

INSTRUCTIONS & CHECKLIST PACKET “F” -- RESPONSE DISSOLUTION WITH CHILDREN

NOTE: If an Order of Protection has been issued by the Justice Court or Municipal Court, see Pro Se Packet K for instructions on how to transfer the Order of Protection to District Court.

I. THE DIVORCE (“Dissolution”) PROCESS ---- RESPONDING:

There are LOTS of forms that will need to be completed. Take it step-by-step-- in order -- and it should make it easier for you. On the top half of the first page of every court document there is a “**heading**” which identifies the party completing the form and a “**caption**” which sets out the case description. Fill out the heading and caption on every form.

You, as the “**Respondent,**” have been served with divorce papers. You have a couple of options:

- Respond within 20 days** - by filling out the enclosed documents, sending copies to your spouse, and filing the original documents with the Clerk of Court. By responding, you will have the opportunity to present your proposals for property division, child custody and support issues to the Court.
- Do nothing. If you agree with what your spouse has stated and requested in the Complaint and you do not wish to object or respond, the dissolution will be granted by default. **[IF YOU DO NOTHING, YOUR SPOUSE MAY BE AWARDED ALL THAT HE/SHE REQUESTED.]** After a default hearing is over, you will be served with a copy of the Final Decree.

STEP 1. -- Accepting Service.

- Form #70 Included with the papers served upon you is Form 70 - Notice and Acknowledgment of Receipt of Summons and Petition. Fill out this form. Complete page 3 and sign before a notary public to verify that you received the documents.

If you fail to sign and return this form to your spouse, the Sheriff will need to deliver the same papers to you. You may be required to pay the Sheriff’s costs for this service. Once you have signed and returned this form, you must file your response in 20 days or a default will be entered against you.

STEP 2. – Filling Out The Forms.

Note: You might want to use a pen with **blue ink** so you always know which are the originals and which are copies. Also, put N/A (“not applicable”) in any spaces that don’t apply to your situation.

- Form #90 Each row corresponds with a paragraph in the Petition that was filed by your spouse. Fill in every row stating whether you agree or disagree. If you disagree, give your reason. Sign page 3 and 4 in front of a notary public. *** Notaries can be found at the Clerk of Court or at banks, law offices, etc.
- Form #91 Fill in every section. Sign on pages 10 & 11 in front of a notary public. If you need assistance developing a parenting plan, consult with the Court Judicial District Parenting Guidelines, Rule 12(f), which can be found via internet at <http://www.montanacourts.org/dcourt/rules/local/4th.pdf>.
- Form #92a Complete. Sign on page 6 in front of a notary public.
- Form #92b Complete and sign.

STEP 3. -- Making Copies.

- Make 2 copies of Forms 70, 90, 91, 92a and 92b. One copy will be for your own personal records. The others, except for #92a, you will need for the following steps.

STEP 4. -- Filing Response With Clerk of Court.

- Bring the originals and two copies of every form filled out in Step 2 to the Clerk of District Court's Office for filing. Do not file #92a.
- \$70.00 Fee -- cash/money order/personal check (subject to change). If you cannot afford the fee, ask the Clerk for the form "Affidavit of Financial Indigence." If the Judge decides you cannot afford to pay the filing fee, your fees may be waived in whole or in part.
- The Clerk will file stamp all your documents (copies and originals). The Clerk will keep the originals and give you the copies. One set is to be retained by you. One copy is for service upon your spouse.
- The Summons you received contains an Order to attend mandatory parenting plan orientation. Parenting Plan Orientation is a 90-minute program that provides an overview of community resources available to assist parents and children through the process of separation and divorce.

STEP 5. -- Serving the Other Party.

You now need to serve the copies of documents you have prepared on your spouse. Mail or personally deliver the documents to your spouse. **NOTE: If there is a TOP or Order of Protection that prohibits you from contacting your spouse, service of these documents must only be done by mail. You must not personally deliver these documents to your spouse.**

II. CHILD SUPPORT:

- Your spouse has filled out the required paperwork for the Child Support Enforcement Division ["CSED"]. You may be contacted by CSED if they require more information.

