms must be served on the attorney instead of your spouse.

Service of your forms must be completed **within 30 days of the date you were served with the *Summons and Petition***. See [Minn. Stat. § 518.12](#).

Service cannot be made on a legal holiday.

Who Can Serve

The forms you have prepared can be served by any of the following:

- The sheriff;
- Another adult; or
- You.

Personal Service

The server should hand-deliver a copy of your forms to your spouse. However, if there is an attorney’s name and address on the *Summons* you received, the server must hand-deliver the forms to your spouse’s attorney.

Note: The papers cannot be given to anyone other than your spouse or your spouse’s attorney, if any.

Service by Mail

A copy of your *Answer and Counterpetition* is placed in an envelope addressed to your spouse’s attorney (or your spouse, if there is no attorney) with your return address on the envelope and is then sent by first class U.S. mail. The server must drop the letter in the mailbox or give it to the postal worker. The address for your spouse’s attorney or your spouse is on the *Summons* you received, as part of the signature block.

Step 5

Fill Out the *Affidavit of Service*

After the *Answer* is hand-delivered or mailed, the person who did the service must fill out an *Affidavit of Service* form and sign it under penalty of perjury. Perjury is the crime of intentionally lying or misrepresenting the truth.

After it has been signed, make one copy of the *Affidavit of Service* for your records.

Step 6

File the Forms with the Court

Immediately file the following documents with the Court Administrator.

- *Answer and Counterpetition*
- *Financial Affidavit with proof of income attached*
- *Form 11.1 Confidential Information Form* (Include names and social security numbers for you, your spouse and all children you and your spouse have together **and separately**. Include account numbers and names of Financial Institutions, when necessary. This information will be kept confidential.)
- *Form 11.2 Cover Sheet for Non-Public Documents Form* (This Form should be included as a "cover sheet" with your proof of income submitted with your *Financial Affidavit* (but should be filed separately). This form tells the court to keep your financial records like pay stubs and income tax returns in a separate confidential folder that is unavailable to the public. Your spouse and the judge will have access to your financial records.)

NOTE: If you fail to use the Form 11.2 cover sheet to protect confidential information in your financial documents, the court may order you to pay additional court costs and other sanctions as a penalty for failing to follow the court rules.

- *Affidavit of Personal Service* **OR** *Affidavit of Service by Mail*

At the time you file your forms, you will be required to pay a filing fee.

If you cannot afford to pay the filing fee, the Judge may waive it under certain circumstances. Ask the Court Administrator/Deputy for an *In Forma Pauperis* application or download the forms at www.mncourts.gov/forms. Fill out this application and file it with the court. Court administration staff will explain local practice as to presenting the In Forma Pauper application to a judge for review. A judge will review your application and decide if you must pay the filing fee. The Court Administrator cannot process your legal papers without either the required filing fee or an order from a judge waiving the fee.

Step 7

Parenting Education Session and Child Education Session

If there are children under the age of 18, parenting classes are required for the parents before you can get divorced. If the parties together have children between the ages of 6 and 17, the children must also attend classes before you can get divorced.

Parenting Programs:

Both you and your spouse must attend the Parent Education. You can get a listing of local parenting programs from the Court Administrator along with a description of the programs and how to register. Fees may be based on your ability to pay. Parenting classes must be fulfilled BEFORE your divorce can be finalized.

Step 8 Temporary Relief

If you and your spouse need a temporary order to address temporary custody, parenting time, child support, spousal maintenance or any other matter in the divorce, go to the Court Administrator's office and ask for "Temporary Relief Pending Final Hearing With Children" forms or download the forms at www.mncourts.gov/forms. If the judge signs the temporary order that order is in effect until the judge signs the final order divorcing you and your spouse.

Step 9 Try to Settle All of the Issues with Your Spouse

1. If you do not respond to the *Petition for Dissolution of Marriage* within thirty (30) days, your spouse will notify the court and ask the court to grant everything asked for in the *Petition*. The court will do so by issuing a final divorce decree called the *Findings of Fact, Conclusions of Law, Order for Judgment and Judgment and Decree*.
2. If you AGREE with everything your spouse is asking for in the *Petition for Dissolution of Marriage*, tell your spouse in writing. Your spouse will then complete a document called *Stipulated Findings of Fact, Conclusions of Law, Order for Judgment and Judgment and Decree* that you will be asked to review and sign to make sure it says what you agreed to for your divorce.
3. If you do NOT AGREE with everything your spouse is asking for in the *Petition for Dissolution of Marriage*, you and your spouse should attempt to reach an agreement regarding as many issues as possible.
4. If you and your spouse reach an agreement regarding all issues, your spouse will fill out a *Stipulated Findings of Fact, Conclusions of Law, Order for Judgment and Judgment and Decree* that you will be asked to review and sign to make sure it says what you agreed to for your divorce.

