

McKean County Court of Common Pleas
Divorce 23 Pa.C.S.A. §3301(c)
Instructions and Forms

Under Section 3301(c) of the Divorce Code the Court may grant a divorce where it is alleged that the marriage is irretrievably broken and each of the parties consents to the divorce.

These forms are designed to assist you with the divorce process. While the forms will help you meet the legal requirements for obtaining a divorce, they are not intended to be a substitute for the advice and guidance of an attorney. To avoid losing important legal rights you should seek the advice of an attorney before engaging in the legal process on your own.

Our staff is not able to give your legal advice or help you complete these forms. The information in this packet is not a substitute for legal advice. The Court assumes no responsibility and accepts no liability for actions taken by those using these forms. If you want to obtain an attorney, you may call the Pennsylvania Bar Association Lawyer Referral Service at 1-800-692-7375.

CONTENTS:

Instructions

Coversheet – Supreme Court of Pennsylvania (FORM 1)

Local Cover Sheet (FORM 2)

Supplemental Coversheet – McKean County Court of Common Pleas (FORM 3)

Notice to Defend (FORM 4)

Complaint (FORM 5)

Acceptance of Service (FORM 6)

Affidavit of Service (FORM 7)

Plaintiff's Affidavit of Consent (FORM 8)

Plaintiff's Waiver of Notice of Intention to Request Entry of Divorce Decree (FORM 9)

Defendant's Affidavit of Consent (FORM 10)

Defendant's Waiver of Notice of Intention to Request Entry of Divorce Decree (FORM 11)

Affidavit of Non-Military Service (FORM 12)

Praecipe to Transmit Record (FORM 13)

INSTRUCTIONS

- 1.) Coversheet Supreme Court of Pennsylvania (Form 1):
 - a. In Section A, on the line marked "Name of Plaintiff/Plaintiff's Attorney" fill in your name. You are the Plaintiff, your spouse is the Defendant.
 - b. Go to the next page.
- 2.) Local Cover Sheet (Form 2):
 - a. Fill in the Plaintiff's name and the Defendant's name in the top left hand corner.
 - b. At line 3.)fill out your address, telephone number, and email at which you wish to be contacted.
 - c. At line 4.), if you spouse has an attorney fill out the attorney's name and contact information. If you spouse does not have an attorney fill out your spouse's address, phone number, and email.
 - d. Sign the line at the bottom where it asks for a signature.
 - e. Go to the next page.
- 3.) Supplemental Cover Sheet -- McKean County Court of Common Pleas (Form 3)
 - a. Fill in the Plaintiff's name and the Defendant's name in the top left hand corner. You are the Plaintiff, your spouse is the Defendant.
 - b. If you are raising any counts in addition to divorce (i.e. Alimony, Child Custody, Equitable Distribution/Division of Property) then check those items. If you desire child support or spousal support, you must file a Complaint at the Domestic Relations Office.
 - c. Go to the next page.
- 4.) Notice to Defendant and Claim Rights (Form 4)
 - a. Fill in the Plaintiff's name and the Defendant's name in the top left hand corner. You are the Plaintiff, your spouse is the Defendant.
 - b. Go to the next page.
- 5.) Complaint (Form 5)
 - a. Fill in the Plaintiff's name and the Defendant's name in the top left hand corner. You are the Plaintiff, your spouse is the Defendant.
 - b. Fill in the blanks as directed on the page itself.
 - c. On the second page of the Complaint, sign your name on the first signature line in the top right hand corner.
 - d. Under the paragraph "Verification", date the line and sign your name again.
 - e. Under the paragraph "Certificate of Compliance", print your name and sign your name again.
- 6.) Make four (4) copies of Forms 1 through 5.
- 7.) File the original and one (1) copy of Forms 1 through 5 at the Prothonotary's Office. The Office of the Prothonotary is located in the Courthouse at 500 West Main Street, Smethport, Pennsylvania.
- 8.) Serve Forms 1 through 5 on your spouse.
 - a. **Personal Delivery**
 - i. You or another adult may deliver a copy of Forms 1 through 5 and have your spouse date, sign, and return to you an Acceptance of Service (Form 6).
 - ii. Once you receive the completed Acceptance of Service, make a copy for yourself and file the original with the Prothonotary's Office.

