

2019 EDITION

# DIVORCE In New Jersey:

***Divorce in New Jersey: A Self-Help Guide* © 2019 Legal Services of New Jersey**

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This manual provides legal information about divorce in New Jersey. Legal information is different from legal advice. Legal advice must be tailored to the specific circumstances of each matter and often requires consultation with an attorney. Information in this manual is accurate as of January 2019, but laws often change. Please check our website, [www.lsnjlaw.org](http://www.lsnjlaw.org), for updates to this manual or talk to a lawyer for up-to-date legal advice. Use of this manual does not create or constitute an attorney-client relationship between the user and LSJNJ.

**Note: The forms in this manual are available in the PDF download edition, which may be purchased at <https://checkout.lsnj.org>. If you are a low-income New Jersey resident, you may be eligible for a free copy. See *Are you eligible for a copy at no charge?* at <https://checkout.lsnj.org> for more information.**

**INCLUDES INSTRUCTIONS AND FORMS**

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# Preface

Legal Services of New Jersey (LSNJ) coordinates the statewide Legal Services system in New Jersey, providing free legal assistance to lower-income people in civil matters. Part of Legal Services' mission is to make people more aware of their legal rights and provide helpful information if they choose to pursue a legal case on their own. Awareness may allow you to resolve some problems on your own, without the need for a lawyer, or to make better use of a lawyer if you have one.

## Important Notes About Using This Manual

Legal Services of New Jersey makes this publication available for people who cannot afford legal advice or representation. It may not be sold or used commercially by others. You may copy the forms in this manual for personal use only. No other part of this manual may be reproduced without permission.

This manual gives you general information about representing yourself in a divorce. Only a lawyer can give you specific advice about your case and help you protect all of your rights. By providing this information, we are not acting as your lawyer. Always talk to a lawyer, if you can, before taking legal action.

The information, forms, and instructions in this manual are accurate as of January 2019. Please check our website, [www.lsnjlaw.org](http://www.lsnjlaw.org), for updates.

## Important Information About Doing Your Own Divorce

This manual cannot provide specific advice about your divorce. It is not a substitute for having an attorney. A lawyer can give you specific advice about your case and help you protect all of your rights. Getting a divorce can be complicated. In the situations listed under *Getting Legal Advice* on page 2, it may be best to have a lawyer represent you in your divorce.

If you have questions about the court or are having problems getting information from court staff, you may contact the court ombudsman. Each county courthouse has an ombudsman assigned to the job of explaining court procedures, programs, and services; offering guidance to unrepresented litigants; making referrals to social services or other local agencies; and resolving complaints. The ombudsman may not give you legal advice. See Appendix E on page 118 for a list of names, telephone numbers, and email addresses of each county court ombudsman, or go to the New Jersey Judiciary website, [www.njcourts.gov/public/ombudsdir.html?lang=eng](http://www.njcourts.gov/public/ombudsdir.html?lang=eng).

If you are receiving public benefits, we recommend that you call LSNJLAW<sup>SM</sup>, LSNJ's statewide, toll-free legal hotline, at 1-888-LSNJ-LAW (1-888-576-5529) for advice about how a divorce might affect your benefits. Hotline hours are Monday through Friday, 8 a.m. to 5:30 p.m. You may also apply online at [www.lsnjlawhotline.org](http://www.lsnjlawhotline.org). The term *public benefits* refers to financial assistance that some low-income families or individuals may be eligible to

receive from local, county, or federal government. Public benefits include Temporary Assistance for Needy Families (TANF), General Assistance (GA), and Emergency Assistance (EA). Other benefits include SNAP (food stamps), Medicaid, and Supplemental Security Income (SSI). These programs all have limits on the amount of income and assets a person may have in order to qualify for the benefits. If you are receiving public benefits and your income or other assets increase (including child support, alimony, or property from a property settlement), you have a duty to report the increase to the public agency that provides the benefit. Failure to do this may result in sanctions or fines. For that reason, if you are receiving such benefits, it is important to speak with an attorney about the effects of a divorce on your continued eligibility for those benefits.

### Getting Legal Advice

If you fit into any of the situations listed below, it is strongly recommended that you get advice from a lawyer before you decide to handle your divorce on your own. These situations may involve complex issues. Having a lawyer may help you to better protect your rights.

- You have been injured by your spouse and have a claim against him or her for money damages. This is known as a *Tevis claim*.
- There is a history of domestic violence against you or another family member. If you are a victim of domestic violence, you should be especially cautious once you file for divorce because that is a time when violence is likely to increase or start again.
- You and your spouse disagree about who should have physical custody of the children.
- You and your spouse own real estate property of significant value.
- You and your spouse own personal property of significant value.
- You (or your spouse or child) are receiving public benefits such as Temporary Assistance for Needy Families (TANF), General Assistance (GA), Emergency Assistance (EA), SNAP (food stamps), Medicaid, or Supplemental Security Income (SSI), and you are worried that getting alimony (also called *spousal support*), property, or support from a divorce may affect your eligibility for those public benefits.
- You will be seeking alimony.
- You or your spouse have a large pension.
- You or your spouse are involved in a personal injury lawsuit.

### A Special Note About Civil Unions

A civil union is the legal union of a same-sex couple. In New Jersey, couples in civil unions and spouses (husbands and wives) in marriages all have the same legal rights. *Dissolution* is the word used under New Jersey law to describe the legal ending of a civil union. Divorces and civil union dissolutions use the same procedures. This manual is written as if you are the party seeking to end a marriage or civil union. It also explains how to respond if you are the party being sued. The manual contains forms and explains how to file for divorce or dissolution in New Jersey based on irreconcilable differences, separation, desertion, or extreme cruelty. The forms are ready for use by both spouses and civil union partners. The terms “marriage,” “divorce,” and “spouse” still appear in some places of this manual. Simply substitute “civil union,” “dissolution,” or “civil union partner” for these terms as you read them.

- You know that your spouse is likely to hire or has hired a lawyer to contest (object to) the divorce or any agreements you have made.
- Your spouse lives in a foreign country.
- Your spouse is in the military.

Please note that it may be difficult to handle your own divorce if:

- You don't know where your spouse lives and you don't know anyone else who knows. (See the discussion on page 49 for serving your divorce complaint on a defendant whose whereabouts are unknown.)
- Your spouse is in the military or lives in a foreign country. Some information is provided on how to serve a defendant in a foreign country; however, you may want to seek legal help if the defendant does not live in the United States. This manual does not provide instructions for handling a divorce when a spouse is in the military. You should seek legal help if your spouse is in the military.

## Dispute Resolution Alternatives

Dispute resolution alternatives are ways of settling lawsuits other than by trials or hearings. The primary forms of dispute resolution are mediation and arbitration.

You may read more about dispute resolution alternatives by reviewing **Form 2A**. You *must* get information about the alternate ways of settling lawsuits *before* you file your complaint or answer and counterclaim for divorce. The court now requires you to sign and file with your complaint or answer and counterclaim for divorce a special certification (sworn statement) claiming that you have received this information. (See **Certification of Notification of Complementary Dispute Resolution Alternatives (Form 2B)**.)

If there has been no domestic violence and you are comfortable meeting with your spouse and a third party to try to reach an agreement about property, support, custody, or parenting time (also called visitation) issues before you file your papers in court, you might consider seeking help from a mediator, arbitrator, or other skilled professional. Using the services of this independent third party to reach an agreement may save you money and time. Some mediators or arbitrators are also attorneys. An attorney who is acting as a mediator or arbitrator should never represent either of you in a divorce action and should not help you file for divorce. Even if you decide not to get a lawyer to represent you in your divorce, you and your spouse should each have your own lawyer review any settlement agreement that you reach through mediation or arbitration before you sign such an agreement. Even if you resolve your differences through a dispute resolution alternative, you must still file papers with the court in order to get a divorce.

## How to Get a Lawyer or Mediator to Help You

If you are a low-income New Jersey resident, you may be eligible for legal help from a Legal Services office in your area. See Appendix D on page 117 for a list of Legal Services programs in New Jersey, or go to [www.lsnj.org/LegalServicesOffices.aspx](http://www.lsnj.org/LegalServicesOffices.aspx). You may also be eligible for free legal advice from LSNJLAW<sup>SM</sup>, Legal Services of New Jersey's statewide, toll-free legal hotline. The hotline telephone number is 1-888-LSNJ-LAW (1-888-576-5529). Online intake is also available at [www.lsnjlawhotline.org](http://www.lsnjlawhotline.org). Hotline hours are Monday through Friday, 8 a.m. to 5:30 p.m. If you are not eligible for assistance from Legal Services, the hotline will refer you to other possible resources. To obtain a private lawyer, call the lawyer referral service of your county bar association. (See Appendix C on page 115 for the phone number of

your county bar association's lawyer referral service, or go to the New Jersey State Bar Association's website, <https://tcms.njsba.com>, for a list of county bar associations that offer lawyer referral services.)

For more information about private mediators in New Jersey, call the New Jersey Association of Professional Mediators at 1-800-981-4800, or go to their website, [www.njapm.org](http://www.njapm.org). To learn more about court mediators, call (609) 984-4228 or go to [www.njcourts.gov/public/volunteer/program/mcm.html](http://www.njcourts.gov/public/volunteer/program/mcm.html).

## Self-Help Court Forms

The Self-Help Center on the New Jersey Judiciary's website, [www.njcourts.gov/selfhelp](http://www.njcourts.gov/selfhelp), includes forms and instructions for people to represent themselves in some legal matters. In this manual, Forms 3A, 3B, 4, and 18 are court forms you will need to litigate your divorce. These are the latest versions of those court forms at the time of publication, but you may want to go to [www.njcourts.gov/selfhelp](http://www.njcourts.gov/selfhelp) to determine whether there have been updates. Other useful information on [www.njcourts.gov](http://www.njcourts.gov) includes links to directories of ombudsmen and county courts, court rules, and an overview of the court process.

## Acknowledgments

This edition of the manual was updated by Mary M. McManus-Smith, LSNJ Chief Counsel, Family Law, with contributions from JoAnn Mantz, Senior Supervising Attorney on LSNJ's Hotline. Former LSNJ Senior Attorney Deborah Fennelly did the research, writing, and forms creation for previous editions. Susan Perger, LSNJ Publications Director, was responsible for editing, design, layout, and production. Thanks to LSNJ Chief Content Officer Tricia Simpson-Curtin for her help proofing.

## Comments or Suggestions

We hope that this manual will be helpful to you. Please let us know if you have comments or suggestions that we might use in future editions. You may contact us at [publications@LSNJ.org](mailto:publications@LSNJ.org).

*Melville D. Miller, Jr., President  
Legal Services of New Jersey  
Edison, New Jersey*

# Introduction

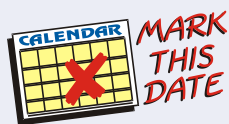
## How to Use This Manual

The suggestions below for using this manual will help you to decide whether you can handle a divorce on your own. If you decide to hire a lawyer, you will be clearer about what you want and more organized, which will save you and your lawyer time. See *Getting Legal Advice* on page 2 to review when you should seek legal assistance.

### Read the Manual Carefully

Read the manual and examine the forms. Take notes while you are reading and write down any questions that come to mind. Some of your questions may be answered in this manual. You may want to ask a lawyer other questions. Make sure that you understand the information and the instructions for using the forms. You will find a glossary of legal terms used in this manual on page 105. Glossary terms are italicized throughout this manual.

Throughout this manual, we use the following symbols to indicate where important action is necessary:



Note the follow-up date on your calendar.



You may need to see a lawyer.



Send documents by certified mail.



Pay a fee for this service.

### Step 1: Gather Information and Records

After you read the manual, gather together all of the documents that you will need to prepare your divorce complaint and other papers. Then review the forms included with this manual. You should print out several blank copies of the forms that you think you will need to prepare your divorce case. You will most likely need all or most of the following for your divorce:

**Any Court Orders (Judgments) or Other Documents Related to the Marriage or Marital Property.** For example:

- Child support orders
- Custody and parenting time/visitation orders
- Name change orders
- Domestic violence restraining orders and papers related to the domestic violence order, such as police or hospital reports
- Foreclosure orders
- Bankruptcy orders.

**Financial Information.** This includes:

- Tax returns
- Pay stubs and other proof of income (SSI, SSD, child support)
- List of bank accounts and copies of recent bank statements
- Stocks, bonds, IRAs, and other financial assets
- List of monthly expenses
- Documents showing any debts, including credit card statements and loans
- Copies of monthly bills
- Leases or deeds to real property
- Mortgage documents
- Automobile titles (ownership documents)
- Automobile loan documents
- Insurance policies—health, dental, life, automobile, homeowners, or rental
- Pension plans and retirement accounts
- Wills
- Receipts for bills for personal injury caused by your spouse
- Receipts for bills for property damage caused by your spouse
- Receipts or other documents demonstrating that you are receiving public benefits, including welfare, rental assistance, or SSI for yourself or your children.

**Other Documents.** You may also need copies of:

- Your marriage certificate
- Children’s birth certificates
- Children’s Social Security numbers.

Make copies of these documents, and keep the original documents in a safe place. When you go to court for your divorce hearing, you may need to show the court some of these documents.

You will also need to have the following items as you move along in the divorce process:

- **A calendar for record keeping.** This will help you keep track of dates and deadlines.
- **Certified mail forms with return receipt cards.** Court rules require that some documents be sent by certified mail with a return receipt. *Certified mail* is a special mail service that provides proof of mailing at the time of mailing and date of delivery. The return receipt is signed by the person who receives the mail and is sent back to you with information about the actual delivery of the mail. This return receipt will be part of the records proving service (delivery) of documents. We recommend that, as part of your planning, you go to the post office and pick up several certified mail forms and return receipt cards. You should also get information about the cost of sending certified mail with a request for a return receipt so that you can plan for the mailing costs.

## Step 2: Decide What You Want From the Divorce

This is an important step. Think very carefully about what you want to ask for in your divorce. **Remember:** The law requires you to raise all legal issues that you have against your spouse in your divorce complaint. Before you fill out the complaint forms, you must decide what other relief you want in addition to having the court end your marriage. Looking at the information about finances and property will help you decide what to ask for in your divorce. Below are things that you might ask for in your divorce complaint. They are explained in more detail in *Chapter 1: Preparing and Filing the Divorce Complaint* on page 19.

**Alimony/Spousal Support.** *Alimony*, also called *spousal support*, is money paid by one spouse to support the other spouse once the marriage has ended. Do you want to ask for alimony? If you are receiving public benefits and then begin to receive alimony, how will this affect your eligibility for those public benefits?

**Division of Real Property.** *Real property* refers to a house, a building, or a parcel of land. If you own your home, how do you want to divide it? Do you want your home sold immediately? Do you want to continue living in the home and, if so, for how long? If you are receiving public benefits, will this affect your eligibility for those public benefits?

**Division of Personal Property.** What will you do with *personal property*—cars, appliances, TV sets, sound equipment, jewelry, expensive tools, furniture, etc.?

**Division of Debts.** Who will be responsible for unpaid debts? This includes credit cards, loans, mortgages, car payments, outstanding rent and utility bills, etc.

**Taking Back Your Former Name or Changing Your Name.** Would you like to use another name? You may request this relief in your divorce complaint.

**Insurance Policies and Premiums.** Do you have your own health insurance? It is likely that your spouse's health insurance policy will not cover you once you are divorced. Who will pay health, homeowners, or life insurance premiums?

**Money Damages for Personal Injury.** Have you been injured by your spouse or someone else? Have you received money for those injuries? If you are receiving public benefits (TANF, GA, EA, SNAP, Medicaid, SSI, etc.) and you receive money damages in the form of a personal injury award, how will this affect your eligibility for those public benefits?

**Child Custody.** With whom will the children live?

**Parenting Time/Visitation.** How often will visits take place? Where? What about holidays and vacations? Is supervised visitation necessary?

**Child Support.** If the children are remaining in your custody, how much child support should your spouse pay you? Will you need help with medical or dental expenses for your children? Who will provide health and dental insurance for the children? If you are receiving public benefits and you begin to receive child support, will this affect your eligibility for those public benefits or the amount of benefits that you receive?

### **Step 3: Prepare and Review Your Forms**

There are different types of divorce claims. You may claim a specific reason or cause for your divorce. Or you may file a no-fault divorce based on the fact that you and your spouse have experienced irreconcilable differences for six months or more, or you have been living separately for at least 18 months with no possibility of getting back together.

Once you know what kind of divorce you want and what kind of relief you want, you are ready to begin filling out the forms included with this manual. The PDF forms allow you to enter the information required on a computer. If necessary, you may also print the forms and fill them in by hand, but you must print clearly or the court may not accept the forms

Proofread all of your forms carefully. When you file papers with the court, you are giving your word that your statements are true and accurate. It is against the law to lie to the court. Remember that the law requires you to raise all legal issues that you have against your spouse and to ask for everything you want from your spouse in your divorce complaint. You will not be able to ask the judge at your divorce hearing for anything that you do not ask for in your divorce complaint. You will not be able to bring a future lawsuit for things you do not put in your complaint. So check your complaint carefully before you file it with the court, to make sure that everything you want is contained in the complaint.



**Time Requirements and Deadlines.** Use a calendar to keep track of time requirements and deadlines. Pay attention to the deadlines, and always keep your case moving forward. Missing deadlines may cause you serious problems. For example, the court may dismiss your case if you do not serve the defendant (deliver to him or her a copy of your divorce complaint) within a certain time frame or if your reasons for not serving the defendant are not convincing. You must keep written records of all of your efforts to serve the defendant.

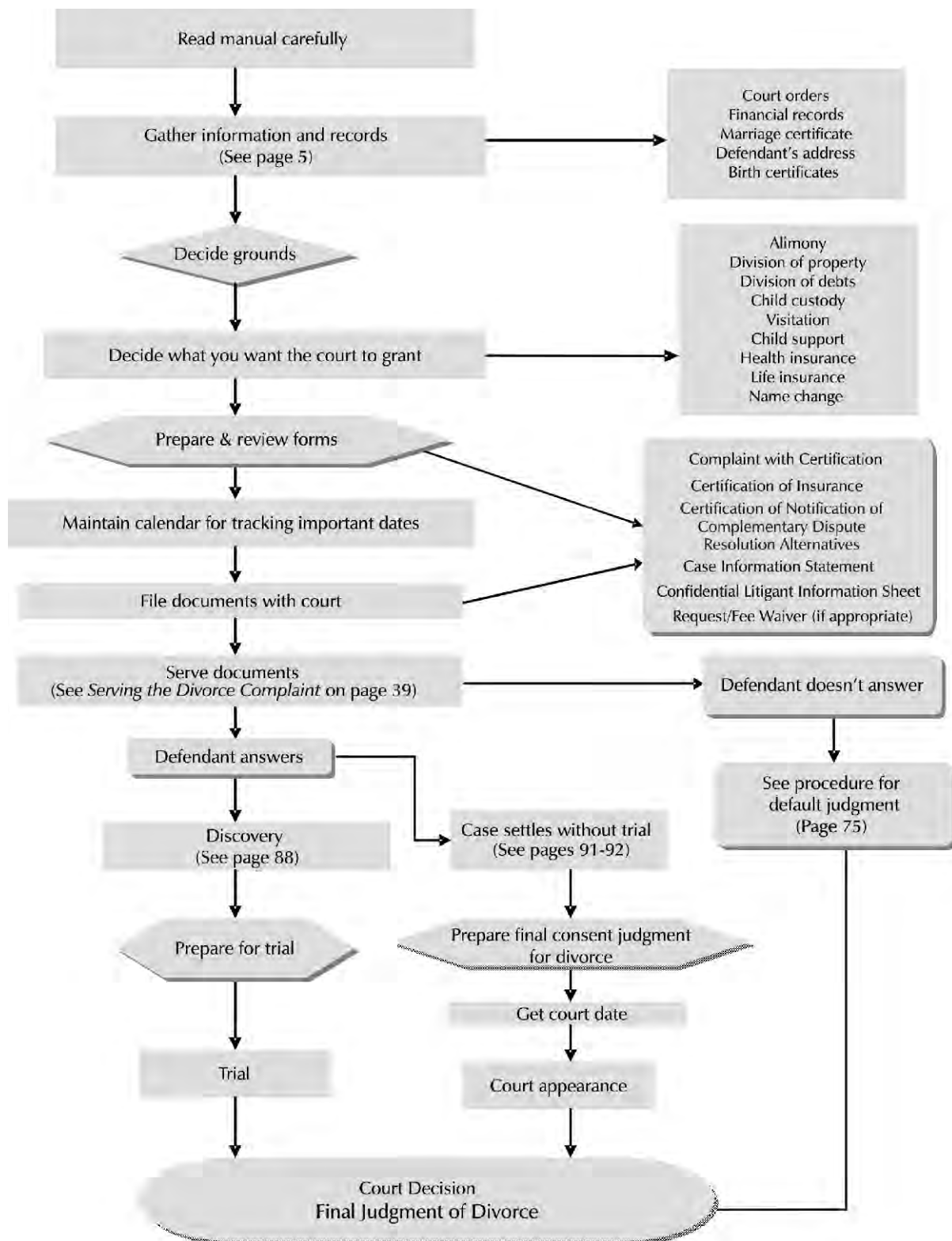
### **Other Suggestions**

Before you file your papers with the court, you may want to see a lawyer for legal advice. (See *Important Notes About Using this Manual* on page 1, and *Getting Legal Advice* on page 2, where we strongly recommend that you talk to a lawyer in certain circumstances. Please refer back to those pages now.)

Once you are satisfied that you understand what you may be entitled to in your divorce and how a divorce may affect any public benefits that you are receiving, you are ready to prepare and file your papers.

Appendix A on page 112 contains the addresses and telephone numbers of each county courthouse where you are required to file your divorce complaint. Addresses for county courthouses in New Jersey are also available at [www.njcourts.gov/courts/vicinages/county.html](http://www.njcourts.gov/courts/vicinages/county.html).

## Flow Chart 1: Overview of the Divorce Process



## Quick Reference Guide to Forms in This Manual

On the following pages, we include a chapter-by-chapter listing of all of the forms in this manual. You will also find a table of forms at the end of each chapter.

<b>Forms for Chapter 1: Preparing and Filing the Divorce/Dissolution Complaint Forms 1 through 6</b>		
<b>Form #</b>	<b>Title of Form</b>	<b>Instructions</b>
<b>1A, 1B, 1C, or 1D</b>	Complaint for Divorce/ Dissolution and Attached Certification	Send original and two copies to court clerk for filing.
<b>2</b>	Certification of Insurance	Attach to complaint or answer and counterclaim. Send original and two copies to court clerk for filing.
<b>2A</b>	Explanation of Dispute Resolution Alternatives	Read this explanation before filling out and signing Form 2B. This form <i>should not</i> be filed with the court.
<b>2B</b>	Certification of Notification of Complementary Dispute Resolution Alternatives	Read Form 2A before filling out this certification. Attach to complaint or answer and counterclaim. Send original and two copies to clerk for filing.
<b>3A</b>	Family Part Case Information Statement (CIS)	File with complaint in cases where custody, support, alimony, or equitable distribution is an issue. Make sure copies of pay stubs, tax returns, and other required documents are attached.
<b>3B</b>	Confidential Litigant Information Sheet (CLIS)	DO NOT attach to the complaint or any other document that you file with the court. This is a confidential document for use by court personnel only.
<b>4 and 5, if applicable</b>	Request for Waiver of Fees and Supporting Certification and Order Waiving Fees	Send original and two copies to court clerk for filing.
<b>6</b>	Filing Letter to Court	Submit to court with Forms 1-5 for filing. Keep a copy for your records.

<b>Forms for Chapter 2: Serving the Divorce/Dissolution Complaint Forms 7 through 12B</b>		
<b>Form #</b>	<b>Title of Form</b>	<b>Instructions</b>
<b>Forms 7, 7A, and 7B—Personal Service on Defendant by Sheriff</b>		
7 7A	Summons and Attached Proof of Service  Cover Letter	Send original and two copies to sheriff's office with your complaint and all attached certifications. Keep a copy for your records. Sheriff will return Proof of Service when service is completed.
7B	Filing Letter to Court— Sheriff's Proof of Service	Submit to court clerk with original and two copies of completed Proof of Service (Form 7).
<b>Forms 8, 8A, and 8B—Service by Mail on Cooperative Defendant</b>		
8 8A	Acknowledgment of Service  Cover Letter to Defendant or Defendant's Attorney	Send to defendant or defendant's attorney with Summons (Form 7) and copy of your complaint via regular <i>and</i> certified mail, return receipt requested. Keep a copy for your records.
8B	Filing Letter to Court— Acknowledgment of Service	Send original and two copies of signed and notarized Form 8 to court clerk for filing.
<b>Forms 9 through 9C—Letters of Diligent Inquiry</b>		
9	Letter of Inquiry to Defendant's Friends, Family, or Employers	Send original via regular <i>and</i> certified mail, return receipt requested. Keep a copy of each for your records.
9A	Letter of Inquiry to MVC	Same as for Form 9.
9B	Letter of Inquiry to Postmaster	Same as for Form 9.
9C	Letter of Inquiry to Military	Same as for Form 9.

<b>Forms 10A, 10B, and 10C—Substituted Service on Special Agent</b>		
<b>10A</b>	<i>Ex Parte</i> Request for Order for Substituted Service on a Special Agent and Supporting Certification	Send original and two copies to the court clerk for filing along with Form 10B. Attach copies of letters of inquiry (Forms 9-9C) and replies, if any, to supporting certification.
<b>10B</b>	Order for Substituted Service on a Special Agent	Send original and two copies to the court clerk for filing along with Form 10A.
<b>10C</b>	Filing Letter to Court— <i>Ex Parte</i> Request for Substituted Service	Send to the court with Forms 10A and 10B. Keep a copy for your records.
<b>Forms 11A through 12B—Service by Publication</b>		
<b>11A</b>	<i>Ex Parte</i> Request for Order for Service by Publication and Supporting Certification	Send original and two copies to the court for filing along with Form 11B. Attach copies of letters of inquiry (Forms 9-9C) and replies, if any, to supporting certification.
<b>11B</b>	Order for Service by Publication	Send original and two copies to the court for filing along with Form 11A.
<b>11C</b>	Filing Letter to Court— <i>Ex Parte</i> Request for Service by Publication	Send to the court with Forms 11A and 11B. Keep a copy for your records.
<b>12</b>	Notice of Order of Publication	Send to newspaper after you receive signed order (Form 11B). Keep a copy for your records.
<b>12A</b>	Cover Letter to Newspaper Requesting Publication	Send to newspaper with Form 12. Keep a copy for your records.
<b>12B</b>	Filing Letter to Court—Certification of Publication	Send with an original and two copies of certification of publication from newspaper to the court for filing. Keep a copy for your records.

