

McKean County Court of Common Pleas

Divorce 23 Pa.C.S.A. §3301(d)

Instructions and Forms

Under Section 3301(d) of the Divorce Code the Court may grant a divorce where it is alleged that the marriage is irretrievably broken and the parties have lived separate and apart for the required amount of time.

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.

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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 your 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.
 - f. Go to the next page.
- 6.) Affidavit Under Section 3301(d) of the Divorce Code (Form 6)
 - 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. Date and Sign on the lines at the bottom of the page.
 - d. Under the paragraph "Certificate of Compliance", print your name and sign your name again.
 - e. Go to the next page.
- 7.) Counter-Affidavit Under Section 3301(d) of the Divorce Code (Form 7)
 - 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. Leave the rest of this form blank. Your spouse should fill out the rest of this form.
- 8.) Make four (4) copies of Forms 1 through 7.
- 9.) File the original and one (1) copy of Forms 1 through 7 at the Prothonotary's Office. The Office of the Prothonotary is located in the Courthouse at 500 West Main Street, Smethport, Pennsylvania.
- 10.) Serve Forms 1 through 7 on your spouse. You can make personal service or service by mail.
 - a. **Personal Delivery**
 - i. You or another adult may deliver a copy of Forms 1 through 7 and have your spouse date, sign, and return to you an Acceptance of Service (Form 8).
 - 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 7 to your spouse via regular First Class Mail.
 - ii. Mail a second copy of Forms 1 through 7 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 9)
 - c. ***If you must file the Affidavit of Service (Form 9)***
 - 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 9) make a copy for yourself and file the original with the Prothonotary's Office.
- 11.) After twenty (20) days have passed from serving Forms 1 through 7 on your spouse, review your file at the Prothonotary's Office to see if your spouse has filed his/her Counter-Affidavit Under Section 3301(d):
 - a. If your spouse has **NOT** filed the Counter-Affidavit Under Section 3301(d) of the Divorce Code (FORM 7), you must complete steps 10 through 26.
 - b. If your spouse has filed a Counter-Affidavit Under Section 3301(d) of the Divorce Code (FORM 7) and **DOES NOT** oppose a divorce and **DOES NOT** make any claims for economic relief skip to step 20.
 - c. If your spouse has filed a Counter-Affidavit Under Section 3301(d) of the Divorce Code (FORM 7) and opposes the entry of a divorce decree or raises claims for economic relief, your case will be scheduled before the Family Law Office. You cannot continue with this packet.

IF YOUR SPOUSE HAS NOT FILED THE COUNTER-AFFIDAVIT Under Section 3301(d) of the Divorce Code (FORM 7)

- 12.) Notice of Intention to Request Entry of §3301(d) Divorce Decree (FORM 10)
 - a. Fill in the Plaintiff's name and the Defendant's name in the top left and corner.
You are the Plaintiff, your spouse is the Defendant.
 - b. Fill in the blanks as directed on the page itself.
 - c. Go to the next page.
- 13.) Counter-Affidavit Under Section 3301(d) of the Divorce Code – Second Service (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. Leave the rest of this form blank. Your spouse should fill out the rest of this form.
- 14.) Make a copy of the completed Notice of Intention to Request Entry of §3301(d) Divorce Decree (FORM 10) and the Counter-Affidavit Under Section 3301(d) of the Divorce Code – Second Service (FORM 11).
- 15.) File the originals of Notice of Intention to Request Entry of §3301(d) Divorce Decree (FORM 10) and the Counter-Affidavit Under Section 3301(d) of the Divorce Code – Second Service (FORM 11) and keep a copy for yourself.
- 16.) Serve From 10 and 11 on your spouse.
- 17.) You can make personal service or service by mail.
 - a. **Personal Delivery**
 - i. You or another adult may deliver a copy of Forms 10 and 11 and have your spouse date, sign, and return to you an Acceptance of Service (Form 12).
 - 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 10 and 11 to your spouse via regular First Class Mail.
 - ii. Mail a second copy of Forms 10 and 11 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 – Second Service (Form 13)
 - c. ***If you must file the Affidavit of Service – Second Service (Form 13)***
 - 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 – Second Service (Form 13) make a copy for yourself and file the original with the

Prothonotary's Office.