- b. **Service by Mail (You must mail two (2) copies).**
 - i. Mail one copy of Forms 1 through 5 to your spouse via regular First Class Mail.
 - ii. Mail a second copy of Forms 1 through 5 to your spouse via certified/registered mail, restricted delivery (to your spouse) return receipt requested.
 - iii. Once you have mailed these copies to your spouse, you must:
 - 1. File the green card with the Defendant's signature showing the mail was accepted **OR**
 - 2. File the Affidavit of Service (Form 7)
- c. ***If you must file the Affidavit of Service (Form 7)***
 - i. Wait at least fifteen (15) days after the date of mailing.
 - ii. Fill in the Plaintiff's name and the Defendant's name in the top left hand corner. You are the Plaintiff, your spouse is the Defendant.
 - iii. Fill in the blanks as directed on the page itself.
 - iv. Sign the document only in front of an authorized Notary Public.
 - v. If the certified/registered mail, restricted delivery was refused or unclaimed, attach it to the Affidavit of Service.
 - vi. Once you have completed the Affidavit of Service (Form 7) make a copy for yourself and file the original with the Prothonotary's Office.
- 9.) After ninety (90) days have passed from filing Forms 1 through 5 **and** ninety (90) days after serving a copy of Forms 1 through 5 on your spouse, you and your spouse must fill out Affidavits of Consent and Waivers and Notice (Forms 8,9, 10, and 11).
- 10.) Plaintiff's Affidavit of Consent (FORM 8):
 - a. Fill in the Plaintiff's name and the Defendant's name in the top left hand corner. You are the Plaintiff, your spouse is the Defendant.
 - b. Fill in the blanks as directed on the page itself.
 - c. Sign and date the form
 - d. **YOU MUST FILE THIS FORM WITHIN THIRTY (30) DAYS AFTER SIGNING.**
- 11.) Plaintiff's Waiver of Notice of Intention to Request Entry of Divorce Decree (FORM 9):
 - a. Fill in the Plaintiff's name and the Defendant's name in the top left hand corner. You are the Plaintiff, your spouse is the Defendant.
 - b. Fill in the blanks as directed on the page itself.
 - c. Sign and date the form.
- 12.) Defendant's Affidavit of Consent (FORM 10):
 - a. Fill in the Plaintiff's name and the Defendant's name in the top left hand corner. You are the Plaintiff, your spouse is the Defendant.
 - b. Your spouse should fill in the blanks as directed on the page itself.
 - c. Your spouse should sign and date the form.
 - d. **YOU MUST FILE THIS FORM WITHIN THIRTY (30) DAYS AFTER YOUR SPOUSE HAS SIGNED IT.**
- 13.) Defendant's Waiver of Notice of Intention to Request Entry of Divorce Decree (FORM 11)
 - a. Fill in the Plaintiff's name and the Defendant's name in the top left hand corner.

- You are the Plaintiff, your spouse is the Defendant.
- b. Your spouse should fill in the blanks as directed on the page itself.
 - c. Your spouse should sign and date the form.
- 14.) Affidavit of Non-Military Service:
- a. Fill in the Plaintiff's name and the Defendant's name in the top left hand corner.
You are the Plaintiff, your spouse is the Defendant.
 - b. Fill in the blanks as directed on the page itself.
 - c. Sign only in the presence of an authorized Notary Public.
- 15.) Praecipe to Transmit Record (Form 13)
- a. Fill in the Plaintiff's name and the Defendant's name in the top left hand corner.
You are the Plaintiff, your spouse is the Defendant.
 - b. Fill in the blanks as directed on the page itself.
 - c. Sign on the line in the bottom left hand corner.
- 16.) Make a copy of Forms 8 through 13.
- 17.) Keep a copy for yourself.
- 18.) File the originals of Forms 8 through 13 at the Prothonotary's Office. **YOU MUST FILED FORMS 8 AND 10 WITHIN 30 DAYS OF SIGNING. YOUR DIVORCE CANNOT BE GRANTED UNLESS OR UNTIL YOU FILE A PRAECIPE TO TRANSMIT RECORD (FORM 13).**
- 19.) You must pay any trial deposit ordered in your case before your divorce can be granted.
- 20.) The Prothonotary's Offices may have filing fees associated with the items you wish to file. If you cannot afford filing fees, you may purchase and *in forma pauperis (IFP)* packet to ask the Court to waive your fees.

Supreme Court of Pennsylvania

Court of Common Pleas
Civil Cover Sheet



County _____

For Prothonotary Use Only:	TIME STAMP
Docket No: _____	

The information collected on this form is used solely for court administration purposes. This form does not supplement or replace the filing and service of pleadings or other papers as required by law or rules of court.