Forms for Chapter 3: After Serving the Divorce/Dissolution Complaint Forms 13 through 16		
Form #	Title of Form	Instructions
<b>Documents to Be Filed by a Defendant—Forms 4 &amp; 5 and Forms 13 through 14E</b>		
<b>4 and 5, if applicable</b>	Request for Waiver of Fees and Supporting Certification, and Order Waiving Fees	Send original and two copies to court clerk for filing.
<b>13</b>	Consent Order Extending Time to Answer	Send original and two copies to court clerk for filing.
<b>13A</b>	Filing Letter to Court—Consent Order Extending Time to Answer	Send to court clerk with Form 13.
<b>14A, 14B, 14C, or 14D</b>	Answer and Counterclaim for Divorce/Dissolution and Attached Certification	Send original and two copies to court clerk for filing, along with Forms 2 and 2B. <b>In cases where there is any issue as to custody, support, alimony, or equitable distribution</b> , send Forms 3A and 3B to court clerk for filing within 20 days after filing answer.
<b>14E</b>	Filing Letter to Court—Answer and Counterclaim for Divorce/Dissolution	Send to court clerk with Form 14A, 14B, 14C, or 14D, and Forms 2, 2B, and 16.
<b>Documents Plaintiff Files if Defendant Submits an Answer and Counterclaim to Divorce/Dissolution—Forms 15A through 16</b>		
<b>15A</b>	Answer to Counterclaim for Divorce/Dissolution	Send original and two copies to court clerk for filing along with Form 16.
<b>15B</b>	Filing Letter to Court—Answer to Counterclaim for Divorce/Dissolution	Send with Forms 15A and 16.
<b>16</b>	Certification of Service	Send with specific designated forms (see above and below).

Forms for Chapter 4: Getting a Default Judgment Forms 17 through 21A		
Form #	Title of Form	Instructions
<b>Documents to Be Filed When Defendant Is in Default</b>		
17	Request to Enter Default Judgment and Supporting Certification and Certification of Service (Form 16)	Send original and two copies to court for filing. At the same time, send one copy of each form to defendant via regular <i>and</i> certified mail, return receipt requested.
17A	Filing Letter to Court—Request to Enter Default Judgment	Send to court with Forms 16, 17, and 18. Keep a copy for your records.
18	Certification of Non-Military Service (attach certificate from the DOD)	Send to court with Forms 16, 17, and 17A for filing. At the same time, send one copy to defendant via regular <i>and</i> certified mail, return receipt requested.
19	Notice of Default Divorce/Dissolution Hearing and Certification of Service (Form 16)	Send to defendant via regular <i>and</i> certified mail, return receipt requested. Keep a copy for your records.
19A	Cover Letter to Defendant—Notice of Default Divorce/Dissolution Hearing	Send to defendant via regular <i>and</i> certified mail, return receipt requested, with Form 20. Keep a copy for your records.
20	Notice of Proposed Final Judgment and Certification of Service (Form 16)	<b>20 days or more before the date of your divorce hearing</b> , submit an original and one copy to the court for filing, along with Form 16. <b>Send to defendant via regular <i>and</i> certified mail, return receipt requested, in time to ensure that defendant receives the document 20 days or more prior to the hearing.</b>
20A	Filing Letter to Court—Notice of Proposed Final Judgment	Send to defendant with Forms 20 and 16. Keep a copy for your records.
21	Final Default Judgment of Divorce/Dissolution	Bring to court on day of default hearing. Judge will probably sign and file it <b>in court on that day</b> . Send filed copy to defendant with Form 16 within seven days of the date it is signed by the judge. File form 16 with the court. Keep a copy for your records.
21A	Cover Letter to Defendant—Final Default Judgment of Divorce/Dissolution	Send to defendant with Form 21. Keep a copy for your records.

Forms for Chapter 5: Going to Court When Defendant Is Not in Default Forms 22 through 26A		
Form #	Title of Form	Instructions
22	Custody and Parenting Time/Visitation Plan	<b>75 days or less after the answer or (if there is one) the answer to counterclaim is filed</b> , submit original and one copy to court for filing. Send a copy to the other parent via regular <i>and</i> certified mail, return receipt requested, with Form 16.
22A	Filing Letter to Court—Custody and Parenting Time/Visitation Plan	Send to court with Form 22. Send a copy to other parent with copy of Form 22.
23	<i>Subpoena Ad Testificandum and Duces Tecum</i>	Have a copy hand-delivered to witness with fee (see page 94). Keep a copy for your records
24	Consent Order—Final Judgment of Divorce/Dissolution	Send filed copy to ex-spouse via certified or regular mail along with Form 16 within seven days of the date that it is signed by the judge. Keep a copy for your records.
25	Final Judgment of Divorce/Dissolution	Send filed copy to ex-spouse via certified or regular mail, along with Form 16, within seven days of the date that it is signed by the judge. Keep a copy for your records.
26	Cover Letter to Judge—Five-Day Rule	Send to court with Form 25. Send copy to spouse. Instructs spouse that he or she has five days within which to give the court notice of his or her objections to the form of the order.
26A	Cover Letter—Final Judgment of Divorce/Dissolution	Send with filed copy of Form 25.



## **Chapter 1: Preparing and Filing the Divorce Complaint**

This chapter will show you how to:

- Prepare the divorce/dissolution complaint and additional documents.
- File your divorce/dissolution complaint and other documents with the court.
- Pay filing fees and other costs.
- Keep track of time limits and deadlines.

This chapter will cover Forms 1 through 6.

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# Notes

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# Chapter 1: Preparing and Filing the Divorce Complaint

## Types of Divorce

New Jersey has *no-fault divorce* and *fault-based divorce*. You will find forms for four kinds of divorce in this manual: a no-fault divorce based on 18-month separation (**Form 1A**); a no-fault divorce based on irreconcilable differences (**Form 1D**); a fault-based divorce based on desertion (**Form 1B**); and a fault-based divorce based on extreme cruelty (**Form 1C**).

This chapter will explain how to prepare and file your divorce complaint (**Form 1A, 1B, 1C, or 1D**) and file it with the court. We suggest that, as you read this chapter, you look at the complaint form (**Form 1A, 1B, 1C, or 1D**) that you will be using for your divorce. Also look at **Forms 2** through **6**, which you must complete and send to the court with your complaint.

### No-Fault Divorce

No-fault divorce means that the court will end the marriage based on separation (the fact that you and your spouse have been living in different places for 18 consecutive months or more), or based on irreconcilable differences (the fact that you and your spouse have experienced irreconcilable differences for a period of six months or more). The advantage of getting a no-fault divorce is that the law does not require proof that either spouse was responsible for causing the marriage to end. See *Complaint for Divorce/Dissolution Based on Separation and Attached Certification (Form 1A)* and *Complaint for Divorce/Dissolution Based on Irreconcilable Differences and Attached Certification (Form 1D)*.

To file a no-fault divorce complaint in New Jersey based on separation, the following requirements must be met:

- You or your spouse must have lived in New Jersey for 12 consecutive months preceding the filing of the divorce complaint.
- You and your spouse must have lived apart—that means in separate residences—for at least 18 consecutive months before beginning the divorce action.
- There is no reasonable prospect of reconciliation.

To file a no-fault divorce complaint based on irreconcilable differences in New Jersey, the following requirements must be met:

- You or your spouse must have lived in New Jersey for 12 consecutive months preceding the filing of the divorce complaint.
- You and your spouse must have experienced irreconcilable differences for a period of six months.

- The irreconcilable differences make it appear that the marriage should be dissolved.
- There is no reasonable prospect of reconciliation.

### Fault-Based Divorce

The other type of divorce action is a divorce based on a specific reason (ground or fault). This manual will explain how to do fault-based divorces based on desertion and extreme cruelty. Desertion and extreme cruelty are among the most common grounds for a fault-based divorce.

**Desertion.** Desertion occurs when one spouse leaves the other spouse for 12 months or more against the wishes of the other spouse. A party must wait until he or she has been deserted for at least 12 months before he or she may file a complaint for divorce based on desertion. See ***Complaint for Divorce/Dissolution Based on Desertion and Attached Certification (Form 1B)***. To file a divorce complaint based on desertion, the following basic requirements must be met:

- You or your spouse must have lived in New Jersey for the 12 consecutive months preceding the filing of the divorce complaint.
- Your spouse must have deserted you for 12 months or more against your will.

**Extreme Cruelty.** Extreme cruelty includes acts of cruelty that range from unpleasantness and emotional abuse to those involving severe physical violence. See ***Complaint for Divorce/Dissolution Based on Extreme Cruelty and Attached Certification (Form 1C)***. To file a divorce based on extreme cruelty, the following basic requirements must be met:

- You or your spouse must have lived in New Jersey for the 12 consecutive months preceding the filing of the divorce complaint.
- The most recent acts of cruelty you claim in the complaint must have happened at least three months before you file the complaint for divorce. For example, if you file your divorce complaint on July 1, 2019, the last act of extreme cruelty that you should put in your complaint is an event that occurred on or before March 31, 2019. This is true even if the cruelty is still going on when you file the complaint. Include all acts of abuse that occurred from the day you were married until the date that is three months before the date you sign your divorce complaint. If the abuse is ongoing, you will simply leave out the specific acts that happened in the last three months before you file.

**Other Fault-Based Grounds.** Other fault-based grounds include adultery, deviant sexual conduct, habitual drunkenness or voluntary addiction to any narcotic drugs, institutionalization for mental illness, and incarceration. This manual does not provide information for divorces based on those grounds.



## Preparing Your Divorce Complaint

The complaint is the document that begins your case and presents your situation to the court. The complaint also contains what you are asking the court to order. This is called *legal relief*.

### Information Required by the Court

The following is a short list of the information that should appear in your complaint:

- The names and addresses of you and your spouse. (See paragraphs 1 and 6 on the complaint.)

**Note to victims of domestic violence:** If you are hiding from your spouse because you are afraid, you do not have to write your street address and phone number in the body of the complaint. (See paragraphs 1, 5, and 6 on **Forms 1A** and **1B**; paragraphs 1, 6, and 7 on **Form 1C**; and paragraphs 1, 9, and 10 on **Form 1D**.) If you are afraid to disclose your address, you will need to provide a post office box number or substitute address where you can receive mail. You may get this substitute address through the New Jersey Address Confidentiality Program (ACP), a program designed to help victims of domestic violence who have relocated for their safety. The ACP limits the abuser's access to information that would reveal the victim's new location and allows the victim to receive first-class mail by way of the New Jersey Department of Community Affairs. For more information about the ACP or to register for the program, call 1-877-218-9133 or go to [www.njcedv.org/privacy-confidentiality](http://www.njcedv.org/privacy-confidentiality). You may also register as a participant in the program by contacting your county domestic violence program. For the address or phone number of your county domestic violence program, call the New Jersey Coalition to End Domestic Violence at 1-609-584-8107 or visit the Coalition website, [www.njcedv.org](http://www.njcedv.org), or the New Jersey Department of Children and Families website, [www.nj.gov/dcf/women/index.html](http://www.nj.gov/dcf/women/index.html). Your substitute address goes on the top of the complaint so that the court can contact you. Depending upon the particular facts of your case, the court rules will require you to file your complaint in a county where you or your spouse now lives. (See page 32 for details about how to determine where to properly file your complaint.) If the rules require you to file your complaint in the county where you now live and you don't feel safe even having your spouse know which county you live in, you should apply for a substitute address through the Address Confidentiality Program described above.

- The date of your marriage. (See paragraph 2.)
- The reason you are seeking or grounds on which you are basing a divorce. If you are seeking a no-fault divorce due to separation, you must state the date you and your spouse began to live separately, and where you lived when you separated. If you are seeking a fault-based divorce based on extreme cruelty, you must describe the acts of cruelty on which you are

basing your complaint. List the dates of all acts of abuse that occurred from the day you were married until the date that is three months before you sign and date your divorce complaint. (See paragraph 3.)

- Confirmation that you have met the one-year residency requirement. (See paragraph 4 on **Forms 1A** and **1B**, paragraph 5 on **Form 1C**, and paragraph 8 on **Form 1D**.)
- Where you lived when you had been separated from the defendant for 18 months (see paragraph 5 on **Form 1A**); or when the defendant had deserted you for 12 months (see paragraph 5 on **Form 1B**); or when the defendant committed acts of cruelty against you (see paragraph 6 on **Form 1C**); or when you and the defendant had experienced irreconcilable differences for a period of six months (see paragraph 9 on **Form 1D**).
- The names and ages of any children. (See paragraph 7 on **Forms 1A** and **1B**, paragraph 8 on **Form 1C**, and paragraph 11 on **Form 1D**.)
- A list of any prior legal actions between you and your spouse in New Jersey or in any other state where you lived—this could include court orders for adoption of children, child support, custody, visitation, or domestic violence restraining orders. Make sure to include the docket numbers of those legal actions. (See paragraph 8 on **Forms 1A** and **1B**, paragraph 9 on **Form 1C**, and paragraph 12 on **Form 1D**.)
- The relief you seek besides the divorce, such as custody, parenting time, alimony/spousal support, child support, or permission to use another name. (See the “WHEREFORE” clause of the complaint—**Forms 1A, 1B, 1C, and 1D**.) **Remember:** This is an important part of your complaint. If there is anything that you want the court to order as a part of your divorce, you must make a general request for it in this section of your complaint. For example, if you are seeking spousal support or child support, you do not need to specify a dollar amount, but you do need to let the court know that you are requesting support. You and your spouse will agree to the specific amount in a settlement agreement or the judge will make a decision later.

At the end of the complaint (**Forms 1A, 1B, 1C, and 1D**) is an additional statement, called a ***Certification of Verification and Non-Collusion***, which you must sign. It states that you are making your complaint in good faith, that all the claims are true, that there are no other pending actions involving your marriage, and that no other people need to be included in this case.

Now is a good time to review all of the documents you gathered together relating to your marriage to help you decide what legal relief you will be asking for in your complaint.

## Types of Relief

You must decide what you want and ask for those things in your divorce complaint. For example, you may ask the court to:

- Grant *alimony* (also called *spousal support*). When you complete your complaint, you only need to make a general request for alimony/spousal support. You do not need to specify a dollar amount at this time.
- Divide property (also called *equitable distribution*):
  - Divide *personal property* (such as furniture or cars);
  - Divide *real property* (such as a house or land); and
  - Divide debts.

You do not need to specify the details concerning division of property in your complaint.

- Allow you to change your name.
- Order that one or both parties have custody of the minor children.
- Order that one or both parties have parenting time/visitation with the children. Once again, this is a general request. You do not need to specify the details concerning custody or parenting time/visitation.
- Order child support. You do not need to specify a dollar amount in the complaint, but you do need to make a general request.

## Alimony/Spousal Support

Alimony refers to support paid by one spouse to the other to help the other spouse continue to live the way he or she lived while married. Alimony may be awarded to either party in a divorce action. The rules of alimony apply to both parties regardless of gender. Keep in mind that receiving alimony may affect your eligibility for public benefits. Please see *Important Information About Doing Your Own Divorce* on page 1. There are several different types of alimony.

**Open Durational Alimony.** Generally, open durational alimony is awarded only if the parties have been married for at least 20 years, or if one party is financially dependent or permanently unable to work because of disability or lack of skills or work experience. You may get alimony until you remarry, live with someone as though you are married (cohabitation), or the paying spouse reaches retirement age or dies. Either party may apply to the court after the divorce to adjust the amount of alimony when there has been a change in circumstances.

**Limited Duration Alimony.** You may get temporary alimony until the occurrence of a particular event, such as when you get a job. In determining how long to grant alimony, the court must consider how long it will take you to improve your earning capacity so that alimony is no longer needed. If you are awarded limited duration alimony, generally it will not last longer than the marriage did. The court may change the award based on changed circumstances or if the expected event does not occur. The court may change the amount of the award but will rarely change the length of time for alimony to be paid.

**Rehabilitative Alimony.** You will probably get temporary rehabilitative alimony if you are likely to be able to support yourself after more education or training. You must show the specific steps for rehabilitation and the amount of time they are expected to take. This type of alimony may also be changed based upon changed circumstances.

**Reimbursement Alimony.** You may get this type of alimony if you supported your spouse through school or training and expected to benefit from your spouse's increased income after he or she finished school.

In deciding whether or not to award alimony, the court will consider a number of factors. These include:

- The parties' actual needs and ability to pay
- The length of the marriage
- The age and physical and emotional health of both parties
- The standard of living established during the marriage and the parties' abilities to maintain a reasonably comparable standard of living
- The parties' earning capacities, educational levels, vocational skills, and employability
- The length of time the party seeking alimony has been out of the job market
- The parental responsibilities of the party seeking alimony
- Each party's financial or non-financial contributions to the marriage
- Any other income available to the parties
- The equitable distribution of property and debts
- The tax consequences of any alimony award
- The nature, amount, and length of *pendente lite* support paid, if any
- Any other factors the court finds relevant.

### Equitable Distribution

Equitable distribution is a way to divide property and debts that were acquired during the marriage or civil union under New Jersey law. Property and debts do not have to be divided 50/50, although they sometimes are. In dividing property, the judge will decide what is fair (equitable). If you have a large amount of property, you will probably want to speak with a lawyer about equitable distribution.

Normally, decisions about dividing property and debts cannot be changed after the judgment of divorce. In unusual cases, you may be able to get a change if you can show the court that there is a very good reason to change the decision.





**Equitable Distribution of Property.** Equitable distribution applies only to property acquired by either party during the time between the date of their marriage or civil union and the date of the filing of a divorce complaint, with some exceptions. Generally, a court will not consider gifts received by one spouse from a third party and property a relative leaves to one spouse in a will to be marital property, as long as they are kept separate from the other spouse (not put into a joint bank account or deed in the name of the other spouse). However, a gift from one spouse to another is considered to be marital property and is subject to equitable distribution.

**Warning:** If you and your spouse or partner have property, you may want to consult a lawyer. Also keep in mind that, if you receive property or money from your divorce, this may affect your eligibility for public benefits.



Property subject to equitable distribution may include:

- Real property (a house or land)
- Personal property (furniture or cars)
- Severance pay, pensions (even though you may not receive the money until sometime in the future), and personal injury awards.

In deciding the issue of equitable distribution of property, the judge must do the following:

- Decide what property is subject to being divided between the parties
- Determine the value of each piece of property to be divided
- Determine how the property will be divided between the parties.

**Equitable Distribution of Debt.** Equitable distribution also applies to debt brought about by either party between the date of their marriage or civil union and the date of the filing of a divorce complaint. However, the court may not consider all debt acquired during that time to be subject to equitable distribution. Debt that comes from purchasing items not related to the marriage or civil union, especially purchases made after a separation, may not be subject to equitable distribution. In that situation, the court will often decide that only the spouse or partner who incurs that debt is responsible for it.

**Warning:** See a lawyer if you or your spouse or partner has significant debt. In some cases, you may want to talk to a bankruptcy lawyer about the best way to handle your debt.



In deciding the issue of equitable distribution of marital debt, the judge must do the following:

- Decide what debt is subject to being divided between the parties
- Decide how much debt each party will be responsible for.

Generally, if the parties acquire debts during the marriage or civil union, they are both responsible for them. However, it may be possible to prove that a debt belongs to only one party, if the other party can show that the debt happened

after the parties separated, or that the debt is for items unrelated to the parties' relationship.

**Warning:** If you are separated, and your spouse is authorized to use your credit card, you should probably cancel that authorization even before your divorce/dissolution is final.

In deciding how to divide property and debts, the court must look at a number of factors, including:

- The length of the marriage or civil union
- The age and physical and emotional health of both parties
- The income or property each party brought to the marriage
- The parties' current economic circumstances
- Any written agreement between the parties concerning property distribution
- The custodial parent's need to own or use the parties' home and household items
- Expected future medical or educational costs for a spouse or child
- Any other factors the court finds relevant.

### Special Considerations

**Pensions and Retirement Accounts.** If you or your spouse or partner has a pension, you should talk to a lawyer. To divide a pension, you must get a special evaluation from an expert who will estimate the value of the pension at the time it will be paid. The expert will then prepare a Qualified Domestic Relations Order (QDRO), directing how to divide the pension. The court must approve the QDRO. In general, the division of a pension is based on the number of years that the parties were married or in a civil union. **Warning:** Civil union couples may not use QDROs because federal law does not recognize civil unions. To learn more about civil union couples and pensions, please read about same-sex couples on our website, [www.lsnjlaw.org](http://www.lsnjlaw.org). There is also information about special considerations for Social Security Retirement Benefits and military pensions.

**Health Insurance.** If your spouse's employer has 20 or more employees and provides group health benefits, you may ask the court to order him or her to continue to cover you under that policy for a short time after the divorce. The federal law that requires employers to continue to offer health insurance coverage in certain instances is the Consolidated Omnibus Reconciliation Act of 1996 (COBRA). Civil union partners are not covered by COBRA, but New Jersey law requires employers with fewer than 50 employees to offer extensions of insurance similar to COBRA. If your spouse's or partner's employer does not offer health insurance or is not covered by COBRA, you may ask the court to order that he or she pay for the cost of insurance for you and your children.



**Personal Injury Awards.** If one party was injured during the marriage, the other party may have a right to a part of any personal injury award based on lost earnings. This may be true even if the award is not received until after the parties are divorced. In this type of situation, you should contact a lawyer to help you get everything to which you are entitled. (See *Getting Legal Advice* on page 2.) Keep in mind that receiving a personal injury award may affect your eligibility for public benefits.

**Taking Back Your Former Name or Changing Your Name.** When you get a divorce, the judge may allow either you or your spouse or both of you to resume a former name or to take a new name. If this relief is granted, you are not required to begin using the new name. If you want to use the new name, you will need to show your final judgment to agencies such as the Motor Vehicle Commission, Social Security, and your bank.

### Relief Available for People With Children

If you have children, you should probably ask for additional relief in your divorce complaint, such as custody of the children, parenting time/visitation, and child support.

**Custody.** If you and your spouse do not agree about child custody, the judge will have to decide this in the divorce case. The judge must decide on a custody arrangement that is in the child's best interests. If you have serious concerns about who will get custody, you should talk to a lawyer.

There are two aspects of custody: legal custody and physical custody. Legal custody refers to decisions about the child, such as where the child should go to school and what kind of medical care the child should get. Physical custody refers to where the child lives. The parent the child lives with most of the time is called the *custodial parent*, and the other parent is called the *non-custodial parent*. Parents may also share custody.

- **Joint physical custody** (also called shared physical custody). The child lives with each parent for similar amounts of time during the year. In this situation, both parents have day-to-day responsibility for the child.
- **Primary physical custody.** The child lives most of the time with one parent. The other parent may visit the child.
- **Joint legal custody.** Both parents are involved in making important decisions concerning the child's education, medical care, and similar issues. Both have access to the child's school and medical records.
- **Primary legal custody.** Only one parent is responsible for making important decisions concerning the child.

Custody arrangements may vary greatly, depending upon the needs of the children and the relationship of the parents. The court does not have to give both parents physical and legal custody. Often, the parties have joint legal custody, but one party has primary physical custody. In some very rare situations, only one parent will get legal and physical custody. This parent is



said to have *sole custody*. Sole custody is ordered only where one parent is missing, absent, or found to be legally “unfit.”

Custody decisions are based on the child’s best interests. The court will look at a number of factors, including:

- The parents’ ability to agree, communicate, and cooperate
- The child’s relationship with the parents and siblings
- Any history of domestic violence
- The child’s safety, needs, and preference
- Each parent’s ability to take care of the child
- The child’s education
- The amount of time each parent has spent with the child
- The parents’ employment responsibilities
- The ages and number of children
- Any other factors the court finds relevant.

Decisions involving custody may be changed by the court if the parties’ or children’s circumstances change.

Other issues around custody include the following:

- **Parent education.** In every divorce action where custody, visitation, or support of a minor child or children is an issue, the court will order the parents to attend a Parents’ Education Program through the court. There is a \$25 fee to attend this program, and attendance is mandatory. The program is designed to assist and advise divorcing parents on issues concerning divorce, separation, and custody, to promote cooperation between them and assist them in resolving issues concerning their children that may arise during the divorce or separation process. The court may allow a party to get out of this program if a court has issued a temporary or final restraining order, restraining either party from contact with the other, or for other good cause to be decided by the court.
- **Custody mediation.** When there is a dispute about custody or parenting time, the court will usually refer the parties to court mediation to help resolve the issue. If a court has issued a temporary or final domestic violence restraining order against you or your spouse, you may not be required to participate in mediation. Likewise, if there are issues of child abuse or sexual abuse, the case will not be mediated. Even after mediation has begun, the mediator or either party may petition the court for permission to remove the case from mediation by demonstrating good cause for removal. If an agreement is reached, it will be written down and a copy given to each party. If an agreement is not reached, the case goes back to the court to be settled by way of a trial or hearing.
- **Court investigations.** The court may ask the probation division or other court staff to conduct an investigation of the parties and their homes and



file a report with the court. This is sometimes referred to as a *best interests investigation*.

- **Parenting plans.** If you and your spouse cannot agree about custody, you will both have to file a ***Custody and Parenting Time/Visitation Plan (Form 22)*** with the court within 75 days of the date the defendant answers the complaint. If the defendant files a counterclaim, you will need to file your plan within 75 days of filing your answer to the counterclaim. (See *Custody and Parenting Time/Visitation Plan* on page 90.)

**Parenting Time/Visitation.** The non-custodial parent will almost always have visits or parenting time with the child. Visits will only be restricted if the court believes that the non-custodial parent will harm the child. Decisions about visitation are based on what is best for the child. Visitation can be changed if the parties' or children's circumstances change.