- 18.) After twenty (20) days have passed from serving Forms 10 and 11 on your spouse, review your file at the Prothonotary's Office to see if your spouse has filed his/her Counter-Affidavit Under Section 3301(d).
- 19.) If your spouse has still not filed a Counter-Affidavit Under Section 3301(d) go to the next step. If your spouse has filed a counter-affidavit and DOES NOT oppose a divorce or raise claims for economic relief, go to the next step. If your spouse has filed a counter-affidavit and either opposes a divorce or has raised claims for economic relief, your case will be scheduled before the Family Law Office and you cannot continue with this packet.
- 20.) Affidavit of Non-Military Service (Form 14):
 - 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.
- 21.) Praecipe to Transmit Record (Form 15)
 - 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.
- 22.) Make a copy of Forms 14 and 15.
- 23.) Keep a copy for yourself.
- 24.) File the originals of Forms 14 and 15 at the Prothonotary's Office. **YOUR DIVORCE CANNOT BE GRANTED UNLESS OR UNTIL YOU FILE A PRAECIPE TO TRANSMIT RECORD FORM 15.**
- 25.) You must pay any trial deposit ordered in your case before your divorce can be granted.
- 26.) 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:

Docket No: _____

TIME STAMP

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:

- ☒ Complaint ☐ Writ of Summons ☐ Petition
☐ Transfer from Another Jurisdiction ☐ Declaration of Taking

Lead Plaintiff's Name: _____

Lead Defendant's Name: _____

Are money damages requested? ☐ Yes ☒ No

Dollar Amount Requested: ☐ within arbitration limits
(check one) ☐ outside arbitration limits

Is this a *Class Action Suit*? ☐ Yes ☒ No

Is this an *MDJ Appeal*? ☐ Yes ☒ No

Name of Plaintiff/Appellant's Attorney: _____

☐ 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: _____

Updated 1/1/2011

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.

FORM 3

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(D) 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.

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

_____,
Defendant.

NO. ____ C.D. ____

NOTICE

If you wish to deny any of the statements set forth in this affidavit, then you must file a counter-affidavit within twenty (20) days after this affidavit has been served upon you or the statements will be admitted.

AFFIDAVIT UNDER SECTION 3301(D) OF THE DIVORCE CODE

1. The parties to this action separated on _____ (*date of separation*) and have continued to live separate and apart for a period of at least: two (2) years if separation began on or before December 5, 2016 or one (1) year if separation began on or after December 6, 2016.
2. The marriage is irretrievably broken.
3. I understand that I may lose my rights concerning alimony, division of property, lawyer's fees or expenses if I do not claim them and a divorce is granted.

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

_____,
Plaintiff,

vs.

_____,
Defendant.

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

NO. ____ C.D. ____

COUNTER-AFFIDAVIT UNDER SECTION 3301(d) OF THE DIVORCE CODE

1. Check either (a) or (b):

a. ____ I do not oppose the entry of a divorce decree.

b. ____ I oppose the entry of a divorce decree because:
Check (i), (ii), or both:

i. ____ The parties to this action have not lived separated and apart for at least: two (2) years if separation began on or before December 5, 2016 or one (1) year if separation began on or after December 6, 2016.

ii. ____ The marriage is not irretrievably broken.

2. Check either (a) or (b):

a. ____ I do not wish to make any claims for economic relief. 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.

b. ____ I wish to claim economic relief, which may include alimony, division of property, lawyer's fees or expenses, or other important rights.

I understand that in addition to checking (b) above, I must also file all of my economic claims with the prothonotary in writing and serve them on the other party. If I fail to do so before the date set forth on the Notice of Intention to Request Divorce Decree, the divorce decree may be entered without further notice to me, and I shall be unable thereafter to file any economic claims.

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

Defendant

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

Once completed, this form should be filed at the Prothonotary's Office, McKean County Courthouse, 500 West Main Street, Smethport, Pennsylvania. A copy should be retained for your records and another copy should be sent to your spouse.