SECTION A

Commencement of Action:	
<input checked="" type="checkbox"/> Complaint	<input type="checkbox"/> Writ of Summons
<input type="checkbox"/> Transfer from Another Jurisdiction	<input type="checkbox"/> Petition
	<input type="checkbox"/> Declaration of Taking
Lead Plaintiff's Name: _____	Lead Defendant's Name: _____
Are money damages requested? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Dollar Amount Requested: <input type="checkbox"/> within arbitration limits (check one) <input type="checkbox"/> outside arbitration limits
Is this a <i>Class Action Suit</i> ? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Is this an <i>MDJ Appeal</i> ? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Name of Plaintiff/Appellant's Attorney: _____	
<input type="checkbox"/> Check here if you have no attorney (are a Self-Represented [Pro Se] Litigant)	

SECTION B

Nature of the Case: Place an "X" to the left of the ONE case category that most accurately describes your **PRIMARY CASE**. If you are making more than one type of claim, check the one that you consider most important.

TORT (do not include Mass Tort)

Intentional

Malicious Prosecution

Motor Vehicle

Nuisance

Premises Liability

Product Liability (does not include mass tort)

Slander/Libel/ Defamation

Other: _____

CONTRACT (do not include Judgments)

Buyer Plaintiff

Debt Collection: Credit Card

Debt Collection: Other _____

Employment Dispute: Discrimination

Employment Dispute: Other _____

Other: _____

CIVIL APPEALS

Administrative Agencies

Board of Assessment

Board of Elections

Dept. of Transportation

Statutory Appeal: Other _____

Zoning Board

Other: _____

MASS TORT

Asbestos

Tobacco

Toxic Tort - DES

Toxic Tort - Implant

Toxic Waste

Other: _____

REAL PROPERTY

Ejectment

Eminent Domain/Condemnation

Ground Rent

Landlord/Tenant Dispute

Mortgage Foreclosure: Residential

Mortgage Foreclosure: Commercial

Partition

Quiet Title

Other: _____

MISCELLANEOUS

Common Law/Statutory Arbitration

Declaratory Judgment

Mandamus

Non-Domestic Relations Restraining Order

Quo Warranto

Replevin

Other: Divorce _____

PROFESSIONAL LIABILITY

Dental

Legal

Medical

Other Professional: _____

Plaintiff
vs.

Defendant

IN THE COURT OF COMMON PLEAS
OF McKEAN COUNTY, PENNSYLVANIA
CIVIL DIVISION
NO. C.D. 20__

LOCAL COVER SHEET

Dated: _____, 20__

1. Type of Pleading _____ Complaint in Divorce _____

2. By whom filed: Plaintiff ___ Defendant ___ Are monetary damages requested? ___ Yes No
Jury trial demanded ___ Yes No Complex* ___ Yes No To be listed for Arbitration? ___ Yes
 No *Note: A civil action is to be listed for Arbitration unless (1) the amount in controversy exceeds \$50,000 exclusive of interest and costs or (2) the case involves title to real property. * For definition: See Note following L205.2(b)(2).*

3. The plaintiff appears *pro se*:
Address _____
Telephone number _____ Email _____

4. The defendant(s) is (are) represented by (attach a separate sheet of paper, if necessary):
Attorney _____ Email _____
Firm _____
Address _____
Tel. # _____ Fax # _____ Supreme Court ID No. _____

The defendant(s) appear(s) *pro se* (attach a separate sheet of paper, if necessary):
Address _____
Telephone number _____ Email _____

5. Name of the assigned Judge: Christopher G. Hauser

6. This action was commenced by:
___ filing a writ of summons on _____ filing a complaint on _____
___ filing on _____ a notice of appeal from a judgment of the Magisterial District Judge
___ filing a notice of appeal from a decision of a Board of Arbitration on _____

7. Case* type, from Initial Cover Sheet including supplement: Other: Divorce
**If case includes real property, the address and tax assessment number are required.*
Address _____ Tax assessment no. (Map No.) _____

Filer/ Plaintiff (Signature)

Plaintiff

vs.