**Child Support.** Both parents have a duty to give financial support (child support) to their children. The non-custodial parent gives child support to the custodial parent to help support the children. Child support decisions are based on New Jersey's Child Support Guidelines, which have detailed rules for deciding how much support a parent should pay. The amount of child support ordered depends upon the parents' incomes, the number of children, and other factors. The child support award should include money to help pay for child care expenses. In addition to child support, the court will order that the parties provide health insurance for the child. The guidelines are in the *New Jersey Court Rules*. The county law library in your county courthouse will most probably have a copy. Your local library may have a copy. If not, the librarian can help you find a copy. You may also read the guidelines on the New Jersey Judiciary website at [www.njcourts.gov/attorneys/assets/rules/r5-6a.pdf](http://www.njcourts.gov/attorneys/assets/rules/r5-6a.pdf).

**Warning:** Receiving child support may affect your eligibility for public benefits. Please see *Important Information About Doing Your Own Divorce* on page 1.

## Other Documents to Be Filed With the Complaint

Other documents must be filed with the complaint. You should make five photocopies of every document you prepare. Send the original and two copies to the court and keep the extra two copies for your records and for later use. Once you send your papers to the court and you get back a docket number and a copy marked "filed," you must write the docket number on all photocopies. You should also make three copies of each filed document. You may need to use these copies later.

Always include a self-addressed, stamped envelope (an envelope that has both postage and your name and address) with any documents that you send to the court so that the court can send you back a copy marked "filed." You should do this even if you hand-deliver your papers to the court. You may need to know the date on which the court received something, and the filed document will have the date, time, and location of the filing on it.

All of the documents that you have to file with the complaint are explained in detail below. Please look at the forms as you read the instructions.

- **Filing Letter to Court—Complaint (Form 6).** Your filing letter must let the court know what you are sending and request a filed copy of the complaint and the other documents that accompany it. The filing letter must indicate whether you are paying the filing fee or seeking a fee waiver (which will only be given if you cannot afford the filing fee), as explained on page 33. Make sure to check off all appropriate statements.
- **Certification of Verification and Non-Collusion** (attached to complaint). This is a sworn statement that appears at the end of your complaint (**Form 1A, 1B, 1C, or 1D**). It lets the court know that:
  - All of the claims and facts in the complaint are true.
  - There is no other divorce action, or any other legal matter involving you or your spouse, presently filed in any court or arbitration proceeding. If there is some other legal matter involving you and your spouse, you must let the court know what it is.
  - There are no other people who should be included in this divorce.

You are required to continue to update this information if it changes during the time that the divorce is pending in court. If the information is untrue or is not updated, the court may dismiss your complaint.

- **Certification of Insurance (Form 2).** This is a separate form that you must attach to your divorce complaint. It lists all known insurance coverage for you, your spouse, and your minor children. This includes life, health, automobile, and homeowners insurance. Any insurance coverage listed in the certification of insurance at the time the complaint is filed must be maintained until the court orders otherwise. If you do not file this document with your complaint, the clerk may refuse to file your complaint.
- **Certification of Notification of Complementary Dispute Resolution Alternatives (Form 2B).** This is another separate form that you must attach to your divorce complaint. It states that you have been informed about dispute resolution alternatives that you may use to settle your case. Before you sign this document, you must read the information contained in *Explanation of Dispute Resolution Alternatives (Form 2A)*.
- **Family Part Case Information Statement (CIS) (Form 3A).** This must be filed with your divorce complaint if there is an issue of custody, support, alimony, or division of property and debt (*equitable distribution*). Even if you are not seeking these types of relief, the court may require you to complete a CIS. The CIS asks for detailed information about the financial circumstances, income, and assets of each party. The financial papers you gathered during your planning will help you give accurate information to the court about your financial circumstances. You will also have to photocopy and attach some financial documents to this form, such as tax returns and pay stubs. Read the instructions on this form carefully. It

is important that this information be accurate and true.

***You are required to update your CIS if and when anything changes before the divorce is final.*** If the court finds that the information you provided in your CIS is untrue or has not been updated, the court could dismiss your complaint or prohibit you from introducing evidence of any assets that were not listed on your CIS.

***If you and your spouse come to an agreement or settlement that includes an award of alimony, the court rules require each of you to preserve a copy of your respective Family CIS until alimony ends.*** (The final judgment of divorce will tell both of you when alimony is to end either by giving a specific time period for alimony or by stating that alimony will end when a certain event happens, such as the remarriage of the former spouse.)

If you and your spouse come to an agreement or settlement that includes an award of alimony and you have not filed a Family CIS, the court rules require both of you to prepare at least Part D (monthly expenses) of the Family CIS, serve a copy on each other and, once again, preserve a copy of the completed Part D until alimony is ended.

- ***Confidential Litigant Information Sheet (CLIS) (Form 3B).*** This is a form that you are required to fill out and file when you file your divorce complaint if you are requesting alimony or child support. The CLIS is to be filed separately and *is not* to be attached to the complaint or to any other document that is filed as a public record. The CLIS gives the court updated personal information to be used to establish, modify, or enforce support orders. The personal information is to be used only to update the official State computer system and to give the court a way to contact you if necessary. The information contained in the CLIS is to be used only by the *State of New Jersey* and *only* for the purpose of *contacting you about your child support or alimony case*. The CLIS is a confidential document. This means that it is not a public record and should not be shared with any member of the public.

***Note to victims of domestic violence:*** To ensure your safety, if you are hiding from your spouse, you should consider obtaining an alternative address through the New Jersey Address Confidentiality Program (see page 21).

- ***Request for Waiver of Fees and Supporting Certification (Form 4) and Order Waiving Fees (Form 5).*** If you cannot afford the filing fees, file **Forms 4** and **5** to get permission from the court to waive the fees. (This is explained under *Filing the Complaint with the Court* below.) You will not fill out **Forms 4** and **5** if you *can* afford the fees for filing (and for the Parents' Education Program if you and your spouse have children). You will simply pay the fees by check when you file your papers. You will have to call the court clerk to find out the amount of these fees.



- **A self-addressed, stamped envelope.** On the front of your package to the court, you should enclose an envelope with postage and your name and address so the court can return a filed copy of the papers to you. It is very important that you have copies of your documents marked “filed.” You will need them for your records and for later use. The court will not send you copies of the filed documents unless you provide the self-addressed, stamped envelope.

## Filing the Complaint With the Court

### Where to File Your Complaint

The *New Jersey Court Rules* dictate where you must file your divorce complaint. These rules require you to first figure out when your *cause of action* (the grounds or reason) for your divorce arose. A cause of action is said to have “arisen” when the facts of your situation equal the description of that cause of action. For example, if you are filing a divorce complaint based on separation, your cause of action for separation is said to have arisen at the point when you and your spouse had lived separate and apart from each other for 18 months. If you are filing your divorce complaint based on desertion, your cause of action for desertion is said to have arisen at the point when your spouse had willingly deserted you for 12 months. If you are filing your divorce complaint based on extreme cruelty, your cause of action is said to have arisen three months after the date of the last act of cruelty that your spouse committed against you as described in your complaint. The rules then require you to determine, if possible, where you were living at the time that your cause of action for divorce arose. (See Appendix A on page 112 for the addresses of county courts.)

- **If you were living in New Jersey at the time that your cause of action for divorce arose and you are now living in New Jersey.** You must file the complaint in the county where you lived at the time that your cause of action for divorce arose, even if you now live in a different New Jersey county. (For example, if you were living in Somerset County, New Jersey, at the time that your cause of action arose but you now live in Camden County, you must file your complaint in Somerset County.)
- **If you were living outside of New Jersey at the time that your cause of action for divorce arose but your spouse was living in New Jersey at that time.** You must file your divorce complaint in the New Jersey county where your spouse was living when the cause of action arose. (For example, if you lived in Connecticut at the time that your cause of action for divorce arose and your spouse was living in Somerset County in New Jersey at that time, you must file your complaint in Somerset County.)
- **If both you and your spouse were living outside of New Jersey at the time that your cause of action for divorce arose and you now live in New Jersey.** You must file your complaint in the New Jersey county in which you are now living. (For example, at the time that your cause of action for divorce arose, you and your spouse were living in Connecticut



and you now live in Somerset County, New Jersey; regardless of where your spouse now lives, you must file your divorce complaint in Somerset County.)

- **If both you and your spouse were living outside of New Jersey at the time that your cause of action for divorce arose and you still live outside of New Jersey but your spouse now lives in New Jersey.** You must file your complaint in the New Jersey county where your spouse now lives. (For example, if you and your spouse were both living in Connecticut at the time that your cause of action for divorce arose, and you still live in Connecticut but your spouse now lives in Somerset County, New Jersey, you must file your divorce complaint in Somerset County.)

### Filing Fee/Fee Waiver

You must pay a filing fee when you file the complaint. The filing fee is the court's charge for processing the complaint. As of the time of publication of this manual, the filing fee for a divorce complaint is \$300. If you have minor children, you must pay an additional \$25 for a Parents' Education Program, which you are required to attend. The check must be made payable to *Treasurer, State of New Jersey*. Check with your local county clerk's office for updated information on filing fees. (See Appendix A on page 112 or go to [www.njcourts.gov/forms/11112\\_courtfees.pdf](http://www.njcourts.gov/forms/11112_courtfees.pdf).)



If you cannot afford to pay the filing fee or the parent education fee, you may ask the court to waive these fees. To do so, you must file the following documents with your complaint:

- **Request for Waiver of Fees and Supporting Certification (Form 4).** This document explains your financial situation. You must sign the document, swearing that the statements are true.
- **Order Waiving Fees (Form 5).** This order states that you will not be required to submit a fee for filing. If the judge agrees with you, he or she will sign your proposed order and return a signed and filed copy of the order to you with a copy of your filed complaint.

### After Your Complaint Is Filed

- **The filed copy.** The court will send you back a copy of your complaint with a stamp on it that says "filed." This copy will also have the name of the court, the date the complaint was filed, and a docket number for your case beginning with the letters "FM." If you have any questions about whether or not your document has been filed, check with the clerk's office at the county courthouse in the county named on the document.

When you receive your filed copy, be sure to make at least three photocopies of it. You will need these copies for serving the defendant and for your records.

- **Docket number.** Once a docket number is given by the court, it is permanently assigned to your case. You must type or write this docket number on all of the papers you prepare that are related to the divorce action, including any letters you send out.
- **The judge in your case.** Usually, the court will send you a notice telling you which judge will handle your case. If you do not receive this notice, you may call the court to find where your case has been assigned.

## Checklist and Table of Documents for Filing the Complaint— Forms 1 through 6

Review your documents and package for the court to make sure that:

- You have filled in all the blanks in your complaint and in the other documents that you are sending to the court.
- Every document is signed and dated.
- You have enclosed a check for the filing fee and, if you and your spouse have children, the fee for the Parents' Education Program, if you are not asking for a waiver of the filing fees (**Forms 4 and 5**).
- You have asked for everything you want the court to grant.
- You are sending an original and two copies of all papers to the court.
- You have prepared and enclosed a self-addressed, stamped envelope (an envelope with your name, address, and postage on it) for the court to use to return filed copies to you.
- You have the right amount of postage on your package. We suggest that you have your package weighed and stamped at the post office. The court will only accept mail with proper postage.
- You have kept at least one extra copy of all documents for your records.

Forms for Chapter 1: Preparing and Filing the Divorce Complaint Forms 1 through 6		
Form #	Title of Form	Instructions
1A, 1B, 1C, or 1D	Complaint for Divorce/Dissolution and Attached Certification	Send original and two copies to court clerk for filing.
2	Certification of Insurance	Attach to complaint or answer and counterclaim. Send original and two copies to court clerk for filing.
2A	Explanation of Dispute Resolution Alternatives	Read this explanation before filling out and signing Form 2B. This form <i>should not</i> be filed with the court.
2B	Certification of Notification of Complementary Dispute Resolution Alternatives	Read Form 2A before filling out this certification. Attach to complaint or answer and counterclaim. Send original and two copies to clerk for filing.
3A	Family Part Case Information Statement (CIS)	File with complaint in cases where custody, support, alimony, or equitable distribution is an issue. Make sure copies of pay stubs, tax returns, and other required documents are attached.
3B	Confidential Litigant Information Sheet (CLIS)	DO NOT attach to the complaint or any other document that you file with the court. This is a confidential document for use by court personnel only.
4 and 5, if applicable	Request for Waiver of Fees and Supporting Certification, and Order Waiving Fees	Send original and two copies to court clerk for filing.
6	Filing Letter to Court—Complaint	Submit to court with Forms 1-5 for filing. Keep a copy for your records.

## **Chapter 2: Serving the Divorce Complaint**

This chapter will explain how to:

- Serve the defendant with the complaint and a summons.
- Pay service fees or other costs in order to serve the defendant.
- Give the court proof that the defendant was served.
- Keep track of time limits and deadlines.

This chapter will cover Forms 7 through 12B.

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# Notes

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## Chapter 2: Serving the Divorce Complaint

If you are the plaintiff, you must make sure that the defendant is given a copy of the divorce complaint. This is called “serving” the defendant. Court rules require that service (the act of serving an individual) be done in a specific way. Court rules also require you to show proof to the court that the defendant was served with the complaint in the way required by the rules.

Serve the complaint as soon as possible after the complaint has been returned from the court marked “filed.” The court can dismiss your case if you do not serve the defendant within four months of filing the complaint or if you do not inform the court about the reasons you have been unable to serve the defendant. You should send the defendant a photocopy of the complaint marked “filed” so it is clear to the defendant when the complaint was filed.

Serving the complaint is very important and sometimes may be difficult. From this point on, both the plaintiff and the defendant will need to keep track of time deadlines.

### Preparing a Summons

You must serve the complaint with a ***Summons and Attached Proof of Service (Form 7)***. The summons tells the defendant that he or she is being sued and must respond to the complaint within a specific period of time. The first thing that you must do is fill out the ***Summons and Attached Proof of Service (Form 7)***. Follow the instructions for filling in all of the blanks. If you do not complete the form accurately and thoroughly, the court might find that you have not properly served the defendant, and you will have to try to serve the defendant all over again. This could be time-consuming and expensive for you.

At the end of the summons, a space is provided for you to fill in a description of the defendant. Provide the following information on the summons to make it easier for the sheriff to identify the defendant:

- A description of the defendant’s physical appearance (height, weight, race)
- Special ways of identifying the defendant, such as hair and eye color, a beard or mustache, tattoos, birthmarks, or scars
- If possible, the best times to find the defendant at home.

See ***Summons and Attached Proof of Service (Form 7)*** and ***Cover Letter to Sheriff (Form 7A)***.

If you haven’t already made photocopies of the filed copy of your complaint, make at least three photocopies now. You will need two copies for service, and you should keep at least one copy in your file.

## Serving the Defendant

How you serve the defendant depends on whether you know his or her address and, if you do, whether he or she lives in New Jersey. It is usually easier to serve a defendant who lives in New Jersey and whose address you know.

Personal service is the best form of service and should be done by the sheriff's office. If the defendant does not have an attorney but is willing to cooperate with service, you may serve the defendant by mail. If the defendant has an attorney, you may serve the defendant by mail through his or her attorney.

If you cannot serve the defendant in person or by mail because you do not know where he or she lives, you will need to get permission from the court to serve the defendant another way, such as by serving another person who will probably be in touch with the defendant or by publishing a notice in a newspaper. This procedure is complicated and will require you to do extra work. It will also involve costs for mailing, including certified mail with return receipts and, possibly, costs for publication in a newspaper. You may want to consult an attorney to help you serve a defendant whose address is unknown to you. See page 49.

**Note to victims of domestic violence:** If you are hiding from your spouse because you are afraid and you have filed a complaint that does not contain your address and phone number, you will need to provide a post office box number or an alternative address where you can receive mail. To ensure your safety, you should consider obtaining an alternative address through the New Jersey Address Confidentiality Program (see page 21). You should also make sure to provide the post office box or alternative address on all correspondence to the defendant or to others to whom you may write in order to find the defendant for the purposes of serving him or her.

This chapter will explain how to serve a defendant in the following five situations:

- A. Personal service on a New Jersey resident.** The defendant lives in New Jersey and can be served in person because you know his or her address. If this describes your situation, please turn to page 42 for instructions.
- B. Personal service on an out-of-state defendant or a defendant in a foreign country.** The defendant lives in another state or in a foreign country and can be served in person because you know his or her address. If this describes your situation, turn to page 44 for instructions.
- C. Service by mail on a cooperative defendant.** The defendant is cooperative and will agree to accept service by mail (the defendant may live in New Jersey or another state or in a foreign country). The defendant must sign a form called an acknowledgment of service in front of a





notary and return the notarized form to you. If this describes your situation, turn to page 46 for instructions.

**D. Service by mail on a cooperative defendant through the defendant's attorney.** The defendant is cooperative and has an attorney who will agree to accept service by mail for the defendant (the defendant may live in New Jersey or another state or in a foreign country). If this describes your situation, turn to page 48 for instructions.

**E. Service on a defendant whose address is unknown.** You do not know where the defendant lives and, therefore, cannot serve the defendant in person. If this is your situation, please turn to page 49 for instructions.

## A. Personal Service on a New Jersey Resident

The defendant lives in New Jersey and you know his or her address. While there are a number of ways to lawfully personally serve a defendant, this manual will focus on a personal service by a sheriff's officer, as it is the most reliable and frequently the cheapest (particularly where the fee is waived). If you have a court order waiving fees, you should not have to pay the sheriff for serving the defendant. If you do not have a court order waiving fees, you will have to pay service and mileage fees to the sheriff. Call the sheriff's office to find out how much it will cost to pay the fees and mileage. Be aware, too, that you may have to pay additional fees if a sheriff's officer has to make several trips to serve a defendant.



### Sending Documents to the Sheriff

You must mail or give the following documents to the sheriff of the county where the defendant lives. (See Appendix B on page 114 for a list of county sheriffs' offices.) Remember to keep a copy of each form for yourself.

- A **Cover Letter to Sheriff (Form 7A)**.
- Two copies of the completed **Summons and Attached Proof of Service (Form 7)**.
- Two copies of the **Complaint for Divorce/Dissolution (Form 1A, 1B, 1C, or 1D) and Attached Certification, Certification of Insurance (Form 2), and Certification of Notification of Complementary Dispute Resolution Alternatives (Form 2B)**, all marked "filed."
- A check or money order for the service fee. (There is a fee for this service. To find out what the fee is, contact the sheriff's office. If you received a court order allowing you to file your divorce papers without paying the filing fee, include a signed copy of that order with your letter to the sheriff, and the sheriff's fees should be waived.)
- A self-addressed, stamped envelope so the sheriff can send the proof of service back to you once the defendant has been served.



### Time Limits

On your calendar, write the date you sent the summons and complaint to the sheriff's office, and make a note to call the sheriff's office two weeks from that date if you have not heard from that office.



We explain below what should happen once the sheriff's office receives your documents and check.

- **A sheriff's officer will serve the defendant.** A sheriff's officer will give the documents you sent to the defendant personally or will leave the documents at the defendant's home with any competent household member who is 14 years of age or older.

- **The sheriff's officer will sign a proof of service and send it to you in the self-addressed, stamped envelope that you have provided.** After serving the defendant, the sheriff's officer will sign the proof of service on page 3 of the ***Summons and Attached Proof of Service (Form 7)***. The signed proof of service shows the defendant's name and the place, manner, and date of service. The date of service is important because the defendant has 35 days from the date he or she is served to answer or respond in some way to the complaint for divorce. So, mark the date of service on your calendar and note the date 35 days from that date. You may have to file more papers on that date, depending on what the defendant does after he or she is served.



### **Filing the Sheriff's Proof of Service**

The sheriff's proof of service must be filed with the court where the divorce complaint is filed. The sheriff's officer is supposed to file the proof of service with the court and send you a copy. However, the sheriff's officer may not always remember to do that. You should file it yourself to make sure the court has it. Remember to keep a copy for yourself. If you do not get the sheriff's proof of service within 30 days of mailing the papers to the county sheriff's office, call that office to make sure you get it.

To file the sheriff's proof of service, send it to the clerk of the court with a ***Filing Letter to Court—Sheriff's Proof of Service (Form 7B)*** in the county where you filed your complaint. Send an original and one copy, plus a self-addressed, stamped envelope so the court can return a filed copy to you.

## B. Personal Service on an Out-of-State Defendant or a Defendant in a Foreign Country

The defendant lives in another state or outside of the United States and you know his or her address. You may need to get some legal advice in order to do this kind of service. It can be a very complicated procedure to personally serve a defendant who lives in a foreign country. You should not try to personally serve a defendant in a foreign country unless you know whom you have to contact, what the procedures are for serving divorce papers, and that you can afford to pay for the service.

It is less complicated to personally serve a defendant who lives in another state. You can easily find out what you have to do to get divorce papers served by calling either the sheriff, police, county clerk, or other public office in the defendant's city or town. Usually, it is a county sheriff's office that does this. However, some states have other officials who do this kind of service. You will have to do some research on your own to find out who does this kind of service and how much it will cost you.

Also, even if you have a waiver so that you do not have to pay fees in New Jersey—see **Order Waiving Fees (Form 5)**—your waiver is good only for New Jersey. You will have to pay service and mileage fees for service in a state other than New Jersey. Follow the instructions you are given by those out-of-state officials.

### Sending Documents to an Out-of-State Sheriff or Other Agency

To satisfy the New Jersey courts' service requirements, you must send the following documents for service to an out-of-state sheriff or official:

- A **Cover Letter to Sheriff (Form 7A)**
- Two copies of the completed **Summons and Attached Proof of Service (Form 7)**
- Two copies of the **Complaint for Divorce/Dissolution (Form 1A, 1B, 1C, or 1D) and Attached Certification, Certification of Insurance (Form 2), and Certification of Notification of Complementary Dispute Resolution Alternatives (Form 2B)**, all marked "filed"
- A check or money order for the service and mileage fees
- A self-addressed, stamped envelope so the sheriff can send you a proof of service.

### Time Limits

On your calendar, mark the date you sent the summons and complaint to the out-of-state sheriff's office or other agency and make a note to call that office two weeks from that date, if necessary.



Once the sheriff or other official sends you the proof of service, mark the date the defendant was served and the date 35 days from that date. The defendant has 35 days to respond to the divorce complaint. What you will have to do next will depend on whether or not the defendant files papers of his or her own within this 35-day period.



### **Filing the Sheriff's or Other Agent's Proof of Service**

Once the defendant is served, the sheriff or other government official will send a proof of service back to you. You must then file it with the court. Send the ***Filing Letter to Court—Sheriff's Proof of Service (Form 7B)*** to the court in the county where you filed your complaint. Send an original and one copy, plus a self-addressed, stamped envelope so that the court can return a filed copy to you. Remember to keep a copy for yourself.

## C. Service by Mail on a Cooperative Defendant

This quick and low-cost method of service will only work if the defendant will accept service and fill out and sign the ***Acknowledgment of Service (Form 8)*** in front of a notary and return it to you. (Notaries usually can be found at banks and at real estate and law offices.)

If the defendant accepts service and sends back a signed and notarized acknowledgment of service, you will have to file the acknowledgment with the court. Sometimes a defendant will not return the acknowledgment of service, but will instead file an answer to your divorce complaint with the court. In this situation, the court will still consider the defendant to have been properly served. The steps you must take after the defendant files an answer are explained in *Chapter 3: After Serving the Divorce Complaint* on page 65.

### Sending Documents to the Defendant

You must send the following documents to the defendant by both regular mail *and* certified mail, return receipt requested. (Remember to keep the signed return receipt with your records. This is important in proving that the defendant has been served, especially if the defendant becomes uncooperative and you have to ask the court for permission to use another form of service.)

- A ***Cover Letter to Defendant or Defendant’s Attorney—Acknowledgment of Service (Form 8A)*** explaining that the defendant should sign the acknowledgment of service in front of a notary, return the original to you, and retain one copy for his or her records.
- Two copies of the completed ***Summons and Attached Proof of Service (Form 7)***.
- Two copies of the ***Complaint for Divorce/Dissolution (Form 1A, 1B, 1C, or 1D)*** and ***Attached Certification, Certification of Insurance (Form 2)***, and ***Certification of Notification of Complementary Dispute Resolution Alternatives (Form 2B)***, all marked “filed.”
- An ***Acknowledgment of Service (Form 8)***. The defendant should sign the form in front of a notary and return the notarized form to you. The defendant should keep a copy for his or her files.
- A self-addressed, stamped envelope so that the defendant can return the signed and notarized acknowledgment of service to you.

### Filing the Acknowledgment of Service

After you get the signed and notarized acknowledgment of service form back from the defendant, immediately file it with the court. Make two copies of the signed acknowledgment. File the original and one copy with the court and keep the additional copy for your files. To file the acknowledgment, send the following to the court clerk:



- **Filing Letter to Court—Acknowledgment of Service (Form 8B).** Request that a filed copy be returned to you.
- Original and one copy of the signed and notarized **Acknowledgment of Service (Form 8).**
- Self-addressed, stamped envelope so that the court can send you a filed copy.

### Timekeeping After You Receive the Signed Acknowledgment of Service

Mark the date the defendant was served and the date 35 days from that date. The defendant has 35 days to respond to the divorce complaint. If the defendant does not respond, you will have to file additional papers once this 35-day period has expired. What you will have to file will depend on whether or not the defendant files some papers of his or her own and what types of papers the defendant files. Your next steps will be covered in *Chapter 3: After Serving the Complaint* on page 65.



### What to Do if the Defendant Becomes Uncooperative and Does Not Return the Acknowledgment of Service

If the defendant does not return the acknowledgment of service to you within three weeks, call the defendant to ask him or her to return it right away. If it is clear that the defendant is no longer willing to cooperate with you, you should immediately serve the defendant through the sheriff's office in the county where the defendant resides. If you fail to serve the defendant by mail, personal service is the most reliable alternative. See *Personal Service on a New Jersey Resident* on page 42, and *Personal Service on an Out-of-State Defendant or a Defendant in a Foreign Country* on page 44.

If you do not show the court that you have served the defendant within four months of filing your complaint, the court may take steps to dismiss your complaint.