If you and your spouse DO NOT reach an agreement regarding all of the issues, you and your spouse will have to go to court and a judge will decide the issues for you after a trial. If disagreements still exist, go to Step 10 and fill out the *Parenting / Financial Disclosure Statement*.

Step 10

Fill Out the Parenting / Financial Disclosure Statement

NOTE: Fill out the *Parenting / Financial Disclosure Statement* form **ONLY** if you and your spouse **DO NOT** reach an agreement regarding all of the issues and you must go to trial so the judge can make a decision on how to settle the issues.

The *Parenting/ Financial Disclosure Statement* gives the court-updated information regarding income, employment, property, children, and other issues since you filed your *Answer and Counterpetition*. Your spouse will also submit a *Parenting / Financial Disclosure Statement*. The court will schedule a hearing called a “Prehearing Conference.” Unless excused by the court, you must attend the hearing prepared to negotiate a final settlement of all issues. If you do not go to the Prehearing Conference, the court can issue a final divorce decree without considering anything that you have asked for, and can order you to pay your spouse’s attorney’s fees (if any). If you and your spouse cannot reach an agreement at the Prehearing Conference, the court will issue an order identifying the issues about which you disagree, scheduling the trial date, and setting the date by which you and your spouse must exchange your list of exhibits and witnesses to be offered at trial.

The questions asked in the *Parenting / Financial Disclosure Statement* form are similar to questions asked on other forms you have already filled out. The purpose of this form, however, is to give the court-updated information in preparation for trial. To answer the questions asked about YOU, you should look at your *Answer and Counterpetition* and any *Application for Temporary Relief* you may have filled out. To answer the questions asked about YOUR SPOUSE, you should look at your spouse’s *Petition for Dissolution of Marriage* and any *Application for Temporary Relief* your spouse may have filled out. The *Application for Temporary Relief* is a separate form.

Fill out the *Parenting / Financial Disclosure Statement* by following the Instructions. The Instructions and the court form can be found under the Court Forms Category of “Family” (FAM107 and FAM108).

Step 11

Wait For Your Final Divorce Decree

1. If you and your spouse reached an agreement settling all of the issues in your marriage by signing a *Stipulated Findings of Fact, Conclusions of Law, Order for Judgment and Judgment and Decree* your spouse will file the document with the court. The Court Administrator will send you and your spouse a notice telling you when the Judge has signed the *Stipulated Findings of Fact, Conclusions of Law, Order for Judgment, and Judgment and Decree*.
2. If you and your spouse were unable to settle all of the issues and you had to go to trial, the court will issue the final divorce decree within 90 days after the trial. This will be called the *Findings of Fact, Conclusions of Law, Order for Judgment and Judgment and Decree*. A copy will be sent to you.

WARNING: YOU ARE **NOT** DIVORCED UNTIL THE JUDGE AND THE COURT ADMINISTRATOR/DEPUTY SIGNS THE ***FINDINGS OF FACT, CONCLUSIONS OF LAW, ORDER FOR JUDGMENT AND JUDGMENT AND DECREE***. You will be notified by mail when this happens. You may obtain a plain copy or certified copy of your *Divorce Decree* from the Court Administrator. There is a cost for a certified copy and a cost for a plain copy. Make checks payable to

“Court Administrator.” Include your name and the case number in your request. **NOTE:** You may make additional copies of your Decree. However, a copy is “certified” only if it has the original seal of the District Court. You cannot make a certified copy yourself.

OTHER STEPS AFTER ENTRY OF THE *DECREE*

It is the responsibility of the parties to take all necessary steps to put into effect the orders of the court. For example, if you changed your name you will need to get your driver’s license and social security card changed to reflect your new legal name. If you or Respondent were awarded pension or medical benefits, the company or provider will need to see the *Decree* and may have other requirements before making the changes ordered by the court. If you and/or Respondent own real estate, there are additional steps you must take to transfer the title to the real estate to the party who was granted the real estate in the Decree.

Under Minnesota law, both spouses have an interest in real estate, even if only one spouse’s name is on the deed or title of the property.

Proof of divorce and proof of who was awarded interests in the real estate is usually recorded in the real estate records before selling or mortgaging the property after the divorce.

To give that proof, the complete divorce decree can be filed in the real estate records. Or, a short version of the divorce decree can be filed, called *Summary Real Estate Disposition Judgment* Form (SREDJ). The SREDJ only includes information needed for real estate title purposes. If you file the SREDJ, information about your children, work, and other personal matters is not available in the county real estate records. The Minnesota Judicial Branch publishes a set of instructions to help you with the SREDJ process. Those instructions can be found on the court’s website at <http://mncourts.gov/GetForms.aspx?c=15&f=572>.

Get legal advice from a lawyer if you are not sure what actions to take with your real estate.