III. SETTLEMENT OF PROPERTY

STEP 6. - Can you agree??

- Form #93 If you and your spouse can agree on the division of property, work together completing this form. (Spouse also has the same form labeled 76. Either form can be used) Both parties need to sign page 7 in front of a notary public. Make 2 copies and file original with the Court.
- If you have reached agreement with your spouse and filed either Form 76 or Form #93 (Settlement Agreement) then you must file Form 83a along with 82, 80, and 96.
- Form #95a Complete and sign before a notary public. Mail copy to spouse.
- Form #95b Complete & sign before a notary public. Mail copy to spouse.
File #95b with the Clerk of Court. Do not file #95a.

STEP 7. -- If you don't agree . . .

- Form #93 If you cannot agree on the division of property, complete this form stating how you want the property divided, and send a copy to your spouse stating this is your proposal for dividing the property. Do not file a copy with the Court unless your spouse agrees and signs
- Form #94 If you cannot thereafter come to an agreement, complete this form and request a hearing be set for the Court to decide the issues.
- If you have filed Form #94 (also numbered as Form 77A in Petitioner's packet) you should receive notice from the court of the next step in your case.

- Form #95a Complete and sign before a notary public. Mail copy to spouse.
- Form #95b Complete & sign before a notary public. Mail copy to spouse.
File #95b with the Clerk of Court. Do not file #95a.

IV. HEARING ON CONTESTED ISSUES:

If a hearing was requested and the Court has set a date for a hearing on the contested issues, please read the following:

You have chosen to represent yourself. Arrive at the courthouse early. While divorce can be very difficult and emotional, the Court expects the parties to be civil and remain focused on the legal issues.

STEP 8. -- Court Hearing - on Contested Issues.

Be prepared to be sworn in, take the witness stand, present evidence to the Court and discuss your position.

V. HEARING ON FINAL DECREE:

STEP 9. -- Court Hearing - Final Decree - Non-contested.

You have reached an agreement with your spouse and he/she has signed the Marital and Property Settlement Agreement and he/she consented to the entry of the final decree (Document #76 or 93, page 7). Both parties can attend the hearing on the final decree, but it is NOT NECESSARY. Only one party must attend. If you decide you will attend the hearing, you should be prepared to be sworn in, sit in the witness stand, and answer any questions asked of you by the other party or the Judge.

- Form #96 If you do not want to attend the hearing on the Final Decree, complete and sign Form 96 in front of a notary public. Make 2 copies. File original with the Clerk of Court. Mail or deliver one copy to your spouse. You will be sent a Notice of Entry of Final Decree once the hearing is held.

STEP 10. -- Court Hearing - Final Decree - Contested.

By this time, a hearing has been held on the contested issues, and the Court has made a decision. The last step remaining is a hearing for the judge's approval of the final decree. In order to schedule the final hearing, the court must receive Forms 83A, 82 and 80. Both parties can attend the hearing on the final decree, but it is NOT NECESSARY. If you decide you will attend the hearing, you should be prepared to be sworn in, take the witness stand, and answer any questions asked of you by the opposing party or the Judge.

- Form #96 If you do not want to attend the hearing on the Final Decree, complete and sign Form 96 in front of a notary public. Make 2 copies. File original with the Clerk of Court. Mail or deliver one copy to your spouse.
- Form #81 (Notice of Entry of Decree) File this form if you are the prevailing party, to start the 30-day period for appeal by either party. A filing fee of \$45 (subject to change) must be paid to the Clerk of Court before the final decree is filed by the clerk. This fee is waived if the judge approved your Affidavit of Inability to Pay at the beginning of your case. File the original with the Clerk of Court, send a copy to your spouse.