## D. Service by Mail on a Cooperative Defendant Through the Defendant’s Attorney

If the defendant has an attorney, the defendant may allow the attorney to accept service for him or her. If the attorney accepts service, this is considered the same as giving the papers to the defendant in person. The attorney will accept service and return an acknowledgment of service to you. Remember to include a self-addressed, stamped envelope. If the defendant agrees to do this, you must send the attorney the following documents by regular mail:

- A **Cover Letter to Defendant or Defendant’s Attorney—Acknowledgment of Service (Form 8A)**.
- Two copies of the completed **Summons and Attached Proof of Service (Form 7)**.
- Two copies of the **Complaint for Divorce/Dissolution (Form 1A, 1B, 1C, or 1D) and Attached Certification, Certification of Insurance (Form 2), and Certification of Notification of Complementary Dispute Resolution Alternatives (Form 2B)**, all marked “filed.”
- An **Acknowledgment of Service (Form 8)**. The defendant’s attorney will sign the form and return it to you. The defendant’s attorney will keep a copy for his or her files.

### Filing the Acknowledgment of Service

After you get the signed and notarized acknowledgment of service form back from the defendant’s attorney, you must file it with the court. Make two copies. File the original and one copy with the court and keep the additional copy for your files. To file the acknowledgment of service form, send the following to the court clerk:

- **Filing Letter to Court—Acknowledgment of Service (Form 8B)**. Check off the appropriate box and request that a filed copy be returned to you.
- Original and one copy of the signed **Acknowledgment of Service (Form 8)**.
- Self-addressed, stamped envelope so that the court can send you a filed copy.

### Timekeeping After You Receive the Signed Acknowledgment of Service

Mark the date the defendant was served and the date 35 days from that date. The defendant has 35 days to respond to the divorce complaint. If the defendant does not respond, you will have to file additional papers once this 35-day period has expired. What you will have to file will depend on whether or not the defendant files some papers of his or her own and on what types of papers the defendant files. Your next steps will be covered in *Chapter 3: After Serving the Complaint* on page 65.





## E. Service on a Defendant Whose Address Is Unknown

When you do not know where the defendant lives, you are required to make “diligent inquiries” of all people or agencies that may know where the defendant lives. If, after your diligent inquiries, you do not find an address for the defendant, you will have to ask the court to let you serve the defendant in another way. The court will generally give you permission to use an alternative method to serve the defendant, as long as you can show that you made “diligent efforts” to locate the defendant.

The other ways to serve a defendant whose address you do not know are:

- Serving a defendant by way of “substituted service on a special agent”—serving another person, in place of the defendant, who is likely to be able to give the summons and complaint to the defendant (often a relative or close friend of the defendant); or
- Serving a defendant by way of “publication”—publishing a notice of the divorce complaint in a newspaper.

Both of these methods are complicated. If you end up in this situation, you may want to seek legal assistance. If you decide to handle this procedure yourself, you need to follow the steps below. You must also make sure to keep copies of all of the written inquiries that you send and all of the responses you receive to your inquiries.

### Step 1: Making Diligent Inquiries

Use *Letters of Inquiry (Forms 9 through 9C)*, described below, to make inquiries of people and agencies that may have an address for the defendant. You must keep copies of the letters you send and the responses you receive so that you can submit them to the court as evidence of your attempts to find the defendant. Send letters to:

- Your spouse’s family members, close friends, or past employers who might know his or her address. These letters must be sent by both regular *and* certified mail, return receipt requested. ***Letter of Inquiry to Defendant’s Friends, Family, or Employers (Form 9)***.
- The Motor Vehicle Commission (MVC) in the state where your spouse last held a driver’s license. This letter should be sent by regular mail only. ***Note:*** We provide information for New Jersey. If you need information from another state, you must contact that other state’s department of motor vehicles and ask them for the form they want you to use. ***Letter of Inquiry to MVC (Form 9A)***.
- The Department of Defense. Send this letter by regular mail only. ***Letter of Inquiry to Military (Form 9C)***. (It may be faster to get a statement through the DOD’s Servicemembers Civil Relief Act website. See page 76 for more information.)



- The post office in your town or in the town where the defendant last resided. Send this letter by regular mail only. Call the post office and ask if there is a search fee. If there is, enclose that fee with your letter. **Letter of Inquiry to Postmaster (Form 9B)**.



Be sure to:

- Fill in all of the blanks as indicated on the forms.
- Make two copies of each completed letter. Mail one copy and keep the other in your file for use when you complete your supporting certifications for an order permitting an alternative method of service.
- Send the **Letter of Inquiry to Defendant's Friends, Family, or Employers (Form 9)** by both regular mail *and* by certified mail, return receipt requested.
- Send the other **Letters of Inquiry (Forms 9A through 9C)** by regular mail.
- Enclose a self-addressed, stamped envelope with each letter to encourage the recipient to write back to you.
- Attach the signed return receipts or replies to your copy of the letter you sent to that person. You will need these letters, return receipts, and any responses you receive when you get to Step 2.



**Time Limits.** On your calendar, mark the date you mailed the letters and the date three weeks from then so you know when it is time to take your next steps.



If someone to whom you wrote does provide you with an address for the defendant, you may try to serve the defendant in person at that address. See *Personal Service on a New Jersey Resident* on page 42. If the address is not in New Jersey, follow the instructions for *Personal Service on an Out-of-State Defendant* on page 44. If service is successful, you will file the proof of service with the court and wait (for at least 35 days) for a response from the defendant.



However, if you do not get an address, or if you do get an address but are not able to serve the defendant through the sheriff's office or by mail, you must apply to the court for permission to serve the defendant by one of the alternate methods. To do this, follow the instructions outlined in Step 2 below.

## Step 2: Preparing Court Papers When You Cannot Serve the Defendant After Diligent Inquiries

If you do not get an address for the defendant through your diligent inquiries, you will have to ask the court for an order to serve the defendant by either substituted service on a special agent or by publication.

**Request for Order for Substituted Service on a Special Agent.** If someone you know or someone you wrote to is in touch with the defendant and will give the divorce papers to him or her, you may apply to the court for permission to serve that person in place of the defendant. The person acting as special agent for service must be 18 years of age or older. To make that application to the court, you must fill out **Forms 10A** and **10B** and attach all documents as instructed below.

- ***Ex Parte Request for Order for Substituted Service on a Special Agent and Supporting Certification (Form 10A).*** The supporting certification provides the court with information about your efforts to find the defendant, including:

- The name of each person to whom you wrote
- Their relationship to the defendant—family member, friend, employer, business associate, government agency, military agency
- The date the letter was sent
- The nature of any responses you received
- The date and results of any phone calls, Internet searches, or other methods you used to find the defendant.

In addition, attach the following items to the ***Supporting Certification (Form 10A)***:

- A copy of each letter you sent (**Forms 9** through **9C**), with the return receipts and any replies that you received
- A copy of the certificate of non-military service that you received from the military.
- ***Order for Substituted Service on a Special Agent (Form 10B).*** This form lets the court know the name and address of the person (special agent) to be served in place of the defendant. The person acting as special agent for service must be 18 years of age or older. Also indicate the relationship of this person to the defendant—for example, mother, aunt, sister—and why you believe that person will be able to give the papers to the defendant.
- ***Filing Letter to Court—Ex Parte Request for Substituted Service (Form 10C).*** Send this letter to the filing clerk of the court along with the original and two copies of the ***Ex Parte Request for Order for Substituted Service on a Special Agent and Supporting Certification (Form 10A)*** and the ***Order for Substituted Service on a Special Agent (Form 10B)***.

**Requesting Service by Publication.** If you do not know where the defendant is and do not know anyone who could be appointed for substituted service upon the defendant, you will need to apply to the court for permission to serve the defendant by publishing a notice in a newspaper that is circulated in the county where the complaint was filed. To do this, you will have to complete **Forms 11A** and **11B**.

- **Ex Parte Request for Order for Service by Publication and Supporting Certification (Form 11A).** The supporting certification provides the court with information about your efforts to find the defendant. Remember to sign and date the certification. For each person, business, or agency you wrote to, provide the court with the information below:
  - The name of each person to whom you wrote
  - Their relationship to the defendant—family member, friend, employer, business associate, government agency, military agency
  - The date of each letter
  - The nature of any responses you received
  - The date and results of any phone calls, Internet searches, or other methods you used to find the defendant.

Attach the following items to your certification as exhibits:

- A copy of each letter you sent (**Forms 9 through 9C**), with the return receipts and any replies that you received
  - A copy of the certificate of non-military service that you received from the military.
- **Order for Service by Publication (Form 11B).** In this order, you may suggest the name of a local newspaper and ask the court to let you publish your notice in that newspaper; but the court makes the final decision as to which newspaper will publish the notice.

### Step 3: Filing the Court Papers

#### Filing Instructions for an Order for Substituted Service on a Special Agent.

Mail the original plus two copies of each of the following forms to the court, along with a self-addressed, stamped envelope:

- **Filing Letter to Court—Request for Substituted Service (Form 10C).**
- **Ex Parte Request for Order for Substituted Service on a Special Agent and Supporting Certification (Form 10A)** with attached letters of inquiry and replies.
- **Order for Substituted Service on a Special Agent (Form 10B).**
- If filing fees have not been waived, you will have to pay a filing fee. (Call the court for the fee amount. Currently, the fee is \$50.)
- If your filing fees have been waived, you will have to provide a copy of your signed **Order Waiving Fees (Form 5)**.



**Filing Instructions for an Order for Service by Publication.** Mail the original plus two copies of each of the following forms to the court, along with a self-addressed, stamped envelope:

- **Filing Letter to Court—Ex Parte Request for Service by Publication (Form 11C).**
- **Ex Parte Request for Order for Service by Publication and Supporting Certification (Form 11A)**, with attached letters of inquiry and replies.

- **Order for Service by Publication (Form 11B).**
- If filing fees have not been waived, you will have to pay a filing fee. (Call the court for the fee amount. Currently, the fee is \$50.)
- If your filing fees have been waived, you will have to provide a copy of your signed **Order Waiving Fees (Form 5).**



**Time Limits.** Mark the date you sent the papers to the court. If you do not receive the order within three weeks, call the court to find out if it has been signed and when you will get it.



#### Step 4: Serving the Defendant

After you receive a copy of the signed order for substituted service on a special agent or by publication, you may proceed to serve the defendant.

**Substituted Service on a Special Agent.** If the court grants your request for substituted service, the judge will sign the **Order for Substituted Service on a Special Agent (Form 10B)** and will name the special agent for service, usually the person you suggested in your certification. The judge will also specify in the order how that person is to be served. Usually, the order will state that the person is to be served personally through the sheriff's office. In this case, follow the instructions for *Personal Service on a New Jersey Resident* on page 42 or *Personal Service on an Out-of-State Defendant* on page 44. The order may also contain instructions for you to serve the person by registered or certified mail.

For service on a special agent, send the following documents to the sheriff or other government agent by regular *and* certified mail, return receipt requested:

- A **Cover Letter to Sheriff (Form 7A).**
- Two copies of the completed **Summons and Attached Proof of Service (Form 7).**
- Two copies of the **Complaint for Divorce/Dissolution (Form 1A, 1B, 1C, or 1D) and Attached Certification, Certification of Insurance (Form 2), and Certification of Notification of Complementary Dispute Resolution Alternatives (Form 2B),** all marked "filed."
- A copy of the **Order for Substituted Service on a Special Agent (Form 10B).**
- A check or money order for the service fee. (To find out what the fee is, contact the sheriff's office.) If you received permission from the court to file your divorce papers without paying the filing fee, include that signed **Order Waiving Fees (Form 5)** with your letter to the sheriff and the sheriff's fees should be waived if the service is being done in New Jersey.
- A self-addressed, stamped envelope.



**Service by Publication.** The signed *Order for Service by Publication (Form 11B)* will tell you where to publish the notice of your divorce. You will have to prepare a *Notice of Order of Publication (Form 12)* to send to the newspaper. The notice contains information similar to that found in the *Summons and Attached Proof of Service (Form 7)*.

You must publish the *Notice of Order of Publication (Form 12)* in the newspaper specified in the order by the deadline specified in the signed *Order for Service by Publication (Form 11B)*. Send the notice to the newspaper as soon as you receive the signed order so that you can be sure that you are following the court order. You will need to call the newspaper named in the order to find out how much it will cost to publish the notice and where you should send the notice.

You will need to send the following to the newspaper immediately:

- A *Cover Letter to Newspaper Requesting Publication (Form 12A)*. Ask them to send you proof of publication.
- The *Notice of Order of Publication (Form 12)*.
- The fee for publication, payable to the newspaper. This fee is required, even for those who do not have to pay court filing fees.
- A self-addressed, stamped envelope.

**Time Limits.** Mark off a week before the final date for publication and, if you can, check the paper to make sure that they publish the notice. Call the newspaper to make sure that the notice will be published within the time specified by the court.

The newspaper must send you proof that the notice was published. This proof can be in the form of an *affidavit* or a certification. Make sure that you get a copy of the notice and certification. If you do not receive anything within seven days after the last date for publication, call the paper immediately to find out what the status is.

Once you receive the affidavit or certification of publication and a copy of the published notice from the newspaper, you will file them with the court. Send the following to the clerk of the court:

- A *Filing Letter to Court—Certification of Publication (Form 12B)*
- The original and one copy of the certification and notice sent to you by the newspaper
- A self-addressed, stamped envelope for return of the filed copy.



## Important Information About Keeping Track of Time for Your Next Steps

No matter which form of service you are using, you must keep track of time. Note the following dates on your calendar:

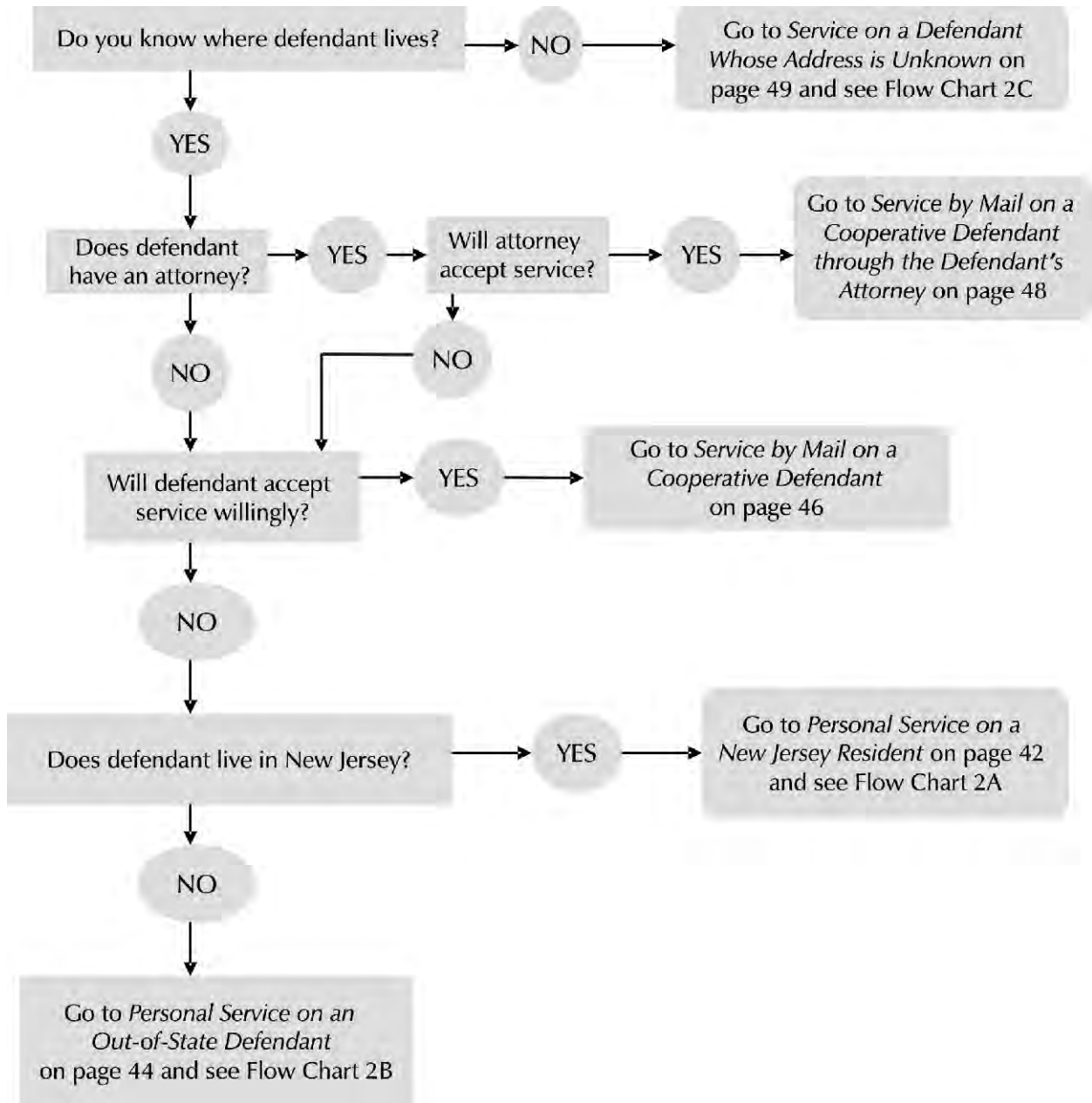
- **Service by mail.** The date you sent papers to the sheriff, the defendant, his attorney, a special agent for service, or to a newspaper for publication. You should follow up with them if they do not respond within three weeks of the date you sent the papers.
- **Personal service.** The date the sheriff served the defendant or a special agent for service and the date 35 days later, which is the deadline for the defendant to respond to your complaint.
- **Acknowledgment of service.** If you served the defendant or his or her attorney by mail using an acknowledgment of service, mark the date the acknowledgment was signed and the date 35 days later, which is the deadline for the defendant to respond to your complaint.
- **Service by publication.** The date the newspaper notice was published and the date set by the court for the defendant to respond. The date for a response will be found in the order for publication.

**Remember:** You must serve the defendant as quickly as possible once you file your complaint. If you do not serve the defendant within four months after the date on which you filed your complaint, the court may dismiss your complaint. Always keep at least one copy of all of the papers related to your case, including cover letters.

Once the time for the defendant to respond to your complaint has run out, you move on to the next step or steps, which are explained in Chapters 4 and 5.

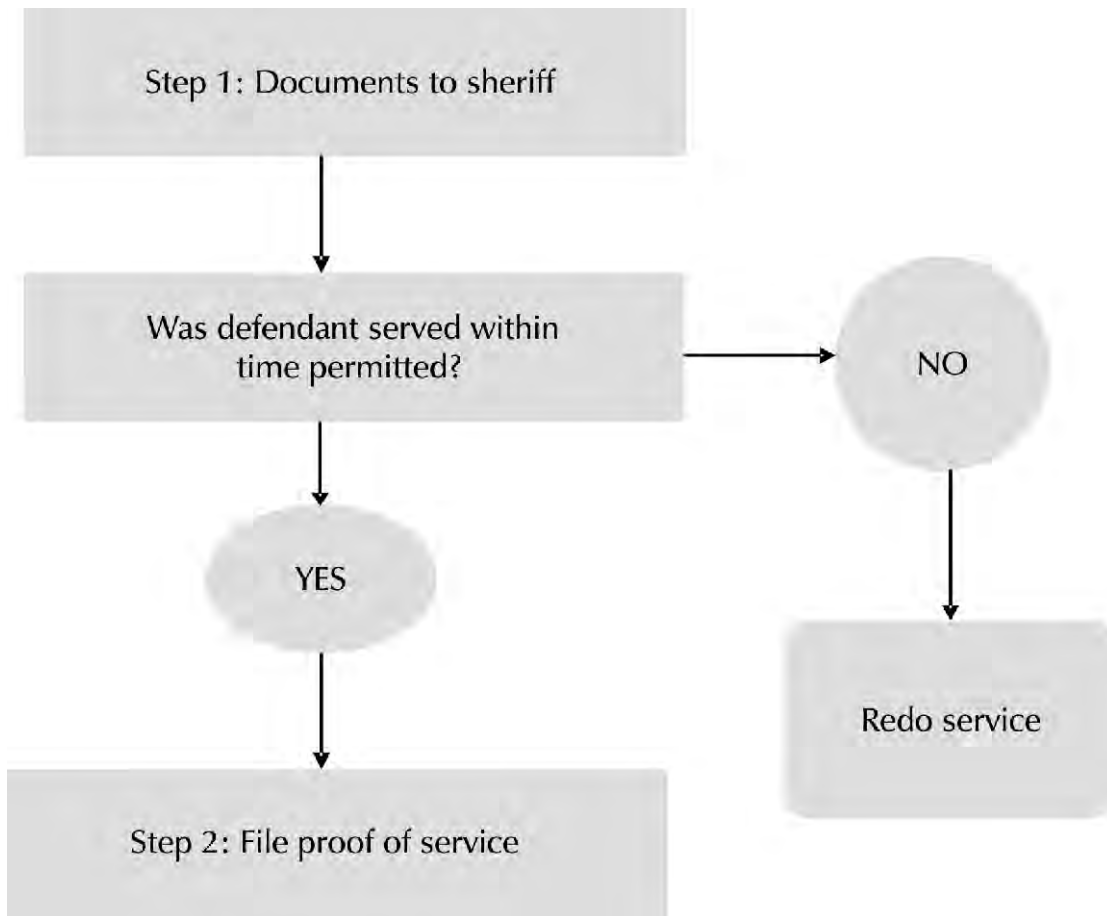


## Flow Chart 2: Service of Summons and Complaint

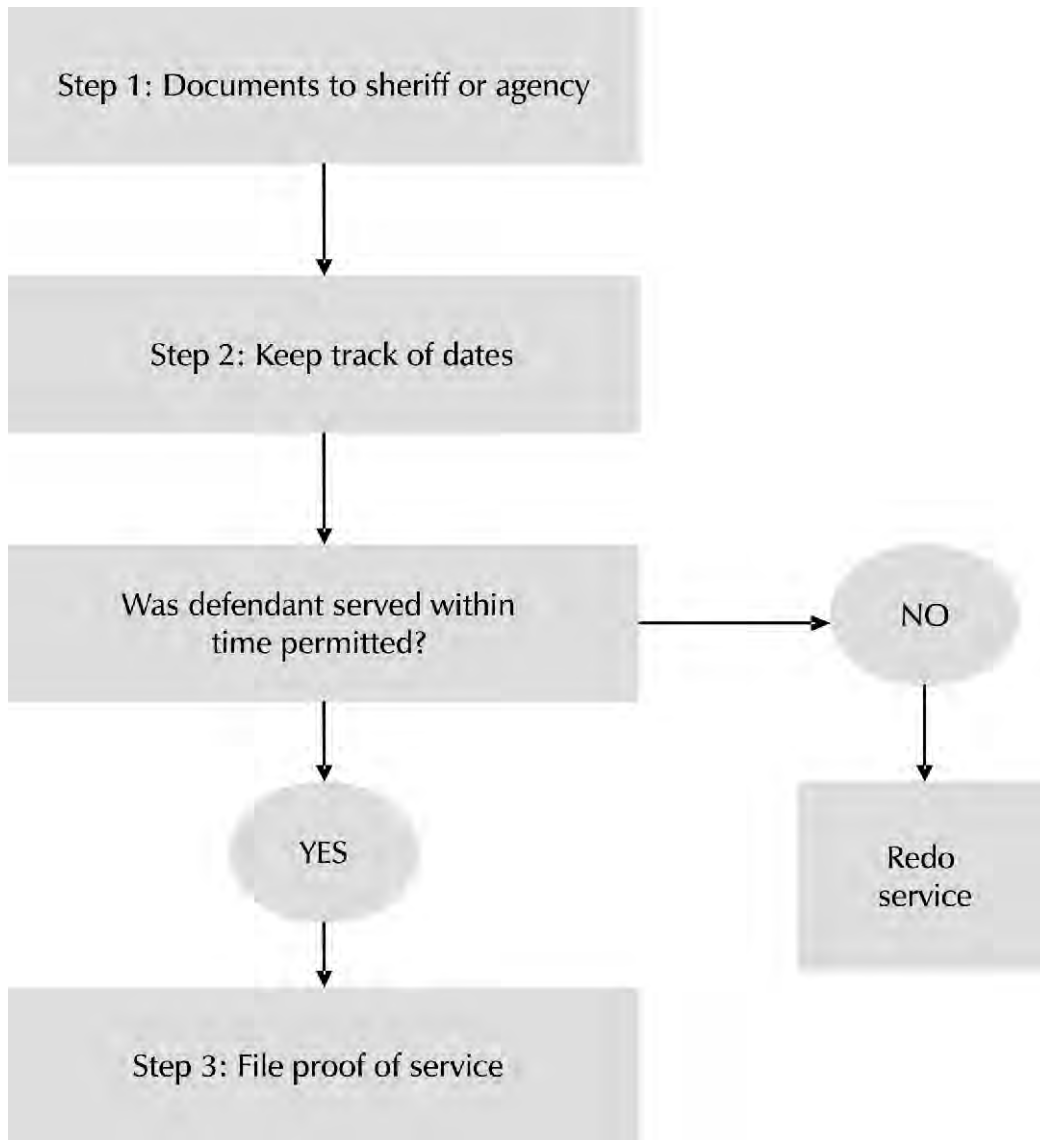




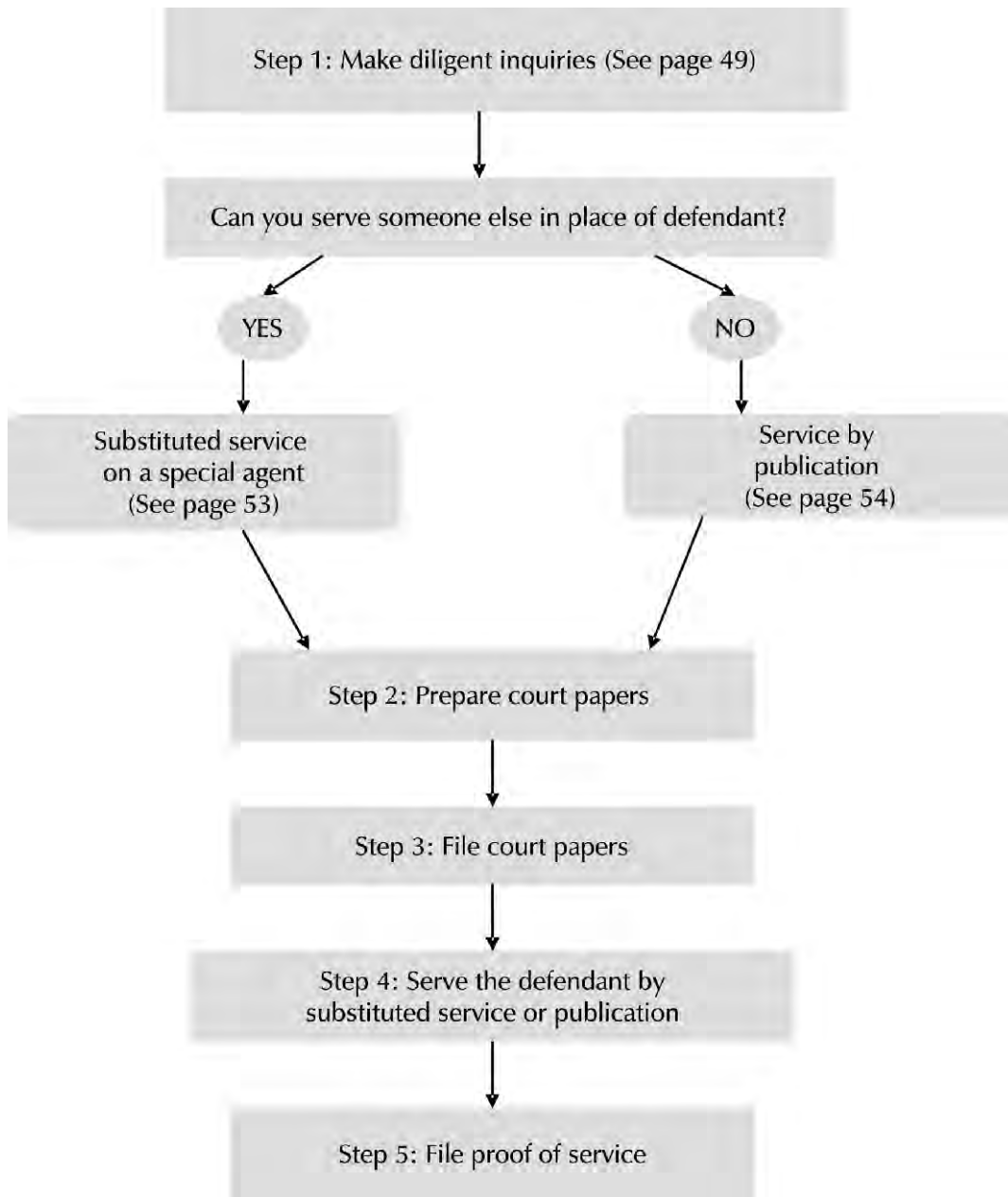
### Flow Chart 2A: Personal Service on a New Jersey Defendant



### Flow Chart 2B: Personal Service on an Out-of-State Defendant



### Flow Chart 2C: Service on a Defendant Whose Address Is Unknown



## Checklist and Table of Documents for Serving the Divorce Complaint— Forms 7 through 12B

- Don't forget to enclose a check or money order for the service fee.
- If your filing fees and service fees were waived when you filed your divorce complaint, send a copy of the signed order waiving fees to the New Jersey county sheriff's office that will be doing the service. (**Note:** New Jersey sheriff's officers should not charge for service if fees have been waived. However, most out-of-state sheriff's officers will charge service fees, regardless of your court order.)
- Send the proper service and mileage fees as required.
- Remember to include a self-addressed, stamped envelope when you write to the sheriff, courts, agencies, or individuals so that you can receive a response or the return of copies of important papers.
- Always keep at least one copy of every paper you send out.
- Attach return receipts to the copy of the appropriate letter.