Defendant

**IN THE COURT OF COMMON PLEAS
OF McKEAN COUNTY, PENNSYLVANIA**

CIVIL DIVISION

NO. C.D. 20__

**McKEAN COUNTY COURT OF COMMON PLEAS
SUPPLEMENT TO Pa.R.C.P. No. 205.5 COVER SHEET**

FAMILY LAW

- Annulment
- Child Custody/Visitation
- Divorce
- Paternity

Divorce Counts

Check all that apply

- Alimony
- Alimony *pendente lite*, counsel fees & costs
- Child Custody/Visitation
- Equitable Distribution/Property Rights/Division of Property
- Other: _____

ORPHAN'S COURT

- Adoption
- Wills
- Administration of Estates
- Accounts
- Trust Estates
- Minors
- Incapacitated Persons
- Auditors & Masters
- Official Examiners
- Absentees & Presumed Decedents
- Real Property Transactions
- Non-Profit Corporations
- Other: _____

Nature of the Case

Divorce Complaint

Note: Be brief and concise. Type or print legibly.

Plaintiff,

vs.

Defendant.

**IN THE COURT OF COMMON PLEAS
OF McKEAN COUNTY, PENNSYLVANIA
CIVIL DIVISION**

NO. _____ C.D. _____

NOTICE TO DEFEND AND CLAIM RIGHTS

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

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

Prothonotary's Office
McKean County Courthouse
500 West Main Street
Smethport, Pennsylvania
(814) 887-3270

IF YOU DO NOT FILE A CLAIM FOR ALIMONY, A DIVISION OF PROPERTY, LAWYERS' FEES OR EXPENSES BEFORE A DIVORCE OR ANNULMENT IS GRANTED YOU MAY FOREVER LOSE THE RIGHT TO CLAIM ANY OF THEM.

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER OR CANNOT AFFORD ONE, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW TO FIND OUT WHERE YOU CAN GET LEGAL HELP.

Prothonotary's Office
McKean County Courthouse
500 West Main Street
Smethport, Pennsylvania
(814) 887-3270

Plaintiff,
vs.

Defendant.

IN THE COURT OF COMMON PLEAS
OF McKEAN COUNTY, PENNSYLVANIA
CIVIL DIVISION
NO. ____ C.D. ____

COMPLAINT UNDER SECTION 3301(C) OF THE DIVORCE CODE

1. Plaintiff _____ (name), who currently resides at _____ (address), _____ County, _____ (city), Pennsylvania, since _____ (date).
2. Defendant is _____ (name), who currently resides at _____ (address), _____ County, _____ (city), Pennsylvania, since _____ (date).
3. Plaintiff and/or Defendant (circle those that apply) has/have been (a) *bona fide* resident(s) in the Commonwealth of Pennsylvania for at least six (6) months immediately previous to the filing of this complaint.
4. The plaintiff and defendant were married on _____ (date) at _____ (city), _____ County in the State of _____.
5. There have been no prior actions of divorce or annulment between the parties except _____ (list any previous divorce/annulment cases).
6. The marriage is irretrievably broken.
7. Plaintiff has been advised that counseling is available and that plaintiff may have the right to request that the court require the parties to participate in counseling.
8. Plaintiff requests the court to enter a decree of divorce.

Plaintiff

VERIFICATION

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

Date

Plaintiff

CERTIFICATE OF COMPLIANCE

I certify that this filing complies with the provisions of the *Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts* that require filing confidential information and documents differently than non-confidential information and documents.

Printed Name

Signature
FORM 5

Plaintiff,

vs.

Defendant.

**IN THE COURT OF COMMON PLEAS
OF McKEAN COUNTY, PENNSYLVANIA
CIVIL DIVISION**

NO. _____ C.D. _____

ACCEPTANCE OF SERVICE

I accept service of the Complaint in Divorce. I certify that I am authorized to accept service on behalf of the Defendant.

_____ Date

_____ Defendant

_____ Mailing Address

Plaintiff,

vs.

Defendant.

**IN THE COURT OF COMMON PLEAS
OF McKEAN COUNTY, PENNSYLVANIA
CIVIL DIVISION**

NO. ____ C.D. ____

AFFIDAVIT OF SERVICE

_____ (*plaintiff*), being duly sworn according to law deposes and states that (s)he served a true and correct copy of the Divorce Complaint in this matter by certified/registered mail, return receipt requested, restricted delivery to addressee only and also by regular mail at _____ (*address*), on _____ (*date of mailing*). The regular mail has not been returned within fifteen (15) days after mailing. Attached to this affidavit is the returned letter with the notation that the defendant refused to accept delivery.¹

Plaintiff

Sworn and subscribed before me this ____ day of _____ (month) _____ (year).