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, Affidavit, and Counter-Affidavit. 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, Affidavit and Counter-Affidavit 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. ____

NOTICE OF INTENTION TO REQUEST ENTRY OF §3301(d) DIVORCE DECREE

TO: _____ (Defendant)

You have been sued in action for divorce. You have failed to answer the complaint or file a counter-affidavit to the plaintiff's affidavit. Therefore, on or after _____ (date *20 days after mailing this notice*), the plaintiff can request the Court to enter a final decree in divorce.

If you do not file with the Prothonotary's Office an answer with your signature and verification or notarization or a counter-affidavit by the above date or the Court may grant the divorce and you will forever lose the right to ask for economic relief. The filing of the enclosed form counter-affidavit alone does not protect your economic claims.

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. _____

COUNTER-AFFIDAVIT UNDER SECTION 3301(d) OF THE DIVORCE CODE
Second Service

1. Check either (a) or (b):

a. _____ I do not oppose the entry of a divorce decree.

b. _____ I oppose the entry of a divorce decree because:

Check (i), (ii), or both:

i. _____ The parties to this action have not lived separated and apart for at least: two (2) years if separation began on or before December 5, 2016 or one (1) year if separation began on or after December 6, 2016.

ii. _____ The marriage is not irretrievably broken.

2. Check either (a) or (b):

a. _____ I do not wish to make any claims for economic relief. 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.

b. _____ I wish to claim economic relief, which may include alimony, division of property, lawyer's fees or expenses, or other important rights.

I understand that in addition to checking (b) above, I must also file all of my economic claims with the prothonotary in writing and serve them on the other party. If I fail to do so before the date set forth on the Notice of Intention to Request Divorce Decree, the divorce decree may be entered without further notice to me, and I shall be unable thereafter to file any economic claims.

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

Defendant

Once completed, this form should be filed at the Prothonotary's Office, McKean County Courthouse, 500 West Main Street, Smethport, Pennsylvania. A copy should be retained for your records and another copy should be sent to your spouse.

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

Plaintiff,

vs.

Defendant.

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

NO. _____ C.D. _____

ACCEPTANCE OF SERVICE – Second Service

I accept service of the Notice of Intention to Request Entry of a Section 3301(d) Divorce Decree of the Divorce Code and Counter Affidavit Under Section 3301(d). I certify that I am authorized to accept service on behalf of the Defendant.

Date

Defendant

Mailing Address

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

Plaintiff,

vs.

Defendant.

NO. ____ C.D. ____

AFFIDAVIT OF SERVICE – Second Service

(*plaintiff*), being duly sworn according to law deposes and states that (s)he served a true and correct copy of the Notice of Intention to Request Entry of a Section 3301(d) Divorce Decree of the Divorce Code and Counter Affidavit Under Section 3301(d) filed 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. ____

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

Plaintiff,

vs.

Defendant.

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

NO. ____ C.D. ____

PRAECIPE TO TRANSMIT RECORD

1. Ground for divorce: Irretrievable breakdown (1 or 2 year divorce)
2. Date and manner of service of the Complaint: _____
3. Are any related claims pending? __ Yes __ No
 - a. If yes, please explain what claims are pending (*i.e. property division, alimony, etc.*): _____
4. Date Plaintiff signed the Affidavit Under Section 3301(d) of the Divorce Code (FORM 6): _____
_____. Date delivered to Defendant: _____
5. Date and manner of service of the Notice of Intention to Request Entry of §3301(d) Divorce Decree _____
6. The following have been filed with the Prothonotary or are being filed with this Praecipe to Transmit Record: *circle all that apply*
 - a. Copy of Notice to Defend, Complaint, Affidavit, and Counter-Affidavit;
 - b. Proof of service of the Notice to Defend, Complaint, Affidavit, and Counter-Affidavit;
 - c. Copy of the Notice of Intention to Request and Counter-Affidavit (if necessary)
 - d. Proof of service of the Notice of Intention to Request and Counter-Affidavit (if necessary).

Plaintiff