<b>Forms for Chapter 2: Serving the Divorce Complaint Forms 7 through 12B</b>		
<b>Form #</b>	<b>Title of Form</b>	<b>Instructions</b>
<b>Forms 7, 7A, and 7B—Personal Service on Defendant by Sheriff</b>		
7 7A	Summons and Attached Proof of Service Cover Letter	Send original and two copies to sheriff's office with your complaint and all attached certifications. Keep a copy for your records. Sheriff will return Proof of Service when service is completed.
7B	Filing Letter to Court— Sheriff's Proof of Service	Submit to court clerk with original and two copies of completed Proof of Service (Form 7).
<b>Forms 8, 8A, and 8B—Service by Mail on Cooperative Defendant</b>		
8 8A	Acknowledgment of Service Cover Letter to Defendant or Defendant's Attorney	Send to defendant or defendant's attorney via regular <i>and</i> certified mail, return receipt requested. Enclose your complaint and all certifications. Keep a copy for your records.
8B	Filing Letter to Court— Acknowledgment of Service	Send original and two copies of signed and notarized Form 8 to court clerk for filing.
<b>Forms 9 through 9H—Letters of Diligent Inquiry</b>		
9	Letter of Inquiry to Defendant's Friends, Family, or Employers	Send original via regular <i>and</i> certified mail, return receipt requested. Keep a copy of each for your records.
9A	Letter of Inquiry to MVC	Same as for Form 9.
9B	Letter of Inquiry to Postmaster	Same as for Form 9.
9C	Letter of Inquiry to Military	Same as for Form 9.

<b>Forms 10A, 10B, and 10C—Substituted Service on Special Agent</b>		
<b>10A</b>	<i>Ex Parte</i> Request for Order for Substituted Service on a Special Agent and Supporting Certification	Send original and two copies to the court clerk for filing along with Form 10B. Attach copies of letters of inquiry (Forms 9-9C) and replies, if any, to supporting certification.
<b>10B</b>	Order for Substituted Service on a Special Agent	Send original and two copies to the court clerk for filing along with Form 10A.
<b>10C</b>	Filing Letter to Court— <i>Ex Parte</i> Request for Substituted Service	Send to the court with Forms 10A and 10B. Keep a copy for your records.
<b>Forms 11A through 12B—Service by Publication</b>		
<b>11A</b>	<i>Ex Parte</i> Request for Order for Service by Publication and Supporting Certification	Send original and two copies to the court for filing along with Form 11B. Attach copies of letters of inquiry (Forms 9-9C) and replies, if any, to supporting certification.
<b>11B</b>	Order for Service by Publication	Send original and two copies to the court for filing along with Form 11A.
<b>11C</b>	Filing Letter to Court— <i>Ex Parte</i> Request for Service by Publication	Send to the court with Forms 11A and 11B. Keep a copy for your records.
<b>12</b>	Notice of Order of Publication	Send to newspaper after you receive signed order (Form 11B). Keep a copy for your records.
<b>12A</b>	Cover Letter to Newspaper Requesting Publication	Send to newspaper with Form 12. Keep a copy for your records.
<b>12B</b>	Filing Letter to Court—Certification of Publication	Send with an original and two copies of certification of publication from newspaper to the court for filing. Keep a copy for your records.

## **Chapter 3: After Serving the Divorce Complaint**

This chapter will explain:

- How long a defendant has to respond to the complaint.
- What is contained in a defendant's answer, or answer and counterclaim, and how to file and serve this document.
- What information is contained in plaintiff's answer to counterclaim and how to file and serve this.

This chapter will cover Forms 13 through 16.

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# Notes

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## Chapter 3: After Serving the Divorce Complaint

What happens next in your case will depend on whether the defendant answers your complaint. We told you to mark on your calendar both the date the defendant was served (see page 42) and 35 days after that date (see page 43). Usually, the defendant's answer is due 35 days after service. However, if the defendant was served by substituted service or by publication, the court may have given the defendant a longer time period to answer.

### Time Frames for the Defendant

If the defendant wants to contest your claims or participate in this case, the defendant must answer the complaint as follows:

- **If the complaint was personally served (by the sheriff or other lawful personal service):** The defendant must file an answer or enter an appearance within 35 days of receiving the complaint.
- **If the defendant or his or her attorney signed an acknowledgment of service:** The defendant must file an answer or enter an appearance within 35 days of signing the acknowledgment of service.
- **If the defendant was served by substituted service or by publication:** The defendant has to answer or enter an appearance by the date specified on the order permitting either substituted service or publication.

The defendant may ask for an extension of time so that he or she may file an answer. See **Consent Order Extending Time to Answer (Form 13)**. You may consent to giving the defendant up to a 60-day extension of time to answer, but you may not agree to extend the time beyond 60 days without permission of the court. You and the defendant must both sign a consent order if you agree to an extension. The defendant must file the consent order with the court before the time to answer the complaint is up. See **Filing Letter to Court—Consent Order Extending Time to Answer (Form 13A)**. If you do not agree, or if the defendant wants to get an extension beyond 60 days, the defendant will have to apply to the court for permission.

### Defendant Does Not Respond to the Complaint

If the defendant does not answer the complaint or obtain an extension of time to answer the complaint, you can ask the court for what is called a *default judgment* in your case. If this is your situation, go directly to *Chapter 4: Getting a Default Judgment* on page 75. There are still papers to prepare and a few things that you will have to do, but the good news is that, at this point, you are very close to getting your divorce.



## Defendant Responds to the Complaint— Forms for Defendants

### Defendant's Appearance

Sometimes a defendant, in response to receiving a complaint for divorce, will enter a *general appearance*. If this happens, the plaintiff may receive a document called a general appearance or an acknowledgment of service. (See page 46.) When the defendant files one of these documents, it puts you and the court on notice that the defendant is not contesting the allegations of the divorce and is not requesting a divorce, but is reserving the right to contest some or all of the relief that you asked for, such as child support, spousal support, child custody, parenting time/visitation, and equitable distribution. The defendant can also contest the relief in a counterclaim filed with an answer. (See below.)

### Defendant's Answer

In his or her answer, the defendant admits the claims that are true and denies those claims that are false. If the defendant wants to file allegations against you, he or she must do this when answering the complaint. The defendant's claims against you are written in what is called a *counterclaim* for divorce, which is filed with the answer. Sometimes a defendant will file only an answer without a counterclaim. In this manual, we do not provide a form for an answer without a counterclaim. *If the defendant files only an answer without a counterclaim within 35 days*, there is nothing else that you must file. For an explanation of what to do in this situation, go directly to *Chapter 5: Going to Court When the Defendant Is Not in Default—Contested and Uncontested Cases* on page 87.

### Defendant's Counterclaim

If the defendant decides to file a counterclaim, he or she will file a form that is similar in format to a complaint, except that it is filed from the point of view of the defendant and offers his or her reasons for divorce. The defendant can base his or her counterclaim on the same grounds for divorce or on different grounds. The defendant may set forth any requests for relief he or she wants to make, including custody, support, name change, tort claims, and division of property and debt. See the items below:

- Filing fee. (Call the court clerk for filing fee information.)
- ***Answer and Counterclaim for Divorce/Dissolution Based on Separation and Attached Certification (Form 14A).***
- ***Answer and Counterclaim for Divorce/Dissolution Based on Desertion and Attached Certification (Form 14B).***
- ***Answer and Counterclaim for Divorce/Dissolution Based on Extreme Cruelty and Attached Certification (Form 14C).***
- ***Answer and Counterclaim for Divorce/Dissolution Based on Irreconcilable Differences and Attached Certification (Form 14D).***



## Other Documents to Be Filed by Defendant With the Answer and Counterclaim

Make four copies of every document you prepare. Send the original and two copies to the court and keep the extra two copies for your records and for later use. The docket number on the complaint must appear on all of the documents that you file in the case.

Always include a self-addressed, stamped envelope (an envelope that has both postage and your name and address on it) with any documents that you send to the court so that the court can send you back a copy marked “filed.” You should do this even if you hand-deliver your papers to the court. You may need to know the date on which the court received something. The filed document will have the date, time, and location of the filing on it.

There are other documents that must be filed with an answer and counterclaim. They are explained in detail below. Please look at the forms as you read the instructions.

Other forms the defendant must file with the answer and counterclaim include:

- **Filing Letter to Court—Answer and Counterclaim for Divorce/Dissolution (Form 14E).** Your filing letter tells the court what you are sending and requests a filed copy of the answer and counterclaim. The filing letter also indicates whether you are paying the filing fee or seeking a fee waiver (which will only be given if you truly cannot afford the filing fee), as explained on page 33. Make sure to check off all appropriate boxes.
- **Certification of Verification and Non-Collusion** (attached to the answer and counterclaim). This is a sworn statement that appears at the end of your answer and counterclaim (**Form 14A, 14B, 14C, or 14D**). It lets the court know that:
  - All of the claims and facts in the answer and counterclaim are true.
  - There is no other divorce action, or any other legal matter involving you or your spouse, presently filed in any court or arbitration proceeding. (If there is some other legal matter involving you and your spouse, you must let the court know what it is.)
  - There are no other people who should be included in this divorce.

You have a continuing duty to update this information if it changes during the time that the divorce is pending in court. If the information is untrue or is not updated, the court may dismiss your answer and counterclaim.

- **Certification of Insurance (Form 2).** This is a separate form that must be attached to your answer and counterclaim. It lists all known insurance coverage for you, your spouse, and your minor children. This includes life, health, automobile, and homeowners insurance. Any insurance coverage identified in the certification of insurance at the time the

answer and counterclaim is filed must be maintained until the court orders otherwise. If you do not file this document with your answer and counterclaim, the clerk may refuse to file your answer and counterclaim.

- ***Certification of Notification of Complementary Dispute Resolution Alternatives (Form 2B)***. This is another form that must be attached to your answer and counterclaim. It states that you have been informed about dispute resolution alternatives that you may use to settle your case. Before you sign this document, you must read the information contained in the ***Explanation of Dispute Resolution Alternatives (Form 2A)***.
- ***Family Part Case Information Statement (CIS) (Form 3A)***. This must be filed with your answer and counterclaim if there is an issue of custody, support, alimony, or division of property and debt (equitable distribution). Even if you are not seeking these types of relief, the court may require you to complete a CIS. The CIS asks for detailed information about the financial circumstances, income, and assets of each party. The financial papers you gathered during your planning will help you give accurate information to the court about your financial circumstances. You will also have to photocopy and attach some financial documents to this form, such as tax returns and pay stubs. See the instructions on this form. It is important that this information be accurate and true.
- ***Confidential Litigant Information Sheet (CLIS) (Form 3B)***. If you are requesting alimony or child support as relief, the court requires you to fill out and file this form at the same time that you file your answer and counterclaim. The purpose of the CLIS is to provide the court with relevant updated personal information to be used only for the purposes of establishing and modifying and enforcing orders for child support or spousal support. This form will be used to update the official state computer system with information to assist the court in contacting you when necessary. The CLIS is a confidential document. This means that the information in the CLIS may not be shared with any member of the public. For that reason, it should not be attached to the complaint or any other document filed with the court. This is because, once a complaint or other document is filed with the court, it is considered to be a public record and is accessible by any member of the public.

***Note to victims of domestic violence:*** To ensure your safety, if you are hiding from your spouse, you should consider obtaining an alternative address through the New Jersey Address Confidentiality Program (see page 21).

- ***Request for Waiver of Fees and Supporting Certification (Form 4)*** and ***Order Waiving Fees (Form 5)***. If you cannot afford the filing fees, file **Forms 4** and **5** to get permission from the court to waive the fees. (This is explained under *Filing Fee/Fee Waiver* on page 33.) If you can afford the fees for filing and, if you and your spouse have children, for the Parents'

Education Program, you will simply pay the fees by check when you file your papers. Call the court clerk to find out the amount of these fees. (See Appendix A on page 112 for the phone numbers of court clerks.)

- **A self-addressed, stamped envelope.** On the front of your package to the court, enclose an envelope containing postage and your name and address so the court can return a filed copy of the papers to you. It is very important that you have copies of your documents marked “filed.” You will need them for your records and for later use. The court will not send you these filed copies unless you provide the self-addressed, stamped envelope.
- **Certification of Service (Form 16).** This is filed with the answer or answer and counterclaim instead of a summons to prove to the court that you have properly served this document on the other party.

## How to Answer the Defendant’s Counterclaim— Forms for Plaintiffs

You answer the defendant’s counterclaim by filing an **Answer to Counterclaim for Divorce/Dissolution (Form 15A)**. In this document, you admit or deny the allegations that the defendant made in his or her counterclaim against you. You must admit or deny every allegation in the counterclaim. Our form indicates where you add the word “admit” or “deny” and provides space to answer a counterclaim that contains as many as four counts or grounds for divorce. The **Certification of Service (Form 16)** is filed with the **Answer to Counterclaim for Divorce/Dissolution (Form 15A)** to prove that you have properly served this document on the other party. You must send your **Answer to Counterclaim for Divorce/Dissolution (Form 15A)** and **Certification of Service (Form 16)** to the defendant and to the court as follows:

- To the defendant or his or her attorney:
  - If the defendant has an attorney, send by regular mail to the attorney.
  - If the defendant is *pro se* (representing him- or herself), mail to the defendant by both regular *and* certified mail, return receipt requested.
- To the court for filing, use:
  - **Answer to Counterclaim for Divorce/Dissolution (Form 15A)** and **Certification of Service (Form 16)**
  - **Filing Letter to Court—Answer to Counterclaim for Divorce/Dissolution (Form 15B)**
  - A self-addressed, stamped envelope so that the court will return a filed copy to you.



## Checklist for Filing Documents and Table of Documents— Forms 13 through 16

Review your documents and package for the court to make sure that:

- You have filled in all the blanks on your answer and counterclaim and other documents that you are sending to the court.
- Every document is signed and dated.
- If you are filing an answer or an answer and counterclaim, you have enclosed a check for the filing fee if you are not asking for a waiver of the filing fees (**Forms 4 and 5**).
- You are sending an original and two copies of all documents to the court.
- You have prepared and enclosed a self-addressed, stamped envelope (an envelope with your name, address, and postage on it) for the court to use to return filed copies to you.
- You have the right amount of postage on your package. We suggest that you have your package weighed and stamped at the post office. The court will only accept mail with proper postage.
- You have kept at least one extra copy of all documents for your records.
- You have marked on your calendar:
  - The dates you sent your documents to the court
  - The date 10 days from the date you sent your documents with a note to call the court clerk if you have not received your filed copy of the documents back from the court.

Forms for Chapter 3: After Serving the Divorce Complaint Forms 13 through 16		
Form #	Title of Form	Instructions
<b>Documents to Be Filed by a Defendant—Forms 4 &amp; 5 and Forms 13 through 14E</b>		
<b>4 and 5, if applicable</b>	Request for Waiver of Fees and Supporting Certification, and Order Waiving Fees	Send original and two copies to court clerk for filing.
<b>13</b>	Consent Order Extending Time to Answer	Send original and two copies to court clerk for filing.
<b>13A</b>	Filing Letter to Court— Consent Order Extending Time to Answer	Send to court clerk with Form 13.
<b>14A, 14B, 14C, or 14D</b>	Answer and Counterclaim for Divorce/Dissolution and Attached Certification	Send original and two copies to court clerk for filing, along with Forms 2 and 2B. <b>In cases where there is any issue as to custody, support, alimony, or equitable distribution</b> , send Forms 3A and 3B to court clerk for filing within 20 days after filing answer.
<b>14E</b>	Filing Letter to Court— Answer and Counterclaim for Divorce/Dissolution	Send to court clerk with Form 14A, 14B, 14C, or 14D, and Forms 2, 2B and 16.
<b>Documents Plaintiff Files if Defendant Submits an Answer and Counterclaim to Divorce/Dissolution—Forms 15A through 16</b>		
<b>15A</b>	Answer to Counterclaim for Divorce/Dissolution	Send original and two copies to court clerk for filing along with Form 16.
<b>15B</b>	Filing Letter to Court— Answer to Counterclaim for Divorce/Dissolution	Send with Forms 15A and 16.
<b>16</b>	Certification of Service	Send with specific designated forms (see above and below).

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# Notes

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## **Chapter 4: Getting a Default Judgment**

This chapter will provide step-by-step instructions for getting a divorce judgment against a defendant who does not file a written answer to your complaint.

This chapter will cover Forms 17 through 21A.

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# Notes

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## Chapter 4: Getting a Default Judgment

If you served the defendant properly and the defendant does not file a written response (answer, acknowledgment of service, counterclaim) to the complaint within the time allowed (35 days from the date of service, unless the court has allowed an extension of time or provided a specific time period in an order for alternate service), you may ask the court for a default judgment in your favor. This means that a judge will sign an order deciding the issues in the case without the defendant's participation.

The default judgment does not happen automatically. The procedure requires several steps. Below, we list the steps that you must follow to request a default judgment and explain the forms that you will have to fill out and file.

### Procedure to Obtain the Entry of a Default Judgment and a Default Divorce Hearing

#### File a Request for a Default

When the defendant's time to answer the complaint has run out (that is, more than 35 days have passed since the date the defendant was served, or the period of time provided in the order for alternative service has expired), call the court clerk to make sure that no answer has been filed in your divorce action. Once you have checked that, you must prepare the following documents and file them with the court:

- ***Request to Enter Default Judgment and Supporting Certification (Form 17)***
- ***Certification of Non-Military Service (Form 18)***.

**Note:** If you do not request a default within *six months* of the date that the defendant failed to respond to your complaint, you will have to apply to the court for permission to obtain a default judgment, costing you additional time and money. This manual does not explain that procedure.

Mail an original and one copy of the following to the court:

- ***Filing Letter to Court—Request to Enter Default Judgment (Form 17A)***.
- ***Request to Enter Default Judgment and Supporting Certification (Form 17)***. In response to this request, you should get a date for your hearing from the court.
- ***Certification of Non-Military Service (Form 18)***. You cannot get a default judgment against your spouse if he or she is in the military. In applying for the entry of a default judgment, the court requires the plaintiff to submit a sworn statement that the defendant is not in military service. If you have personal knowledge that the defendant is not in the military,



you may fill out and sign a ***Certification of Non-Military Service (Form 18)***. Personal knowledge means that you are relying on your own firsthand knowledge, not something that your spouse or someone else has told you. If you do not have personal knowledge, you must base your statement on the written response that you receive from your letter of inquiry to the military.

To obtain a statement from the United States Department of Defense (DOD) covering all branches of the military, make a request, free of charge, through the DOD's Servicemembers Civil Relief Act (SCRA) website at <https://scra-w.dmdc.osd.mil/scra/#/single-record>. You must know the defendant's date of birth or Social Security number. If you do not have this information, you may not be able to get the statement that you need from the DOD online. You can mail a letter to the Defense Manpower Data Center of the DOD. See ***Letter of Inquiry to the Military (DOD) (Form 9C)***. There is no charge for this statement.

**If You Are Unable to Get a Statement About the Defendant's Military Status.** If you do not have firsthand knowledge about whether or not the defendant is in military service and you are unable to get an official statement from the DOD or another branch of the military about whether or not the defendant is serving in the military, you must report this to the court. Without this information, you cannot file the required ***Certification of Non-Military Service (Form 18)*** with the court at the time that you request the entry of default judgment.

In situations where you are unable to get any definite information or official statement about the defendant's military status, the court may require you to post a bond (pay a certain sum of money into the court) to protect the defendant's rights. The reason for requiring you to set aside money is to pay the defendant for any loss or damage that he or she might suffer as a result of not participating in the divorce through no fault of his or her own because of active duty in the military. A defendant who is in the military must have a lawyer representing him or her in a divorce.

The bond money must be available until the time for the defendant to *appeal* from the judgment of divorce has ended. When a party appeals from a judgment, he or she files a notice of appeal to the Superior Court, Appellate Division, for a review of the trial court's decision. (The parties have 45 days from the date that the judgment is entered by the trial court to file an appeal.) The court may also require that the bond money be available until the time for setting aside the judgment of divorce has ended. (The time for setting aside a judgment can be a year or longer.)

This means that, in cases where the defendant may lose significant property through a divorce, the court may require you to post a bond. In those situations, if you cannot afford to post a bond, you may not be able to get your divorce. However, in a situation where there is no significant marital property

that needs to be divided, the court may waive the requirement for a bond and allow the divorce action to go forward.

### **If You Are Able to Get a Statement About the Defendant’s Military Status.**

Attach the responses that you get to the *Certification of Non-Military Service (Form 18)*.

File **Form 18** with the *Certification of Service (Form 16)* and a self-addressed, stamped envelope so that a filed copy of your papers can be returned to you.

### **Send the Defendant a Copy of the Request to Enter Default**

Send this by both regular *and* certified mail, return receipt requested, at the same time that you file it with the court. Save the return receipt, because you will need it later when you go to court for your default hearing.



### **Get a Date for Your Default Divorce Hearing**

Mark your calendar to call the clerk two weeks after you send the request to enter default to get a date for your hearing. If you do not hear from the court within two weeks, call the clerk of the matrimonial department and inquire about the hearing date. (See telephone numbers and addresses in Appendix A on page 112.)



### **Send the Defendant a Notice of Default Divorce Hearing**

When you receive the date for your hearing from the court, fill out the *Notice of Default Divorce Hearing (Form 19)* and mail it to the defendant by both regular *and* certified mail, return receipt requested. If you are *not* seeking custody, child support, or equitable distribution, you will send a copy of **Form 19** to the defendant with a *Cover Letter to Defendant—Notice of Default Divorce Hearing (Form 19A)*. You also should send a copy of the *Notice of Default Divorce Hearing (Form 19)* with a *Certification of Service (Form 16)* to the court. If you are seeking custody, support, or equitable distribution, you must take the additional steps below.



### **Additional Steps if You Are Seeking Custody, Child Support, Distribution of Assets and Debt, or Other Relief**

If the defendant has not answered the complaint and you are asking for more than just a divorce and a name change—for example, you are asking for property or a division of debts, child support, or alimony—you will need to take some additional steps. You must:

- Prepare a *Notice of Proposed Final Judgment (Form 20)* and a *Certification of Service (Form 16)*.
- Prepare the *Filing Letter to Court—Notice of Proposed Final Judgment (Form 20A)*.
- File an original and one copy of the *Notice of Proposed Final Judgment (Form 20)* and *Certification of Service (Form 16)* with the court.