Notary Public

¹ Under Rule 1930.4(h)(4) of the Pennsylvania Rules of Civil Procedure, proof of service by mail is satisfied where the plaintiff files with the Court the return receipt is signed by the defendant. When the defendant signs the return receipt, and acceptance is not refused, plaintiff need not submit this affidavit. Only when the defendant refuses to accept mail service must this sworn affidavit be submitted along with the returned letter.

Plaintiff

vs.

Defendant

IN THE COURT OF COMMON PLEAS OF

McKEAN COUNTY, PENNSYLVANIA

CIVIL DIVISION

NO. ____ C.D. ____

PLAINTIFF'S AFFIDAVIT OF CONSENT

1. A complaint in divorce under §3301(c) of the Divorce Code was filed on _____ (date).
2. The marriage of the plaintiff and defendant is irretrievably broken and ninety days have elapsed from the date of filing and service of the complaint.
3. I consent to the entry of a final decree of divorce after service of notice of intention to request entry of the decree.

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

Date

Plaintiff

**(File this page within 30 days
of date written here.)**

Plaintiff
vs.

Defendant

IN THE COURT OF COMMON PLEAS OF
McKEAN COUNTY, PENNSYLVANIA
CIVIL DIVISION
NO. ____ C.D. ____

**PLAINTIFF'S WAIVER OF NOTICE OF INTENTION
TO REQUEST ENTRY OF DIVORCE DECREE**

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

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

Date

Plaintiff

Plaintiff

vs.

Defendant

IN THE COURT OF COMMON PLEAS OF

McKEAN COUNTY, PENNSYLVANIA

CIVIL DIVISION

NO. _____ C.D. _____

DEFENDANT'S AFFIDAVIT OF CONSENT

1. A complaint in divorce under §3301(c) of the Divorce Code was filed on _____ (date).

2. The marriage of the plaintiff and defendant is irretrievably broken and ninety days have elapsed from the date of filing and service of the complaint.

3. I consent to the entry of a final decree of divorce after service of notice of intention to request entry of the decree.

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

_____ Date

_____ Defendant

(File this page within 30 days of date written here.)

Plaintiff

vs.

Defendant

IN THE COURT OF COMMON PLEAS OF
McKEAN COUNTY, PENNSYLVANIA
CIVIL DIVISION
NO. _____ C.D. _____

**DEFENDANT'S WAIVER OF NOTICE OF INTENTION
TO REQUEST ENTRY OF DIVORCE DECREE**

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

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

Date

Defendant

Plaintiff,

vs.

Defendant.

**IN THE COURT OF COMMON PLEAS
OF McKEAN COUNTY, PENNSYLVANIA
CIVIL DIVISION**

NO. _____ C.D. _____

AFFIDAVIT OF NON-MILITARY SERVICE

_____ (*plaintiff*), being duly sworn according to law deposes and states that (s)he is the plaintiff in this action and that (s)he knows of his/her own personal knowledge, and therefore avers, that defendant _____ (*defendant*), is not in the military service of the United States or its allies, or otherwise subject to the provisions of the Soldiers and Sailors Civil Relief Act of 1940, 50 U.S.C. §501 *et seq.*

Plaintiff

Sworn and subscribed before me this _____ day of _____ (month) _____ (year).

Notary Public

IN THE COURT OF COMMON PLEAS OF

McKEAN COUNTY, PENNSYLVANIA

CIVIL DIVISION

NO. _____ CD _____

Plaintiff

vs.

Defendant

PRAECIPE TO TRANSMIT RECORD

1. Ground for divorce: Mutual Consent (90 day divorce)
2. Date and manner of service of the Complaint: _____
3. Related claims pending: _____
4. Date parties signed and date parties filed Affidavits of Consent:
Signed: _____ Filed: _____
a. Plaintiff: _____;
b. Defendant: _____;
5. Date parties filed Waiver of Notice of Intention to Request Entry of Divorce Decree.
a. Plaintiff: _____
b. Defendant: _____
6. The following have been filed with the Prothonotary or are being filed with this Praecipe to Transmit Record:
7.
 - a. Copy of Notice to Defend and Complaint;
 - b. Proof of service of the items listed in 8(a);
 - c. Affidavits of Consent of Plaintiff and Defendant;
 - d. Waivers of Notice of Plaintiff and Defendant.
8. At least 90 days have passed since service and filing of the Complaint.

Plaintiff