

McKEAN COUNTY COURT OF COMMON PLEAS

DIVORCE: 23 Pa.C.S. § 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 reduce your risk of losing important legal rights, you should consider seeking the advice of an attorney before engaging in the legal process on your own.

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

INSTRUCTIONS

1. Fill in the caption on the Notice to Defend. You are the plaintiff and your spouse is the defendant. The Prothonotary will assign a number to your case when you file the Complaint. Make 4 copies of the Notice to Defend.
2. Fill in blanks on the Complaint, sign it and sign and date the Verification. Make 4 copies of the Complaint.

If you want to raise other issues such as custody or alimony, you must add a separate count for each issue. For example, if you are seeking custody of your children in addition to the divorce, you would write "Count II Custody" in the blank space following number 8 on the Complaint. You would then state your children's names and ages. You may raise 1) equitable distribution, 2) custody, 3) child support, 4) spousal support, 5) alimony, 6) alimony *pendente lite* and 7) counsel fees and costs. There is a charge for each count you raise in the Complaint.

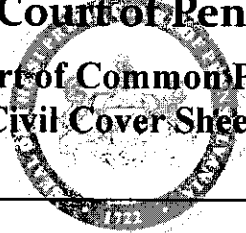
3. File the original and one copy of the Notice to Defend and Complaint with the Prothonotary. You should still have 3 copies of each the Notice to Defend and the Complaint.
4. You may deliver 1 copy of the Notice to Defend and Complaint to the defendant and have him or her sign the Acceptance of Service. If you do not wish to deliver these to the defendant yourself, follow numbers 5 and 6 below.
5. Mail 2 copies of the Notice to Defend and Complaint to the defendant, one set by certified/registered mail, restricted delivery to your spouse, return receipt requested, and one set by regular mail. Keep one copy for yourself.
6. To prove defendant received a copy of the Notice to Defend and the Complaint, you must file with the Prothonotary either:
 - a. The green card with Defendant's signature showing the mail was accepted, or
 - b. The returned letter with a notation that Defendant refused to accept delivery of the certified/registered mail. You **must** also file the Affidavit of Service. Do not sign the Affidavit of Service until 15 days have passed since you sent the regular mail and the regular mail has not been returned. You **must** sign the Affidavit of Service in front of a notary, and have it notarized. Please note you only need to file the returned letter and Affidavit of Service if you **don't** have a green card with the defendant's signature on it.
7. After 90 days have passed from filing **and** service of the Complaint, whichever date is later, both the plaintiff and the defendant may fill out the Waivers of Notice and Affidavits of Consent. **Do not sign the Affidavits of Consent until at least 90 days**

have passed from when the Complaint was filed in the Prothonotary's office and when it was served on the defendant.

8. Fill out the Praecipe to Transmit Record and pay any required trial deposit.
9. File with the Prothonotary:
 - (1) Praecipe to Transmit Record
 - (2) Proof of Service (Green Card or the Returned Letter and Notarized Affidavit)
 - (3) Affidavits of Consent of the plaintiff **and** the defendant. Each Affidavit of Consent must be filed within 30 days of when it was signed.
 - (4) Waivers of Notice of the plaintiff **and** the defendant.
10. If your spouse does not respond to the documents you sent, you must also file with the Prothonotary the Affidavit of Non-Military Service. The Affidavit of Non-Military Service must be signed in front of a Notary.
11. **Please note each time** you file documents with the Prothonotary, you must also file a Local Cover Sheet and Supplement. One copy of each is included in this packet for your convenience.

Supreme Court of Pennsylvania

Court of Common Pleas Civil Cover Sheet



County _____

For Prothonotary Use Only:

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:

- 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:

PROFESSIONAL LIABILITY

Dental
 Legal
 Medical
 Other Professional:

_____ Plaintiff
 vs. _____
 _____ Defendant

: IN THE COURT OF COMMON PLEAS OF
 : McKEAN COUNTY, PENNSYLVANIA
 : CIVIL DIVISION - ___ Law ___ Equity
 : ___ Medical Professional Liability Action
 : NO. _____

LOCAL COVER SHEET

Dated: _____, 20____

1. Type of Pleading (e.g. Complaint in Divorce) _____
2. By whom filed: ___ Plaintiff ___ Defendant Are monetary damages requested? ___ Yes ___ No
 Jury trial demanded ___ Yes ___ No Complex* ___ Yes ___ No Small Claim (<\$12,000) ___ 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 is represented by:

Attorney _____ Email _____
 Firm _____
 Address _____
 Tel. # _____ Fax # _____ Supreme Court ID No. _____

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: _____

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: _____

**If case includes real property, the address and tax assessment number are required.*

Address _____ Tax assessment no. (Map No.) _____

 Filer/Counsel for the Plaintiff/Defendant

Plaintiff	: IN THE COURT OF COMMON PLEAS OF
	: McKEAN COUNTY, PENNSYLVANIA
	:
vs.	: CIVIL DIVISION - ___ Law ___ Equity
	: ___ Medical Professional Liability Action
	:
Defendant	: NO. _____

**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
- Protection from Abuse

Divorce Counts

Check all that apply

- Alimony/Spousal Support
- Alimony *pendente lite*, counsel fees & costs
- Child Custody/Visitation
- Child Support
- Equitable Distribution/Property Rights
- 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

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 case 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 or visitation of your children.

When the ground for the 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
McKean County Courthouse
Smethport, PA 16749
(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 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
McKean County Courthouse
Smethport, PA 16749
(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 is _____ (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), has/have been a bona fide resident(s) in the Commonwealth of Pennsylvania for at least six 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 _____.
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

_____,
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 defendant.

Date

Defendant or Authorized Agent

Mailing Address

Plaintiff

IN THE COURT OF COMMON PLEAS OF
McKEAN COUNTY, PENNSYLVANIA

VS.

CIVIL DIVISION

Defendant

NO. _____ C.D. _____

AFFIDAVIT OF SERVICE

_____ (*plaintiff*), being duly sworn according to law deposes and states that he/she served a true and correct copy of the Divorce Complaint and Affidavit under Section 3301 of the Divorce Code filed in this matter by certified/registered mail, return receipt requested, restricted to addressee only and also by regular mail at _____ (*address*), on _____ (*date*). The regular mail has not been returned within fifteen 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 _____, _____.

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 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. ____

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		: IN THE COURT OF COMMON PLEAS OF
		:
vs.		: McKEAN COUNTY, PENNSYLVANIA
		:
Defendant		: 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		: IN THE COURT OF COMMON PLEAS OF
		:
vs.		: McKEAN COUNTY, PENNSYLVANIA
		:
Defendant		: 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 says that he/she is the plaintiff in this action and that he/she knows of his/her own personal knowledge, and therefore avers, that 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 to and subscribed before me this _____ day of _____.

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