- At the same time that you file the **Notice of Proposed Final Judgment (Form 20)** with the court, mail it to the defendant by both regular *and* certified mail, return receipt requested.

Note that it is very important that you serve the defendant with the notice *no later than 20 days before your hearing* and that you take the return receipts and certification of service with you when you go to court. If you do not serve the defendant with this notice 20 days or more before your hearing, the court will not consider your request for other relief. You may get a divorce, but you may not get any money or property awarded to you and the judge may *not* order the defendant to pay alimony, child support, back debts, or any of the other things for which you are asking.

### **How to Prove to the Court that the Defendant Received the Notice of Proposed Final Judgment Within 20 Days of the Date of the Default Hearing**

At the default hearing, you will be required to show proof that the defendant either received or refused the notice of proposed final judgment at least 20 days prior to the scheduled default hearing date. Proof that the defendant received the notice can include either the green return receipt card with a signature, or the envelope stamped by the post office “unclaimed” or “refused.”

**Note:** *If the envelope is returned marked “incorrect address” or otherwise indicates that the correspondence is undeliverable, this is not valid proof that the defendant received or refused the notice of proposed final judgment.*

### **What to Do if the Defendant Does Not Receive the Notice of Proposed Final Judgment Within 20 Days of the Date of the Default Hearing**

If the date on the green return receipt card indicates that the notice of proposed final judgment was delivered to the defendant less than 20 days before the default hearing, or if you do not know when the defendant received the notice of proposed final judgment because you have not yet received proof of delivery or refusal from the post office and the default hearing is scheduled in two or three days, you will have to ask for a new date for the default hearing. To do this, you must contact the Family Division or the judge’s chambers. (See phone numbers and addresses in Appendix A on page 112.)

Tell the clerk that you attempted to serve the defendant with the notice of proposed final judgment, but it was delivered too late; or that you do not know when the defendant received the notice of a proposed final judgment, because you have not yet received the proof of delivery from the post office. In either situation, ask the clerk for a new default hearing date, with at least 40 days advance notice (or as much time as you think that you will need to serve the



defendant with a new notice of proposed final judgment). See ***Filing Letter to Court—Request to Enter Default Judgment (Form 17A)***.

Once you have the new court date for the default hearing, you must send the defendant a new notice of proposed final judgment with the new default hearing date. Send the notice by both regular *and* certified mail, return receipt requested. You can use the ***Notice of Proposed Final Judgment (Form 20)*** and the ***Notice of Default Divorce Hearing (Form 19)*** for this purpose.

If there have been any changes in your financial circumstances, you are required to send in an updated ***Family Part Case Information Statement (CIS) (Form 3A)***. Also use the ***Filing Letter to Court—Complaint (Form 6)***, which is the cover letter you used when you filed your complaint.

## Getting Ready for Your Default Divorce Hearing

Once you send out your request for default, it is a good time to review your file and put all of your divorce papers in order. This will help you to prepare for your hearing, and you may need some of these papers when you go to court. You should also prepare your proposed ***Final Default Judgment of Divorce/Dissolution (Form 21)*** to take with you to court on the day of the default hearing.

Following is a list of the divorce papers you should have with you in your file, just in case you need them or need to refer to them for some reason. We suggest that you put them in chronological order, so that the most recent document you prepared—your proposed ***Final Default Judgment of Divorce/Dissolution (Form 21)***, which you will be bringing to court—is on top.



## Papers Needed for Court—Your Case File

- The filed copy of your ***Complaint for Divorce/Dissolution and Attached Certification (Form 1A, 1B, 1C, or 1D)***
- ***Certification of Insurance (Form 2)***
- ***Certification of Notification of Complementary Dispute Resolution Alternatives (Form 2B)***
- ***Family Part Case Information Statement (CIS) (Form 3A)***
- ***Summons and Attached Proof of Service (Form 7)*** and one or more of the following documents, depending on how the defendant was served:
  - If service was done through a sheriff, the sheriff's proof of service or, if the complaint was served on the defendant in another state, proof of service from an appropriate state official
  - If service was done by mail, the signed and notarized ***Acknowledgment of Service (Form 8)***
  - If service was done by substituted service or publication:
    - ✓ Either ***Order for Substituted Service on a Special Agent (Form 10B)*** or ***Order for Service by Publication (Form 11B)***
    - ✓ Either return receipt from mailing to a special agent or proof of publication from the newspaper
    - ✓ ***Certification of Non-Military Service (Form 18)*** and, if applicable, attached certificates of non-military service from each branch of the service that you wrote to in your diligent inquiries
- ***Notice of Proposed Final Judgment (Form 20)*** and ***Certification of Service (Form 16)*** with return receipt attached
- ***Notice of Default Hearing (Form 19)*** and ***Certification of Service (Form 16)***
- ***Final Default Judgment of Divorce/Dissolution (Form 21)***.

You should also have the following personal documents with you:

- Marriage certificate
- Birth certificates for the children.

## The Default Divorce Hearing

At the default divorce hearing, the court must address the requests for relief in your complaint. Often there are issues, such as the division of property or the calculation of alimony, that cannot be decided without some type of proof. In that situation, the judge will hold a hearing to decide what relief to grant. You may present evidence at the hearing supporting your requests for this relief.

The defendant can come to this hearing if he or she chooses, even if he or she did not answer the complaint. The defendant can ask for an adjournment (postponement) to give him or her time to answer the complaint. The court will most probably grant this request if the defendant gives a good explanation



for the reason he or she failed to answer earlier in the process. In that case, the court will decide at that time when the defendant's answer is due. The court will either inform the plaintiff and defendant of the new hearing or trial date while both parties are in court on the day of the default hearing, or the court will send a notice to both parties with a new date for the hearing or trial. If the court decides to give the defendant an opportunity to file an answer, the court will also inform both parties of the date on which that answer is due to be filed.



**Note:** If the defendant files a counterclaim with his or her answer, refer to page 69 for an explanation of how to properly prepare and file an ***Answer to Counterclaim for Divorce/Dissolution (Form 15A)***.

If the defendant appears but does not ask for an adjournment and the default hearing goes on as scheduled, the court may limit the defendant's participation. Technically, the defendant should not be given an opportunity to present evidence to support his or her position or to make requests for relief. However, some judges will let the defendant participate fully in the hearing and present his or her own evidence. You may object to this participation, remind the judge that the defendant failed to file an answer or enter an appearance in the case, and ask that the divorce be treated as uncontested.

At the hearing, you will be able to show evidence related to your claims about property value, child custody, child support, alimony, and other issues. The documents in your file should have everything you need for the hearing, including the return receipts for all of the documents you had to mail to the defendant and the responses you received to your letters of diligent inquiry, including the certificate of non-military service. You should also have copies of tax returns, pay stubs, bills, bank statements, real estate appraisals, etc.

### **Final Judgment of Divorce Where Defendant Is in Default**

The court order that officially ends your marriage is called a *final judgment of divorce*. You should prepare that order and take it to your hearing. That court order decides all of the issues that you have raised in your divorce complaint, such as custody, child support, alimony, equitable distribution of property and debt, and name change. Even if there are issues in dispute, it is a good idea to prepare a final judgment of divorce to take to court. Prepare the judgment as if you have won the case and received all of the relief that you requested in your complaint. For instance, if you are asking for custody of minor children, you would prepare the judgment as if the court had decided to give physical custody of the children to you. If you are asking for a specific amount of child support or alimony, you can put this specific amount in the proposed final judgment of divorce. However, if you have made a general request for those types of relief and are waiting for the judge to decide on the specific amount, you will leave it blank. See ***Final Default Judgment of Divorce/Dissolution (Form 21)***.

At the end of the hearing, the judge probably will give his or her opinion orally. The judge will decide what relief to order and will sign the proposed judgment you brought to the hearing or change it, if that is necessary.

**Note:** *If the defendant does not attend the hearing, you must send the defendant a copy of the final default judgment of divorce.* Send the judgment by both regular and certified mail, return receipt requested, within seven days of the date that it is signed by the judge. Use the **Cover Letter to Defendant—Final Default Judgment of Divorce/Dissolution (Form 21A)**. Always keep the copy received from the court for yourself. You must also file with the court a **Certification of Service (Form 16)**, which proves that you have served a copy of the **Final Default Judgment of Divorce/Dissolution (Form 21)**, signed by the judge, on the defendant.

In *Chapter 6: Issues After Final Judgment* on page 101, we explain some steps that you may need to take to enforce your order. Please read that chapter now to see if any of the suggestions apply to you.

*If the defendant seeks to vacate the default after a judgment is signed,* the defendant can apply to the court to set aside the default judgment and allow him or her to participate in the case. If the defendant gives a good explanation of why he or she failed to participate in the case, the court may vacate the default judgment of divorce and give the defendant an opportunity to file an **Answer and Counterclaim for Divorce/Dissolution (Form 14A, 14B, 14C, or 14D)**. If the defendant files a counterclaim with his or her answer, refer to page 69 for an explanation of how to properly prepare and file an **Answer to Counterclaim for Divorce/Dissolution (Form 15A)**.



## Checklist for Filing Documents and Table of Documents— Forms 17 through 21A

Review your documents and package for the court to make sure that:

- You have filled in all the blanks on the documents that you are sending or hand-delivering to the court.
- You have left blank the sections of the judgment of divorce that must be filled out by the judge.
- Every document is signed and dated, except for those left blank for the judge's signature.
- You are sending an original and two copies of all documents to the court.
- You have prepared and enclosed a self-addressed, stamped envelope (an envelope with your name, address, and postage on it) for the court to use to return filed copies to you.
- You have the right amount of postage on your package. We suggest that you have your package weighed and stamped at the post office. The court will only deliver mail with proper postage.
- You have kept at least one extra copy of all documents for your records.
- After mailing documents to the defendant, you have saved any green return receipt cards with signature or any envelopes stamped by the post office as "unclaimed" or "refused."
- You have marked on your calendar:
  - The date two weeks from the date you sent your documents to the court with a note to call the court clerk if you have not received a date for your default hearing
  - The date from the court for your hearing
  - The date 20 days before the date of your hearing so that you are reminded to file your notice of proposed final judgment before that date.

Forms for Chapter 4: Getting a Default Judgment Forms 17 through 21A		
Form #	Title of Form	Instructions
<b>Documents to Be Filed When Defendant Is in Default</b>		
17	Request to Enter Default Judgment and Supporting Certification and Certification of Service (Form 16)	Send original and two copies to court for filing. At the same time, send one copy of each form to defendant via regular <i>and</i> certified mail, return receipt requested.
17A	Filing Letter to Court—Request to Enter Default Judgment	Send to court with Forms 16, 17, and 18. Keep a copy for your records.
18	Certification of Non-Military Service (attach certificate from the DOD)	Send to court with Forms 16, 17, and 17A for filing. At the same time, send one copy to defendant via regular <i>and</i> certified mail, return receipt requested.
19	Notice of Default Divorce/Dissolution Hearing and Certification of Service (Form 16)	Send to defendant via regular <i>and</i> certified mail, return receipt requested. Keep a copy for your records.
19A	Cover Letter to Defendant—Notice of Default Divorce/Dissolution Hearing	Send to defendant via regular <i>and</i> certified mail, return receipt requested, with Form 20. Keep a copy for your records.
20	Notice of Proposed Final Judgment and Certification of Service (Form 16)	<b>20 days or more before the date of your divorce hearing</b> , submit an original and one copy to the court for filing, along with Form 16. <b>Send to defendant via regular <i>and</i> certified mail, return receipt requested, in time to ensure that defendant receives the document 20 days or more prior to the hearing.</b>
20A	Filing Letter to Court—Notice of Proposed Final Judgment	Send to defendant with Forms 20 and 16. Keep a copy for your records.
21	Final Default Judgment of Divorce/Dissolution	Bring to court on day of default hearing. Judge will probably sign and file it <b>in court on that day</b> . Send filed copy to defendant with Form 16 within seven days of the date it is signed by the judge. File form 16 with the court. Keep a copy for your records.
21A	Cover Letter to Defendant—Final Default Judgment of Divorce/Dissolution	Send to defendant with Form 21. Keep a copy for your records.

## **Chapter 5: Going to Court When the Defendant Is Not in Default**

This chapter will explain the different steps of the court process where the defendant has answered the complaint and you are going to trial, including:

- The case management conference to decide how and when the case will proceed.
- Discovery—exchanging documents and obtaining financial and other information related to the case, and obtaining professional assessments of assets such as pensions, businesses, and real estate.
- The Early Settlement Program to assist the parties in coming to an agreement about how to divide property and decide on child support and alimony before going to trial.
- Mediation for parties who disagree about custody of the children.
- The divorce/dissolution hearing.
- The final judgment of divorce/dissolution.

This chapter will cover Forms 22 through 26A.

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# Notes

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## Chapter 5: Going to Court When the Defendant Is Not in Default

### Defendant Files an Answer

In *Chapter 4: Getting a Default Judgment* on page 75, we described the steps you need to take when the defendant has not filed a written answer and is in default. In this chapter, we describe how a divorce will proceed when the defendant has filed an answer. If you and your spouse can reach a settlement or agreement about contested issues, see the instructions on page 91 and read about uncontested divorces. If you do not agree on the issues, you will proceed through the steps below. We explain the process for both contested and uncontested divorces.

If you have not organized all of the divorce papers that you have prepared so far, please do that now, following the suggestions on page 80. You may not need all of the documents suggested, but organizing will save you time if you are asked to show a document or prove that you took some action.

### Case Management Conference

If the defendant answers the complaint, you are ready to move ahead. The court is supposed to schedule a case management conference within 30 days after the court receives the last pleading. (The last pleading is either the answer to the complaint or, if there is a counterclaim along with the answer, your answer to the defendant's counterclaim.) At the case management conference, the judge and the attorneys for the parties, or the parties themselves if they do not have attorneys, meet in court and discuss the following subjects:

- The contested issues in the case (the issues about which the parties disagree).
- What forms of pre-trial *discovery* the parties may use and time frames for discovery. (Discovery is the process by which each party finds out information about the other party's situation as related to the case. See *Discovery Before Trial* on page 88.)
- A trial date or a date for a second case management conference to set a trial date.
- A date for the early settlement program, if the judge thinks the case is appropriate for that program.
- Other miscellaneous matters related to the case.

At the case management conference, the parties do not testify and the judge does not review evidence. The purpose of the conference is for the parties to introduce the judge to the case, identify the areas of disagreement, and



estimate how long each side will take to present his or her case. The conference may be conducted by telephone.

If either party has an attorney, the attorney must participate. The parties do not have to be present unless the court specifically orders them to be present, but they must be available to answer questions by telephone if necessary. If you are representing yourself, you must be present.

At the end of the conference, the judge will sign a case management order that sets a discovery schedule, a date for a second case management conference, a date to appear before an early settlement panel, or a trial date.

### Discovery Before Trial

The discovery process permits each party to gather relevant information about the other party. A discovery schedule explains how and when the parties will exchange necessary documents and information concerning the case. For example, during discovery in a divorce case, parties may send each other requests for the production of documents such as tax returns or other financial documents. Discovery also gives the parties the opportunity to obtain professional evaluations of the value of assets such as pensions, businesses, and real estate. In some cases, it may be difficult to get this information without the assistance of an attorney. You should seek the assistance of an attorney if you need to have assets evaluated. If you do not know which documents to ask for, or are unsure what investments your spouse has, it is a good idea to first send *interrogatories* that ask questions about those issues. Interrogatories are written questions that ask for written answers. Interrogatories may also ask for documents. Once you receive the answers to the interrogatories, you may have a better idea of which documents you need to see.

If your spouse refuses to provide you with relevant information, you may ask the court for help to compel your spouse to comply with your request for discovery.

There are a number of other ways for the parties to exchange information. However, discovery tools are often difficult to use without the help of an attorney. If you feel you will need substantial information about your spouse, or if you are having trouble getting necessary information from your spouse, you should speak with an attorney.

### Parents' Education Program

If the parties have minor children, they are required to attend a one-time seminar on parenting that explains how the court process works and discusses parents' responsibilities for their children and children's needs during and after the divorce. When you filed your complaint, you were required to pay an additional \$25 fee for this program. If you do not attend the program, the judge may consider that when making decisions about custody and parenting





time/visitation. Parties with restraining orders are exempt from the program, and the judge may excuse you from the program if you demonstrate a good reason for not participating.

### **Mediation of Custody and Parenting Time/Visitation**

When parties cannot agree about custody or parenting time/visitation, the court may send the parties to a court mediator to try to resolve these issues. The court may send parties to a mediator any time after the complaint has been filed. Parties with temporary or permanent domestic violence restraining orders are exempt from the requirement of participating in mediation. The Family Division of the Superior Court offers at least two types of mediation in every county, Matrimonial Early Settlement Panels (MESPs) and Custody/Visitation Mediation. Some counties have additional services available for other family-related disputes. For more information about these services, go to [www.njcourts.gov/public/conferences.html?Conference=family](http://www.njcourts.gov/public/conferences.html?Conference=family) and contact the Family Division of the court in your county, or call the Administrative Office of the Courts, Family Practice Division, at (609) 984-4228.

Parties who are ordered to participate in mediation are required to attend a mediation orientation program. They may then be required to attend an initial mediation session. These sessions are closed to the public. The mediator may terminate the session at any time if he or she thinks that it is appropriate according to certain guidelines and rules. In addition, the mediator or either party may petition the court to remove the case from mediation at any time if they can show good cause to do this. Unless the parties otherwise consent, no disclosure made by a party during a mediation session may be used as evidence against that party in a hearing or trial.

### **Mediation of Economic Aspects of Family Law Cases and Matrimonial Early Settlement Programs (MESPs)**

After the parties have submitted their pleadings (complaint, answer, counterclaim, and answer to counterclaim) and their case information statements, a judge will review the case and decide whether the parties should try to settle the case. If the judge decides that this might be helpful, he or she will send the parties to a matrimonial early settlement program (MESP). The parties must appear and try to work out their differences. Five days or more prior to the hearing, the parties must submit a written description of the issues that remain unsettled in their case. If either party fails to appear, the court may require the party who failed to appear to pay the counsel fees of the other party, or the court may dismiss that party's pleadings.

The MESP normally consists of volunteer attorneys who review the case, listen to the parties' requests, suggest a solution to the contested issues, and recommend a settlement agreement. If the parties cannot agree on a settlement, they may be referred to post-MESP mediation (see below), or they will have a trial. Parties can settle some issues and still have a trial on the issues that they

cannot resolve. The statements made by the parties in the mediation cannot be used against either of them in a later trial. If your spouse attempts to use something that you said in mediation against you when you are in front of the judge at a trial, you should object to this and let the judge know that this is the reason you are objecting.

### Post-MESP Mediation and Post-MESP Complementary Dispute Resolution

If the parties are unable to settle their case in MESP, the court may issue an order for additional mediation or another form of post-MESP Complementary Dispute Resolution (CDR). For a description of the most common types of CDR, see ***Explanation of Dispute Resolution Alternatives (Form 2A)***. The court order will state that the parties can select a mediator from a statewide approved list of mediators or select another individual to conduct this post-MESP CDR. If you and your spouse choose your own mediator, you must do so within seven days of the receipt of the order.

You must then participate in the post-MESP program for at least two hours. You may participate voluntarily for longer, but you are not required to do this. In the first hour, the mediator will prepare the case. In the second hour, you and your spouse will participate in actually mediating the contested issues in your case.

For more information about mediation of economic aspects of family law cases, go to [www.judiciary.state.nj.us/family/rosters/index.htm](http://www.judiciary.state.nj.us/family/rosters/index.htm).

### Custody and Parenting Time/Visitation Plan

If you and your spouse disagree about custody and parenting time/visitation issues, you will each have to file a ***Custody and Parenting Time/Visitation Plan (Form 22)*** with the court within 75 days after the defendant answers the complaint. Use the ***Filing Letter to Court—Custody and Parenting Time/Visitation Plan (Form 22A)***. If the defendant files a counterclaim, the plans must be filed within 75 days after you file your answer. In your plan, you must give the court certain information, including:

- What type of custody you are seeking and why
- The schedule you propose for parenting time/visitation
- Whether or not you seek to share decision-making about the child(ren).

### Requests for Relief Before the Divorce is Final—*Pendente Lite* Motions

Because the divorce process may take several months or longer, the parties often need help from the court before the final judgment of divorce has been entered. Relief before the judge decides your divorce case is called *pendente lite* relief. If you need to get a temporary order related to custody of the children or financial support while the case is going on, you must file an application for *pendente lite* relief with the court. This manual does not explain how to obtain this relief. You should talk to a lawyer if you need to file for this relief.



## Trial or Settlement

### Notice of Trial Date

After you have gone to the case management conference, participated in mediation, completed discovery, and have, in some cases, appeared before a Matrimonial Early Settlement Panel, you should receive a notice from the court about your trial date. If you do not receive a notice within 10 days of completing pre-trial discovery, call the court. You will get this notice even if you have been able to work out a settlement agreement. By the time you get your trial notice, you should know what issues are settled and what issues you simply cannot work out.



## Uncontested Divorce—Getting a Divorce When There Are No Contested Issues

### How to Prepare for a Hearing

If you have settled all of the issues by the time you attend your hearing, the judge will hold a brief hearing and ask you a few basic questions. If the divorce is uncontested (meaning that both parties agree about everything or that neither party has filed any objections to the claims made by the other party), the court often will ask you a few questions to establish the truth of the statements in your complaint. The court will probably not ask for testimony or evidence to be presented. You should still appear on the trial date, even if you feel that everything has been settled.

### Documents to Take to Your Hearing

You will need to file an updated *Family Part Case Information Statement (CIS)* (**Form 3A**) with supporting financial documents if your financial situation has changed substantially since you filed your complaint, if you are the plaintiff, or since you filed your answer and counterclaim, if you are the defendant.

When you go to your hearing, take the following documents with you:

- All papers that have been filed with the court, including:
  - The *Complaint for Divorce/Dissolution* (**Form 1A, 1B, 1C, or 1D**) *and Attached Certification*
  - The *Certification of Insurance* (**Form 2**)
  - The *Certification of Notification of Complementary Dispute Resolution Alternatives* (**Form 2B**)
  - The *Answer and Counterclaim for Divorce/Dissolution* (**Form 14A, 14B, 14C, or 14D**), if there is one
  - The *Family Part Case Information Statement (CIS)* (**Form 3A**) for each party, if these documents were required and were filed
- Your marriage certificate, if you have one
- Your children's birth certificates and Social Security numbers, if they have them

- Recent pay stubs, if you work
- Any settlement agreement
- Your proposed **Consent Order—Final Judgment of Divorce/Dissolution (Form 24)**, explained below
- Any property deeds that need to be signed. (If the defendant comes to court, the judge can order him or her to sign them.)

The judge should have copies of all of the documents in the court file, except for the proposed final consent judgment of divorce, which you will prepare before you appear in court for your hearing. However, if the judge is missing one of the documents listed above and you come prepared with your own forms, you can show the court your copy of the document, which may help the judge grant your divorce more quickly.

### **Preparing the Proposed Consent Order—Final Judgment of Divorce/Dissolution**

The court order that legally ends your marriage is called a *final judgment of divorce*. That court order describes the resolution of the issues that you have raised in your divorce complaint, such as custody, child support, alimony, equitable distribution of property and debt, and name change. When both parties agree to be bound by an agreement, the final judgment will be called a *consent judgment* or *consent order*. You will need to prepare a proposed final consent judgment for your hearing. In it, you will write down the agreement you and your spouse have reached on every issue on which you agree. Do not sign the consent judgment before the hearing. You and your spouse and the judge will all sign it after the judge reviews it at the hearing and asks you questions about it. Your answers to those questions must be given in court on the record.

### **What to Expect at the Hearing**

A few days before your hearing, call to confirm the time and date of the hearing and the name of the judge assigned to your case. On the day of the hearing, arrive about 10-15 minutes early so that you will have time to collect your thoughts before you have to go before the judge. When you arrive at the courthouse, look for a court officer or other staff person and give him or her the title and docket number of your case and your name.

If the defendant is not present for the hearing, the judge will check to see if the defendant was properly served with the summons and complaint. If a sheriff's officer served the summons and complaint, the court should already have a copy of the proof of service. If no proof of service has been filed, you may have to show the court other proof that the defendant was served, such as a return receipt.

The court may ask you a few questions to determine that everything in the complaint is true to the best of your knowledge. The court normally assumes

that you are telling the truth in your pleadings, unless your spouse contests something that you have said. It is important to listen carefully to the judge's questions and answer them truthfully. If you do not understand a question, ask the judge or the attorney or other party to repeat the question.

If you have requested a name change, the judge will ask you why you are changing your name. The judge must make sure that you are not changing your name to get out of any debts owed to creditors or to avoid any criminal charges that may have been filed against you. Answer these questions in a clear and straightforward manner. If you do not understand the question, ask the judge to repeat or explain the question to you.

If there is a separate settlement agreement, it will be attached to the actual judgment of divorce. The judge will also want to make certain that both of you have read the settlement agreement and understand all of it before you and the defendant sign the agreement. If you are agreeing to the divorce by way of a consent judgment, the judge will ask each party or each party's attorney to read the agreement carefully before you and the defendant sign it. If you do not understand something in the agreement, or if you disagree with something, do not sign the agreement. If you do not have an attorney, you may ask for time to have an attorney review the agreement before you sign it.

## **Contested Divorce—Getting a Divorce When There Are Contested Issues**

### **How to Prepare for Trial**

The issues that you were *not* able to work out or settle in your divorce case will have to be decided by a judge at a hearing or a trial. If you do not have a lawyer, you may want to consider trying mediation before going to trial if you have not done so. Or you may want to reconsider hiring an attorney if that is possible. See page 4 to learn how to find a mediator or a lawyer.

At the trial, each party may testify or explain his or her view of the situation. Both parties may present evidence that is related to the issues in the case, such as documents, pictures, or videotapes, and bring other witnesses to testify. If there are many disputed issues, the trial will be long and could take several days. If there are only a few issues that need to be decided, the trial may only take a few hours.

Often, the parties agree about the grounds for divorce, but they disagree about other issues, such as who will get custody, how much alimony one spouse will pay to the other, or who gets what part of the property.

### **Witnesses at the Trial**

Prepare for your trial by considering whether or not you need to bring any witnesses to testify on your behalf. For instance, if custody is a disputed issue, you may want to have another person, such as a relative, friend, teacher, or day



care provider, come and testify about how you have been the primary caretaker of your child and are more actively involved in your child's life than your spouse, if that is the case.

### How to Get Witnesses to Come to Court to Testify—Subpoenas

A *subpoena* is an order from the clerk of the court demanding that a witness attend a trial and give testimony. You do not have to serve a subpoena on a witness who is willing to come to court voluntarily. However, if a witness is not cooperative or reliable, then you should serve that witness with a subpoena. A subpoena may also order a witness to bring documents to the trial. A witness must receive a subpoena five days or more before the trial date.

You prepare the subpoena, and the law gives you the authority to sign it with the name of the clerk of the court. See ***Subpoena Ad Testificandum and Duces Tecum (Form 23)***. You must also pay the witness a fee for traveling to and from the hearing. As of the time of publication of this manual, this fee is \$2 per day for witnesses who live in the same county as that of the court. For witnesses who must travel from another county, the fee is an additional \$2 per day for every 30 miles of travel. A subpoena along with a check for the fee must be served by in-person delivery to the witness by someone 18 years of age or more. The person who serves the subpoena and check must complete the "Proof of Service" portion of the ***Subpoena Ad Testificandum and Duces Tecum (Form 23)***.



### Documents to Take to Your Trial

Your list should begin with the same documents listed above for an uncontested hearing. (See page 91.) If your financial situation has changed substantially, you will need to update your ***Family Part Case Information Statement (CIS) (Form 3A)*** and supporting documents.

You may also need other documents or evidence, depending upon what issues are disputed.

- **Example 1:** If you and your spouse are disputing who should have custody, you will need to present witnesses and other evidence, such as documents, to support your claim that it is in your child's best interest to live with you and not your spouse. For example, if your spouse has been convicted of a crime or has a domestic violence restraining order against him or her, this is relevant to whether or not he or she should have custody. You should take to court a copy of the judgment of conviction or the domestic violence restraining order. You can also take witnesses, such as friends, relatives, clergy, health care providers, child care providers, etc., to testify about your parenting skills.
- **Example 2:** If your spouse is refusing to help pay for joint credit card bills, you should take copies of those bills to show that the credit cards were used to buy household items.

## Preparing the Final Judgment of Divorce

Even if there are issues in dispute, it is a good idea to prepare a proposed final judgment of divorce to take to court. Prepare the judgment as if you have won the case and received all of the relief that you requested in your complaint. For instance, if you are asking for custody of the minor children, you should prepare the judgment as if the court has decided to give physical custody of the children to you. If you are asking for a specific amount of child support or alimony, you can put this specific amount in the proposed final judgment of divorce. However, if you have made a general request for those types of relief and are waiting for the judge to decide on the specific amount, then you should leave that part blank. See ***Final Judgment of Divorce/Dissolution (Form 25)***.

If there are many issues that are being presented at trial, and if the trial is a long one, the judge may “reserve” his or her decision. This means that, instead of giving a decision at the end of the trial, the judge will call you back to court at a later date and deliver the decision in open court, or send the decision to you after he or she has completed it. This often happens in cases where there are complicated issues concerning division of property or debts.

### What to Expect at Your Divorce Trial

At the trial, you and your spouse will present witnesses and evidence that support your requests for relief in the ***Complaint for Divorce/Dissolution (Form 1A, 1B, 1C, or 1D)***. The plaintiff presents his or her side of the story first. After each of the plaintiff’s witnesses testifies, the defendant or the defendant’s attorney, if he or she has one, may *cross-examine* those witnesses. This means asking them questions about what they said. Then the defendant presents his or her case, and the plaintiff or the plaintiff’s attorney may cross-examine those witnesses. The judge may also ask questions of any of the witnesses. The most important instruction for a witness in a courtroom is to remember to listen to the question asked and to give only the answer to that question and no more.

### Final Judgment of Divorce

The ***Final Judgment of Divorce/Dissolution (Form 25)*** is the court order that grants your divorce and ends your marriage. It may also include other relief the court orders. The judge may use the form of order that you or the defendant submitted and write in any changes on that form of order, or the judge may prepare a new order or direct that plaintiff or defendant or plaintiff’s or defendant’s attorney prepare a new order. Judges are usually more likely to ask an attorney to prepare a proposed order. After the hearing, the party who prepares the proposed order is required to send a copy of the proposed order to the other party and to the court. The party receiving the proposed order has five days from the time he or she receives it to notify the court and the other party of any objections to anything in the order, or to add anything that has been left out. If the objecting party does not make those

objections known to the court, the judge will sign the order as written. It is a good idea to take notes about what the judge orders while he or she is ordering it in court so that you can remember what the order should say.

If you are asked to prepare the proposed judgment and submit it to the court, use the **Cover Letter to Judge—Five-Day Rule (Form 26)**, and send a copy of the letter and the proposed judgment to your spouse at the same time that you send it to the court. Your spouse will have five days to object in writing to anything that he or she disagrees with in the order that you have prepared. The judge will then have you both come back to court, after reviewing his or her notes or listening to the tape of your hearing, and will decide whether the language in the judgment is correct.

If both you and your spouse appear without attorneys and you are awarded most of what you asked for in your complaint, the judge may ask you to write the order. Even if the judge or someone else writes the order, you will want to make sure it is accurate. Compare the order to your notes. If you think the judge has written something in the order that is not the same as what the judge said at the end of the trial, ask the judge about it immediately. The following things that will be set out in the judgment:

- The amount of alimony and how and when it will be paid.
- How the property and debts are to be divided. (If any property deeds need to be signed, make sure the defendant signs them or ask the judge to order him or her to sign them.)
- The amount of child support and how and when it will be paid.
- Who will have legal and physical custody of the children.
- A change of name, if requested. (If you request a name change in the divorce, make sure that you get an official court seal on your order. You will need this when you request that agencies use your new name. If you are not sure whether or not you have an official seal, ask the judge or the court clerk. If you choose to use the new name, you will need to show your final order to any agencies that you want to use it. Agencies to consider contacting include your bank, the Social Security office, and the Motor Vehicle Commission.)

After the judge signs the final judgment of divorce/dissolution, the court will send a filed copy to the party who prepared the order. If you prepared the order, you must send a filed copy of the judgment to your ex-spouse by certified or regular mail, along with **Cover Letter—Final Judgment of Divorce/Dissolution (Form 26A)** and **Certification of Service (Form 16)** within seven days of the date that it is signed by the judge.





## Checklist for Filing Documents and Table of Documents— Forms 22 through 26A

Review your documents and package for the court to make sure that:

- You have filled in all the blanks on the documents that you are sending or hand-delivering to the court.
- You have left blank the sections of the documents that must be filled out by the judge.
- You have filed an updated ***Family Part Case Information Statement (CIS) (Form 3A)***, with supporting financial documents, if your financial situation has changed substantially since the time you filed your complaint.
- You have sent subpoenas and a fee for travel at least five days before the date of your hearing to all uncooperative witnesses, demanding that those witnesses attend the hearing and testify.
- Every document is signed and dated, except for those left blank for the judge's signature.
- You are sending an original and two copies of all documents to the court.
- You have prepared and enclosed a self-addressed, stamped envelope (an envelope with your name, address, and postage on it) for the court to use to return filed copies to you.
- You have the right amount of postage on your package. We suggest that you have your package weighed and stamped at the post office. The court will only accept mail with proper postage.
- You have kept at least one extra copy of all documents for your records.
- After mailing documents to the defendant, you have saved any green return receipt cards with signature or any envelopes stamped by the post office as “unclaimed” or “refused.”
- You have marked on your calendar:
  - The date 75 days after the date that the defendant answers the complaint or, if the defendant files a counterclaim, the date 75 days after you file your answer to the counterclaim, in order to file your ***Custody and Parenting Time/Visitation Plan (Form 22)*** on time
  - The date 10 days from the date that you complete your pre-trial discovery, so you can call the court if you have not received a notice from the court about your trial date by that time.

Forms for Chapter 5: Going to Court When Defendant Is Not in Default Forms 22 through 26A		
Form #	Title of Form	Instructions
22	Custody and Parenting Time/Visitation Plan	<b>75 days or less after the answer or (if there is one) the answer to counterclaim is filed</b> , submit original and one copy to court for filing. Send a copy to the other parent via regular <i>and</i> certified mail, return receipt requested, with Form 16.
22A	Filing Letter to Court—Custody and Parenting Time/Visitation Plan	Send to court with Form 22. Send a copy to other parent with copy of Form 22.
23	Subpoena Duces Tecum ad Testificandum	Send a copy to witness via regular <i>and</i> certified mail, return receipt requested, with fee (see page 94). Keep a copy for your records.
24	Consent Order—Final Judgment of Divorce/Dissolution	Send filed copy to ex-spouse via certified or regular mail, along with Form 16, within seven days of the date that it is signed by the judge. Keep a copy for your records.
25	Final Judgment of Divorce/Dissolution	Send filed copy to ex-spouse via certified or regular mail along with Form 16 within seven days of the date that it is signed by the judge. Keep a copy for your records.
26	Cover Letter to Judge—Five-Day Rule	Send to court with Form 25. Send copy to spouse. Instructs spouse that he or she has five days within which to give the court notice of his or her objections to the form of the order.
26A	Cover Letter—Final Judgment of Divorce/Dissolution	Send with filed copy of Form 25.

## **Chapter 6: Issues After Final Judgment**

This chapter explains:

- Things that may not be changed after the judgment has been signed—property sale or property and debt distribution.
- Things that may be changed if circumstances change—custody, alimony, and child support.
- Practical steps you need to take to enforce your court order.
- Documents you need to send to the defendant.

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# Notes

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## Chapter 6: Issues After Final Judgment

Some things in the final judgment of divorce may be changed if the parties' situations change. However, some things may not be changed, except in extraordinary circumstances.

It is unlikely that any decisions about the division of property or debts will be changed. However, child support, alimony, custody, and visitation arrangements may be changed if the parties can show a good reason for the change. For example, if one party becomes unable to work or the other gets a large increase in salary, the court may reconsider the child support order. Or, if the non-custodial parent believes that something has changed to prevent the custodial parent from being able to take care of a child, he or she could request a change in custody. If both parties agree to a change, they may draft a consent order and file it with the court. If the court accepts the agreement, the judge and both parties will sign the consent order.

If the parties do not agree to a change, the party seeking a change must file an application called a *motion* with the court. If you want to file a motion for relief after the final judgment of divorce, go to the courthouse where you got your divorce and ask for the forms to file a post-judgment motion. Court staff may be able to give you forms to prepare your motion. You can also find these forms at [www.njcourts.gov/forms/10483\\_post\\_jdg\\_kit.pdf](http://www.njcourts.gov/forms/10483_post_jdg_kit.pdf).

### Practical Steps After Your Final Judgment of Divorce

Once the judge signs the final judgment of divorce, you might have to take some steps to make sure you get what the court ordered. Below are some things you may have to do, depending upon your situation. The list below does not cover every situation; rather, it highlights a few of the most common actions that parties might have to take after a divorce.

- You must send the defendant a signed copy of the final judgment of divorce.
- In addition to the copy of the final judgment signed by the judge at your hearing, you might want to get a certified copy of your judgment. This is a document that has a special raised seal on it. It is a good idea to get a certified copy because you may need it in order to change certain documents or to get a marriage license, should you want to remarry.
- If the judge ordered that you can use another name, you might want to notify Social Security, the Motor Vehicle Commission, IRS, and other agencies or institutions. You should call them to see if they require a certified copy of your judgment.
- If the judge ordered the defendant to pay debts on credit cards or to pay premiums on insurance policies, you should make sure that the

defendant is doing what he or she was ordered to do. The regular payment of insurance premiums is very important. If the defendant is not paying them, you might have to pay them yourself until you can go back to court to get your money back from the defendant and get the defendant to make future payments. You will have to file a motion to enforce the final judgment. To do this, you must go to the courthouse where your divorce was granted. Most counties have forms for this kind of motion, and the court can also give you information on how to prepare the papers. You can also find these forms on the New Jersey Judiciary website at [www.njcourts.gov/forms/10483\\_post\\_jdg\\_kit.pdf](http://www.njcourts.gov/forms/10483_post_jdg_kit.pdf). You may need help from a lawyer to do this. If your divorce judgment divided real estate, you will have to fill out deeds and other documents in order to transfer property according to the divorce judgment. You may also need to fill out titles or other documents for the transfer of automobiles and other kinds of personal property. You may need help from a lawyer to do this.

- Child support is usually collected and delivered through the probation department. The judge will generally direct his or her staff to make certain that probation gets a copy of this order. However, you may also want to notify probation and send them a copy of your order to make sure that the child support case is promptly opened and enforced.

If you file a motion to enforce your divorce judgment and the court finds that the defendant is in violation of the order, the court may order a number of punishments. For example, the court may order that your spouse do what he or she has been ordered to do within a certain time period or risk having the court issue a warrant for arrest. You should be aware that it is hard to execute a warrant on a defendant, especially one who doesn't live in New Jersey. It is even harder to enforce a court order on a defendant who lives outside of the United States. However, you can often send a message to your ex-spouse by filing a motion to enforce a court order and exposing the fact that he or she is not complying with the directions of the court. A lawyer can prepare and file a motion for you, but this does not necessarily guarantee that your ex-spouse will abide by the court order in the future. Unfortunately, ex-spouses often repeatedly try to avoid their responsibilities, which results in a loss of time and money in trying to actually get what you were awarded in your divorce.



## Conclusion and Reminder

The beginning of this manual contains several warnings about getting a divorce on your own. These same warnings apply to complicated issues that arise after the final judgment of divorce. This manual is not meant as a substitute for legal assistance and representation. If you have any further questions concerning any aspect of your divorce, please consult Appendix C on page 115 and contact the lawyer referral service of your county bar association. If you are a low-income New Jersey resident, you may be eligible for legal help from a Legal Services office in your area. See Appendix D on page 117 for a list of Legal Services programs in New Jersey. You may also be eligible for free legal advice from LSNJLAW<sup>SM</sup>, Legal Services of New Jersey's statewide, toll-free legal hotline.

The hotline telephone number is 1-888-LSNJ-LAW (1-888-576-5529). Online intake is also available at [www.lsnjlawhotline.org](http://www.lsnjlawhotline.org). Hotline hours are Monday through Friday, 8 a.m. to 5:30 p.m. If you are income-eligible, a Legal Services attorney can give you more information and advice over the telephone. If you are not eligible for Legal Services, the hotline will refer you to other possible resources.



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# Notes

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# Glossary

**AFFIDAVIT**—A written or printed statement of facts signed by the party making the statement and witnessed by a person who is authorized by the government to administer oaths and attest to the fact that the signature on a document is authentic.

**ALIMONY**—Money paid by one spouse to the other spouse after the divorce to help the other spouse continue to live the way he or she lived while married. Also called *spousal support*.

**ANSWER**—The document filed by the defendant in response to the complaint filed by the plaintiff. The answer admits to the statements in the plaintiff's complaint that are true and denies the statements that are false. An answer may also include a *counterclaim*.

**ANSWER TO COUNTERCLAIM**—The document filed by the plaintiff in response to the defendant's counterclaim.

**ARBITRATION**—An arbitration session is more formal than a mediation session (see *mediation*). Like mediation, arbitration relies on an arbitrator, an impartial third party, to decide issues in a case. The parties can decide that the arbitrator's decision will be binding on them, meaning that they cannot question those decisions or appeal them. While an arbitrator may decide some issues within a divorce case, only the judge hearing the divorce case may decide whether or not to grant the divorce.

**BEST INTERESTS INVESTIGATION**—In family actions where the court determines that the custody of children is a genuine and substantial issue, the court may order an investigation to determine what is in the best interests of the child regarding custody and parenting time/visitation. This investigation is often referred to as a best interests investigation. Depending on what factors are in dispute, a best interests investigation may consist of either a home inspection, a social investigation, or both. The investigation may be done by any member of the staff of the Family Division of the Superior Court. The purpose of the investigation is to provide the court with information that corresponds to the list of factors designated by New Jersey law as being relevant to a determination of the best interests of the child in a custody dispute. (See pages 27-29.)

**CAUSE OF ACTION**—The grounds or reason for your divorce.

**CHANCERY DIVISION**—The Division of the Superior Court of New Jersey where lawsuits asking primarily for non-money-related relief are filed and heard by the court. The Chancery Division includes, among other parts, the Family Part, where divorces are filed and heard by the court. See *Family Part*.

**CHILD SUPPORT**—Financial support provided by the non-custodial parent to the custodial parent to help support the children.

**CERTIFICATION**—A written or printed statement of facts that supports a request for relief to the court. The party who makes the statement of facts swears at the end of the certification that everything stated is true to the best of that party's knowledge. Unlike an affidavit, a certification does not require the signature of an authorized witness, such as a notary public.

**CIVIL ACTION**—A lawsuit that involves non-criminal claims against a party.

**CIVIL UNION**—This is the current term for the legal union of two same-sex persons in New Jersey. At this time, New Jersey is the only state using this term. Under New Jersey law,

couples in a civil union are entitled to the same benefits and protections as spouses in a marriage. They also have the same legal duties to each other and to their children. State law also allows couples dissolving their civil unions to ask for the same relief as divorcing spouses. However, federal laws do not give civil union couples the same rights as married couples. This means that same-sex couples dissolving a civil union may have different results than divorcing spouses, especially in the areas of division of property and taxes on alimony received.

**COBRA**—Consolidated Omnibus Reconciliation Act of 1986. The law that requires employers to offer a continuation or extension of health coverage in certain instances where coverage under that plan would normally end, such as when an employee is terminated from or leaves a job.

**COMPLAINT**—The document that begins a lawsuit in the civil division of the New Jersey Superior Court. A complaint must set forth claims that give the party being sued a general idea about what he or she is being sued for. The party who files the complaint is known as the *plaintiff*.

**CONSENT JUDGMENT**—A judgment signed by the plaintiff, the defendant, and the judge, where the plaintiff and defendant reach an agreement with respect to all of the terms included in the consent judgment. When the parties come to an agreement of this type, they usually avoid having to participate in a trial or hearing.

**CONSENT ORDER**—See *consent judgment*.

**CONTESTED DIVORCE**—A divorce where the defendant contests or objects to the things that the complaint states happened—for example, that the defendant committed adultery or was cruel to the plaintiff in some way, or where the defendant objects to something the plaintiff is asking for in the complaint, such as custody, support, or property. Contested divorces usually take more time and end up being more complicated.

**COUNT**—The term that refers to the plaintiff's or defendant's statement of the fact or facts in a complaint or counterclaim, which gives him or her a right to relief from the court. For example, a divorce complaint or counterclaim might contain two counts, one with facts supporting a right to a divorce based on extreme cruelty and the other with facts supporting a right to a divorce based on desertion.

**COUNTERCLAIM**—A *complaint* filed by the defendant against the plaintiff as a part of the defendant's response to the plaintiff's complaint. In a divorce action, the defendant will often file a counterclaim with his or her *answer*.

**CROSS-EXAMINATION**—The process by which the attorney for the opposing party (or the opposing party if he or she does not have an attorney) asks questions of the party and the party's witnesses about the answers that they have given to questions asked during *direct examination*. For example, after each of the plaintiff's witnesses testifies, the defendant (or the defendant's attorney, if he or she has one) can cross-examine those witnesses. The plaintiff or the plaintiff's attorney may also cross-examine the defendant's witnesses. The questions asked on cross-examination must refer to something that the witness has said in response to questions on direct examination. The judge may also ask questions of any of the witnesses during cross-examination.

**CROSS-MOTION**—A type of document that may be filed in response to a motion. Another type of response to a motion is a certification in opposition to that motion. Unlike a certification in opposition to a motion, a cross-motion usually concerns a subject different from that of the motion filed by the opposing party.

**CUSTODIAL PARENT**—This term usually refers to the parent with whom the child physically resides. In situations where the child resides most of the time with this parent but also resides part of the time with the other parent, the custodial parent may be referred to as the parent of primary residence.

**CUSTODY**—This term refers to the right of a natural or adoptive parent to the care, control, and maintenance of his or her natural or adopted child. Custody is awarded to a parent or parents in a divorce or custody proceeding. See also *physical custody*, *legal custody*, and *sole custody*.

**DEFAULT JUDGMENT**—In the context of a divorce case, when the defendant is properly served with a complaint and fails to respond to it by filing an answer in the time allowed, the plaintiff may request that the court grant him or her judgment by default in his or her favor against the defendant.

**DEFENDANT**—The party who is sued by a plaintiff in a civil lawsuit is called the defendant. The accused in a criminal lawsuit is also referred to as the defendant.

**DIRECT EXAMINATION**—The process by which a party or a party's witness answers questions asked by either a judge (if the party has no attorney) or by his or her attorney (if the party is represented by an attorney). After direct examination is completed, the opposing party or the attorney for the opposing party is permitted to ask questions of the party's witnesses on *cross-examination* (see above). The person asking the questions is not supposed to "lead the witness" (to use words in the question that give the answer to the question). The judge may also ask questions of any of the witnesses during direct examination.

**DISCOVERY**—The disclosure of facts, documents, and other information by the defendant and plaintiff to each other before the hearing or trial takes place.

**DISMISS**—To discontinue or end a lawsuit without any further consideration or hearing.

**DISSOLUTION**—Another term for the act of terminating a marriage by way of divorce.

**DIVORCE**—The legal end of a marriage by way of a judgment or order of a court.

**DOCKET NUMBER**—The number assigned by the clerk of the court to a case when it is filed with the court, so that it may be easily identified and located. Always include your docket number on all letters and documents you send to the court or to the other parties in the case.

**DOMESTIC PARTNERSHIP**—This is an older term for the union of same-sex couples under a 2004 New Jersey law. The Domestic Partnership Act allowed same-sex couples, where both partners were at least 18 years of age, and any couple, where both partners were over 62 years of age, to enter into a domestic partnership. Couples in domestic partnerships got the right to inherit from and be the legal guardians of each other, the right to visit each other in hospitals, and health insurance coverage from a partner who was a state employee. The law changed in 2007 to permit only couples in which both partners are at least 62 years of age to enter into domestic partnerships. Same-sex couples under the age of 62 must now enter into *civil unions*. Couples who were in domestic partnerships before 2007 were allowed to end the domestic partnership and enter into a civil union without a court order. For more information about domestic partnerships, please go to [www.lsnjlaw.org](http://www.lsnjlaw.org) and search for the words "domestic partnership."

**EQUITABLE DISTRIBUTION**—Under New Jersey law, this term refers to the concept of equitably (fairly) dividing marital property (the property of a husband and wife acquired by

either of them during their marriage) or marital debt (debt incurred by either the husband or wife during the marriage) as a part of a divorce case.

**EVIDENCE**—Testimony, written documents, material objects, or other things presented at a trial for the purpose of proving the existence or nonexistence of a fact.

**EXHIBIT(S)**—This term refers to papers, documents, or other objects that are either attached to an affidavit or a certification in order to support factual statements made in the affidavit or certification. The term also refers to papers, documents, or other objects presented to the court during a trial or hearing in order to support facts that are presented by testimony or other evidence at that trial or hearing.

**FAMILY PART**—Also called the Family Division. The part of the Chancery Division of the Superior Court where lawsuits involving subjects that arise out of family-type situations are filed and heard by the court.

**FAULT-BASED DIVORCE**—A divorce based on a specific reason (ground or fault). See page 20 for a list of the grounds for a fault-based divorce.

**FINAL JUDGMENT OF DIVORCE**—The court order that legally ends your marriage. That court order describes the resolution of the issues that you have raised in your divorce complaint, such as custody, child support, alimony, equitable distribution of property and debt, and name change.

**FINAL RESTRAINING ORDER**—A court order issued after the filing of a domestic violence complaint and a hearing where both the plaintiff and defendant have had an opportunity to appear and present evidence, or where the defendant waives the right to a hearing and admits to having committed an act of domestic violence. This type of court order normally restrains the defendant from having any type of contact with the plaintiff. Under New Jersey law, final restraining orders remain in force indefinitely or until either the plaintiff or defendant applies to the court and convinces the court, by way of evidence, to dissolve the order.

**GENERAL APPEARANCE**—Where a defendant who is not represented by an attorney does not file an answer to a complaint, he or she may enter a general appearance by signing a document called an *acknowledgment of service* and returning it to the plaintiff. (See page 46 for an explanation of the procedure for using an acknowledgment of service.) Where a defendant who is represented by an attorney does not file an answer to a complaint, his or her attorney may still make a general appearance by sending a letter to the court or filing a motion informing the court that he or she is representing the defendant in the matter before the court.

**HEARING**—A public proceeding in a court in which witnesses are heard, evidence is presented, and the parties to the lawsuit are present and have a right to be heard. There is no jury present. This proceeding is formal, but somewhat less formal than a *trial*.

**INTERROGATORIES**—Written questions sent to the opposing party as a part of the discovery process prior to the trial or hearing.

**JUDGMENT**—The court order that represents the court's written decision in a lawsuit. The judgment should be signed and dated on the date that the case is decided.

**LEGAL CUSTODY**—The parent with legal custody of a child is responsible for making important decisions concerning the child, such as where the child should go to school and what kind of medical care the child should get. It is common for both parents to retain legal custody of the child, even where only one parent has physical custody.

**LEGAL RELIEF**—What you are asking the court to order in a *complaint* or a *motion*.

**LITIGANTS**—The name given to persons named in and participating in a lawsuit. See also *parties*.

**MEDIATION**—The act of attempting to resolve a dispute or disputes with the help of a neutral third party before a trial or hearing.

**MOTION**—A request to the court for *legal relief*. Motions are usually filed after the court enters an *order* in a case, but they may be filed at the start of a case in place of an *answer* to a *complaint* or along with the answer. A motion may ask for new relief, which will change the original order or *judgment*. A motion may also ask the court to enforce a court order where a party has been ordered to do something that he or she is not doing. The *responding party* responds to a motion by either agreeing with it or opposing it. The responding party may also file a *cross-motion* asking for his or her own separate relief. The *moving party* may then respond to the cross-motion by consenting to it or opposing it. If a court grants a motion and/or cross-motion, it issues a new order, and that new order enforces or changes the prior order. If a court denies a motion and/or cross-motion, it issues an order stating that the motion and/or cross-motion is denied, and the prior order remains in effect. A court may also grant or deny a part of a motion or cross-motion.

**MOVING PARTY**—The party who files *motion* papers with the court.

**NO-FAULT DIVORCE**—A divorce based on the fact that you and your spouse have experienced irreconcilable differences for a period of six months or more, or based on the fact that you and your spouse have been living separate and apart in different places for 18 consecutive months or more.

**NON-CUSTODIAL PARENT**—This term refers to the parent who does not have the child physically living with him or her. In situations where the child resides most of the time with the other parent but also resides part of the time with this parent, the non-custodial parent may be referred to as the parent of secondary residence.

**NOTARY PUBLIC**—A public officer whose function it is to administer oaths and to certify by his or her official seal that the signature of the party taking the oath is authentic. Law offices, banks, and real estate offices often have employees who may also be notaries public.

**ORDER**—The court's written decision in a lawsuit, signed and dated on the date that the case is decided. See also *judgment*.

**PARTIES**—The plaintiff(s) and defendant(s) named in a lawsuit.

**PENDENTE LITE**—Latin term meaning pending or during the actual progress of the lawsuit or litigation. In the context of a divorce, "*pendent lite relief*" is relief that one or more of the parties applies for before the final judgment of divorce is entered.

**PERSONAL PROPERTY**—Possessions such as cars, appliances, TV sets, sound equipment, jewelry, expensive tools, furniture, etc.

**PHYSICAL CUSTODY**—The parent with physical custody is the parent the child lives with most of the time. This parent is also called the *custodial parent* or the parent of primary residence.

**PLAINTIFF**—The party who begins a civil lawsuit by filing a complaint.

**PROOF OF SERVICE**—A document filed with the court that proves the date on which documents were formally served on a party in a court action.

**PRO SE**—Acting as one’s own lawyer. In Latin, “for oneself.”

**PUBLIC BENEFITS**—Financial assistance that some low-income families or individuals may be eligible to receive from the local, county, or federal government. Public benefits include the different forms of welfare such as Temporary Aid to Needy Families (TANF), General Assistance (GA), and Emergency Assistance (EA). Other benefits include SNAP (food stamps), Medicaid, and Supplemental Security Income (SSI).

**QDRO**—Qualified Domestic Relations Order. A QDRO is a special type of order prepared by an expert and approved by the court that is used to divide a private or state pension. Division of a federal pension requires the use of a different type of order, called a Court Order Approved for Processing (COAP).

**REAL PROPERTY**—Land and any building on the land, such as a house. Real property is also called real estate.

**RESPONDING PARTY**—The party who responds to the *moving party*’s request for relief by agreeing to it, opposing it, or filing a cross-motion to respond to it.

**SERVICE/SERVICE OF PROCESS**—The legal term for leaving a summons or other official court paper with a person who is a party named in a lawsuit. The purpose of service is to give the party being sued notice of when and where the court will hear the lawsuit so that party may appear and be heard by the court. In a divorce, the initial service of process refers to the plaintiff delivering to the defendant a copy of the summons and complaint. The most common type of service is personal service, meaning to deliver or leave with an actual person. Another type of service is *substituted service*, meaning to mail the papers, leave the papers with someone other than the party, or publish notice of the lawsuit in a newspaper.

**SHERIFF**—In New Jersey, an office of the court that employs officers who perform official duties such as providing security to the courthouse and serving process on litigants. See *service/service of process*.

**SOLE CUSTODY**—The term that describes the legal result when a court awards both legal and physical custody to only one of the parents of a child. Sole custody is usually ordered only in situations where one parent is missing or absent or has been found legally unfit to parent a child. The parent with no custodial rights may still be awarded visitation or parenting time with the child, but it is likely to be limited and supervised.

**SPOUSAL SUPPORT**—Technically, this term refers to support paid by a husband or wife to his or her spouse while they are separated but before they are divorced. However, sometimes this term is used in place of the term alimony although, technically, alimony refers to support paid after the divorce. See also *alimony*.

**SUBSTITUTED SERVICE**—See *service*.

**SUBPOENA**—A command issued from the clerk of the Superior Court to appear at a certain time and place to give testimony in a hearing or trial.

**SUBPOENA DUCES TECUM**—A command issued from the clerk of the Superior Court to appear at a certain time and place to give testimony in a hearing or trial and to produce at the hearing or trial specific papers and documents related to the case.

**SUMMONS**—The official notice to the defendant that someone has filed a lawsuit against him or her. It also tells the defendant where and how he or she must respond to the complaint and how long he or she has to respond.

**TEMPORARY RESTRAINING ORDER**—A court order issued against the defendant after the plaintiff alone gives testimony to a municipal or Superior Court judge concerning alleged abuse by the defendant. A temporary restraining order makes a preliminary finding before there is a full hearing, based only on the plaintiff's testimony, that the plaintiff is in need of this protection. The order requires the defendant to stay away from the plaintiff and not communicate with him or her in any way. It also orders both parties to appear at a final restraining order hearing within 10 days or less of the date of the order and give testimony to the court.

**TESTIMONY**—The statement of a witness in court under oath.

**TEVIS CLAIM**—A claim by one spouse for damages for a personal injury caused by the other spouse. This type of claim is named for the case that brought this concept to the attention of the court.

**TRIAL**—A public proceeding in which witnesses may testify, evidence may be presented, and the parties to the lawsuit have a right to testify. In addition, a jury may be present at a trial. In the context of a divorce case, it is extremely rare to have a jury decide anything except issues involving personal injury of one spouse by the other. A trial is usually more formal than a *hearing*.

**UNCONTESTED DIVORCE**—A divorce where the defendant spouse does not object to the things the plaintiff says happened in the marriage or does not object to anything the plaintiff is asking for in the complaint.

**WORKERS COMPENSATION**—A fixed award given to an employee who is injured in the course of employment, or whose injuries arise out of the employment. In return for getting a fixed amount of money from his or her employer, the employee gives up his or her right to sue the employer for damages for pain and suffering and compensation due to the employer's alleged negligence.

# Appendix A: Where to File Your Divorce Complaint

## **Atlantic County**

Superior Court, Chancery Division, Family Part  
Atlantic County Civil Courts Building  
Family Division  
1201 Bacharach Blvd.  
Atlantic City, NJ 08401  
(609) 402-0100, Ext. 47288

## **Bergen County**

Superior Court, Chancery Division, Family Part  
Bergen County Justice Center, Finance Division  
10 Main Street, Room 119  
Hackensack, NJ 07601  
(201) 221-0700

## **Burlington County**

Superior Court, Chancery Division, Family Part  
Finance Division  
Courts Facility, 1st floor  
49 Rancocas Road  
P.O. Box 6555  
Mount Holly, NJ 08060  
(609) 288-9500, Ext. 38055

## **Camden County**

Superior Court, Family Division  
Hall of Justice, 2nd floor  
101 South 5th Street  
Camden, NJ 08103-4001  
(856) 379-2204, Ext. 3614, 3624

## **Cape May County**

### *Hand Delivery:*

Superior Court, Chancery Division, Family Part  
9 North Main Street  
Cape May Court House, NJ 08210  
(609) 463-6601

### *Mailing Address:*

Superior Court, Chancery Division, Family Part  
4 Moore Road, D.N. 204  
Cape May Court House, NJ 08210  
(609) 463-6601

## **Cumberland County**

Superior Court of New Jersey  
Family Part Filing Unit  
Cumberland County Courthouse  
60 West Broad Street  
Bridgeton, NJ 08302  
(856) 453-4534

## **Essex County**

Superior Court, Family Division  
Wilentz Justice Complex  
Finance Division, Room 111  
212 Washington Street  
Newark, NJ 07101  
(973) 776-9300, ext. 56891

## **Gloucester County**

Gloucester County Family Court, 1st Floor  
Justice Complex  
70 Hunter Street  
Woodbury, NJ 08096  
(856) 686-7410

## **Hudson County**

Superior Court, Chancery Division, Family Part  
Finance Central Fee Office  
Administrastion Bldg., Room 105  
595 Newark Avenue  
Jersey City, NJ 07306  
(201) 748-4400, Ext. 60585

## **Hunterdon County**

Superior Court, Chancery Division, Family Part  
Central Fee Office  
Hunterdon County Justice Center  
65 Park Avenue, P.O. Box 1069  
Flemington, NJ 08822  
(908) 824-9750

## **Mercer County**

Superior Court, Chancery Division, Family Part  
Mercer County Civil Courthouse  
175 S. Broad Street, 2nd Floor  
P.O. Box 8068  
Trenton, NJ 08650-0068  
(609) 571-4200

## **Middlesex County**

### *Hand Delivery:*

Family Intake Reception Team  
Family Courthouse  
Superior Court of New Jersey  
120 New Street  
New Brunswick, NJ 08901  
(732) 645-4300, Ext. 88530

### *Mailing Address:*

Family Intake Reception Team  
Superior Court of New Jersey  
P.O. Box 2691  
New Brunswick, NJ 08903-2691  
(732) 645-4300, Ext. 88530



**Monmouth County**

*Filing with Fee:*

Superior Court of New Jersey  
Monmouth Vicinage Courthouse  
Family Division, Central Fee Office  
71 Monmouth Park, P.O. Box 1260  
Freehold, NJ 07728-1260  
(732) 677-4029

*Filing without Fee:*

Superior Court of New Jersey  
Monmouth Vicinage Courthouse  
Family Division  
P.O. Box 1252  
Freehold, NJ 07728-1252  
(732) 677-4050

**Morris County**

*Filing with Fee:*

Superior Court of New Jersey  
Morris County Courthouse  
Finance Division Office  
P.O. Box 929  
Morristown, NJ 07963-0929  
(973) 292-6360

*Filing without Fee:*

Superior Court of New Jersey  
Morris County Courthouse  
Family Intake  
P.O. Box 910  
Morristown, NJ 07963-0910  
(973) 656-4362

**Ocean County**

Superior Court of New Jersey  
Ocean County Justice Complex  
Family Division, Room 210  
120 Hooper Avenue, 2nd Floor  
P.O. Box 2191  
Toms River, NJ 08754  
(732) 929-4719

**Passaic County**

Passaic County Superior Court  
Chancery Division, Family Division  
County Administration Building, 8th floor  
401 Grand Street  
Paterson, NJ 07505  
(973) 247-8459

**Salem County**

Superior Court, Chancery Division, Family Part  
Salem County Courthouse, Family Intake  
92 Market Street  
Salem, NJ 08079  
(856) 878-5050

**Somerset County**

Superior Court of New Jersey  
Central Fee Office  
Somerset Courthouse, 1st floor  
P.O. Box 8639  
Somerville, NJ 08876-1262  
(908) 332-7700, Ext. 13770

**Sussex County**

Superior Court of New Jersey  
Sussex County Judicial Center  
Finance Department  
43-47 High Street  
Newton, NJ 07860  
(973) 579-0618

**Union County**

*Mailing Address:*

Superior Court of New Jersey, Union County  
Family Division, Dissolution  
Cherry Street Annex, 3rd Floor  
2 Cherry Street  
Elizabeth, NJ 07202  
(908) 787-1650

**Warren County**

*Filing with Fee:*

Superior Court of New Jersey  
Central Fee Office Courthouse  
413 Second Street  
P.O. Box 400  
Belvidere, NJ 07823-1500  
(908) 750-8100, Ext. 13070

*Filing without Fee:*

Superior Court, Chancery Division, Family Part  
Family Division Dissolution Unit  
Courthouse  
413 Second Street  
P.O. Box 900  
Belvidere, NJ 07823-1500  
(908) 750-8100, Ext. 13910

## Appendix B: Sheriffs' Offices

### Atlantic County

Sheriff's Office  
Criminal Courthouse Complex  
4997 Unami Blvd.  
Mays Landing, NJ 08330  
(609) 909-7200  
[www.acsheriff.org](http://www.acsheriff.org)

### Bergen County

Sheriff's Office  
2 Bergen County Plaza, 2nd Floor  
Hackensack, NJ 07601  
(201) 336-3500  
[www.bcsd.us](http://www.bcsd.us)

### Burlington County

Sheriff's Office  
County Office Building, 2nd Floor  
49 Rancocas Road  
P.O. Box 6000  
Mount Holly, NJ 08060  
(609) 265-5127  
[www.co.burlington.nj.us](http://www.co.burlington.nj.us)

### Camden County

Sheriff's Office  
Courthouse, Room 100  
520 Market Street  
Camden, NJ 08102  
(856) 225-5470  
[www.camdencounty.com/service/sheriffs-office](http://www.camdencounty.com/service/sheriffs-office)

### Cape May County

Sheriff's Office  
Street Address:  
9 N. Main Street  
Cape May Court House  
NJ 08210  
(609) 463-6430  
[www.cmcsheriff.net](http://www.cmcsheriff.net)  
Mailing Address:  
4 Moore Road, DN 301  
Cape May Court House  
NJ 08210

### Cumberland County

Sheriff's Office  
220 N. Laurel Street  
Bridgeton, NJ 08302  
(856) 451-4449, Ext. 125  
[www.ccsdnj.org](http://www.ccsdnj.org)

### Essex County

Sheriff's Office  
Veterans Courthouse  
50 West Market Street  
Newark, NJ 07102  
(973) 621-4111  
[www.essexsheriff.com](http://www.essexsheriff.com)

### Gloucester County

Sheriff's Office  
Administration Office  
2 S. Broad Street  
P.O. Box 376  
Woodbury, NJ 08096-7376  
(856) 384-4600  
[www.co.gloucester.nj.us/depts/s/sheriff](http://www.co.gloucester.nj.us/depts/s/sheriff)

### Hudson County

Sheriff's Office  
Administrative Building  
595 Newark Avenue  
Jersey City, NJ 07306, Ext. 7202  
(201) 795-6336 (process service)  
[www.hudsoncountysheriff.org](http://www.hudsoncountysheriff.org)

### Hunterdon County

Sheriff's Office  
71 Main Street  
P.O. Box 2900  
Flemington, NJ 08822-2900  
(908) 788-1166  
[www.co.hunterdon.nj.us/sheriff.htm](http://www.co.hunterdon.nj.us/sheriff.htm)

### Mercer County

Sheriff's Office  
Civil Courthouse  
175 S. Broad Street, Room 150  
P.O. Box 8068  
Trenton, NJ 08650-0068  
(609) 989-6100  
(609) 989-7666 (fees and status of summons)  
[www.mercercounty.org/government/sheriff](http://www.mercercounty.org/government/sheriff)

### Middlesex County

Sheriff's Building  
701 Livingston Avenue  
P.O. Box 1188  
New Brunswick, NJ 08901  
(732) 745-3366  
[www.middlesexcountynj.gov/government/departments/psh/pages/office\\_sheriff.aspx](http://www.middlesexcountynj.gov/government/departments/psh/pages/office_sheriff.aspx)

### Monmouth County

Sheriff's Office  
250 Kozloski Rd.  
Freehold, NJ 07728  
(732) 431-6400  
[www.mcsonj.org](http://www.mcsonj.org)

### Morris County

Sheriff's Office  
Morris County Courthouse  
56 Washington Street  
P.O. Box 900  
Morristown, NJ 07963-0900  
(973) 285-6600  
[www.sheriff.morriscountynj.gov](http://www.sheriff.morriscountynj.gov)

### Ocean County

Sheriff's Office  
Justice Complex  
120 Hooper Avenue  
P.O. Box 2191  
Toms River, NJ 08754  
(732) 929-2044  
[www.co.ocean.nj.us/OCsheriff](http://www.co.ocean.nj.us/OCsheriff)

### Passaic County

Sheriff's Office  
Courthouse  
Attention: Civil Process  
77 Hamilton Street  
Paterson, NJ 07505  
(973) 881-4200  
[www.pcsheriff.org](http://www.pcsheriff.org)

### Salem County

Sheriff's Office  
94 Market Street  
Salem, NJ 08079-1914  
(856) 935-7510, Ext. 8375  
[www.salemcountysheriff.com](http://www.salemcountysheriff.com)

### Somerset County

Sheriff's Office  
20 Grove Street  
P.O. Box 3000  
Somerville, NJ 08876-1262  
(908) 231-7140  
[www.co.somerset.nj.us/government/elected-officials/sheriff-s-office-sc](http://www.co.somerset.nj.us/government/elected-officials/sheriff-s-office-sc)

### Sussex County

Sheriff's Office  
39 High Street  
Newton, NJ 07860-1741  
(973) 579-0850  
[www.sussexcountysheriff.com](http://www.sussexcountysheriff.com)

### Union County

Sheriff's Office  
County Administration Building  
1st Floor  
10 Elizabethtown Plaza  
Elizabeth NJ 07207-6001  
(908) 527-4471  
(Civil Process/Fees)  
[www.ucnj.org/sheriff](http://www.ucnj.org/sheriff)

### Warren County

Sheriff's Office  
413 2nd Street  
Belvidere, NJ 07823  
Sheriff Sales & Civil Process  
(908) 475-6393  
<https://wsheriffnjus.ipower.com/home>

## Appendix C: Lawyer Referral Services

For updates, please go to

<https://tcms.njsba.com/personifybusiness/LegalResources/CountyBarAssociations.aspx>

### **Atlantic County Bar Association**

Atlantic County Court House  
1201 Bacharach Blvd.  
Atlantic City, NJ 08401  
(609) 345-3444  
[www.atcobar.org](http://www.atcobar.org)  
[atcobara@aol.com](mailto:atcobara@aol.com)

### **Bergen County Bar Association**

15 Bergen Street  
Hackensack, NJ 07601  
(201) 488-0032  
[www.bergenbar.org](http://www.bergenbar.org)

### **Burlington County Bar Association**

137 High Street, 3rd Floor  
Mount Holly, NJ 08060  
(609) 261-4542  
[www.burlcobar.org](http://www.burlcobar.org)  
[bcba@burlcobar.org](mailto:bcba@burlcobar.org)

### **Camden County Bar Association**

1040 North Kings Highway, Suite 201  
Cherry Hill, NJ 08034  
(856) 482-0620  
[www.camdencountybar.org](http://www.camdencountybar.org)

### **Cape May County Bar Association**

P.O. Box 425  
Cape May Court House, NJ 08210  
(609) 463-0313  
[www.cmcha.org](http://www.cmcha.org)  
[cmcha.ed@gmail.com](mailto:cmcha.ed@gmail.com)

### **Cumberland County Bar Association**

P.O. Box 2374  
Vineland, NJ 08362  
(856) 696-5550  
[www.ccnjbar.org](http://www.ccnjbar.org)

### **Essex County Bar Association**

470 Dr. Martin Luther King, Jr. Blvd.  
Room B01  
Newark, NJ 07102  
(973) 622-6207  
[www.essexbar.com](http://www.essexbar.com)  
[info@essexbar.com](mailto:info@essexbar.com)

### **Gloucester County Bar Association**

Justice Complex  
70 Hunter Street, P.O. Box 338  
Woodbury, NJ 08096  
(856) 848-4071  
[www.gcbarfoundation.org](http://www.gcbarfoundation.org)  
[info@gcbarfoundation.org](mailto:info@gcbarfoundation.org)

### **Hudson County Bar Association**

583 Newark Avenue  
Jersey City, NJ 07306  
(201) 798-4708  
[www.hcbalaw.com](http://www.hcbalaw.com)  
[staff@hcbalaw.com](mailto:staff@hcbalaw.com)

### **Hunterdon County Bar Association**

P.O. Box 573  
Annandale, NJ 08801  
(908) 200-7822  
[www.huntcolaw.org](http://www.huntcolaw.org)  
[hcba@comcast.net](mailto:hcba@comcast.net)

### **Mercer County Bar Association**

1245 Whitehorse-Mercerville Road  
Suite 420  
Hamilton, NJ 08619-3894  
(609) 585-6200  
[www.mercerbar.com](http://www.mercerbar.com)  
[siraca@mercerbar.com](mailto:siraca@mercerbar.com)

### **Middlesex County Bar Association**

87 Bayard Street  
New Brunswick, NJ 08901  
(732) 828-3433  
[www.mcbalaw.com](http://www.mcbalaw.com)  
[admin@mcbalaw.com](mailto:admin@mcbalaw.com)

### **Monmouth Bar Association**

Court House  
Freehold, NJ 07728  
(732) 431-5544  
[www.monmouthbarassociation.com](http://www.monmouthbarassociation.com)

### **Morris/Sussex County Bar Association**

242 South Street, Unit 1  
Morristown, NJ 07960  
(973) 267-6089  
[www.morriscountybar.com](http://www.morriscountybar.com)  
[mail@morriscountybar.com](mailto:mail@morriscountybar.com)

**Ocean County Bar Association**

Courthouse  
P.O. Box 381  
Toms River, NJ 08753  
(732) 240-3666

[www.oceancountybar.org](http://www.oceancountybar.org)  
[karin@oceancountybar.org](mailto:karin@oceancountybar.org)

**Passaic County Bar Association**

401 Grand Street, 3rd Floor  
Paterson, NJ 07505  
(973) 345-4585

[www.passaicbar.org](http://www.passaicbar.org)  
[info@passaicbar.org](mailto:info@passaicbar.org)

**Salem County Bar Association**

(856) 935-5629

[www.salemcountybar.org](http://www.salemcountybar.org)  
[contact@salemcountybar.org](mailto:contact@salemcountybar.org)

**Somerset County Bar Association**

Courthouse  
P.O. Box 1095  
Somerville, NJ 08876-1095  
(908) 685-2323

[www.somersetbar.com](http://www.somersetbar.com)  
[director@somersetbar.com](mailto:director@somersetbar.com)

**Sussex County**

(see Morris/Sussex County Bar Association)

**Union County Bar Association**

Courthouse  
2 Broad Street, 1st Floor  
Elizabeth, NJ 07207  
(908) 353-4715

[www.uclaw.com](http://www.uclaw.com)

**Warren County Bar Association**

413 Second Street  
Belvidere, NJ 07823  
(908) 387-1835

[www.warrencountybar.org](http://www.warrencountybar.org)  
[info@warrencountybar.org](mailto:info@warrencountybar.org)

# Appendix D: New Jersey Legal Services Offices

## State Coordinating Program

Legal Services of New Jersey

P.O. Box 1357

Edison, NJ 08818-1357

(732) 572-9100

[www.LSNJ.org](http://www.LSNJ.org) / [www.LSNJLAW.org](http://www.LSNJLAW.org)

LSNJLAW<sup>SM</sup> toll-free, statewide legal hotline:

1-888-LSNJ-LAW (1-888-576-5529)

## Regional Legal Services Programs

### Central Jersey Legal Services

Mercer County . . . . . (609) 695-6249

Middlesex County—New Brunswick . . . . . (732) 249-7600

Middlesex County—Perth Amboy . . . . . (732) 324-1613

Union County . . . . . (908) 354-4340

**Essex-Newark Legal Services** . . . . . (973) 624-4500

### Legal Services of Northwest Jersey

Hunterdon County . . . . . (908) 782-7979

Morris County . . . . . (973) 285-6911

Somerset County . . . . . (908) 231-0840

Sussex County . . . . . (973) 383-7400

Warren County . . . . . (908) 475-2010

### Northeast New Jersey Legal Services

Bergen County . . . . . (201) 487-2166

Hudson County . . . . . (201) 792-6363

Passaic County . . . . . (973) 523-2900

### South Jersey Legal Services

Atlantic County . . . . . (609) 348-4200

Burlington County . . . . . (609) 261-1088

Camden County—Camden. . . . . (856) 964-2010

Cape May County . . . . . (609) 465-3001

Centralized Intake . . . . . 1-800-496-4570

Cumberland/Salem Counties . . . . . (856) 691-0494

Gloucester County . . . . . (856) 848-5360

Monmouth County . . . . . (732) 414-6750

Ocean County . . . . . (732) 608-7794

## Appendix E: New Jersey Judiciary Ombudsman Contact Information

For updates, Please go to [www.njcourts.gov/public/ombudmdir.html?lang=eng](http://www.njcourts.gov/public/ombudmdir.html?lang=eng)

Location	Telephone	Email address
<b>Atlantic/Cape May</b>	609-402-0100 ext 47230	<i>Atlcapehelp.mailbox@njcourts.gov</i>
<b>Bergen</b>	201-221-0700 ext 25103	<i>BergenHelp.Mailbox@njcourts.gov</i>
<b>Burlington</b>	609-288-9500 ext 38118	<i>BurlingtonHelp.Mailbox@njcourts.gov</i>
<b>Camden</b>	856-379-2238	<i>CamdenHelp.Mailbox@njcourts.gov</i>
<b>Cumberland/ Gloucester/Salem</b>	856-575-5244	<i>CumGloSalHelp.Mailbox@njcourts.gov</i>
<b>Essex</b>	973-776-9300 ext 56886	<i>EssexHelp.Mailbox@njcourts.gov</i>
<b>Hudson</b>	201-748-4400 ext 60145	<i>HudsonHelp.Mailbox@njcourts.gov</i>
<b>Mercer</b>	609-571-4200 ext 74205	<i>MercerHelp.Mailbox@njcourts.gov</i>
<b>Middlesex</b>	732-645-4300 ext 88748	<i>MiddlesexHelp.Mailbox@njcourts.gov</i>
<b>Monmouth</b>	732-677-4595	<i>MonmouthHelp.mailbox@njcourts.gov</i>
<b>Morris/Sussex</b>	973-656-3969	<i>MRS-SSXHelp.Mailbox@njcourts.gov</i>
<b>Ocean</b>	732-929-2063	<i>OceanHelp.Mailbox@njcourts.gov</i>
<b>Passaic</b>	973-247-8651	<i>PassaicHelp.Mailbox@njcourts.gov</i>
<b>Somerset/Hunterdon/ Warren</b>	908-332-7700 ext 13240	<i>SomHunWrnHelp.Mailbox@njcourts.gov</i>
<b>Union</b>	908-787-1650 ext 21028	<i>UnionHelp.Mailbox@njcourts.gov</i>

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