

Divorce Pro Se Answer and Counterclaim Form and Instructions

These forms are to help unrepresented individuals who have recently been served with a *Petition for Dissolution of Marriage and Divorce*. The following instructions are to help you complete the attached form.

Definitions of commonly used terms are included at the end of these instructions.

Do not use this form if you need to raise the following defenses under 12 O.S. § 2012B;

- Lack of personal jurisdiction,
- Improper venue,
- Insufficiency of process,
- Insufficiency of service of process,
- Failure to state a claim upon which relief can be granted, or
- Lack of capacity of a party to be sued.

Please consult an attorney before filing this form if you are unsure about whether you need to raise these defenses. Once you file this form you will no longer be able to use these defenses.

Timing:

- After the Petition is served an Answer must be filed within 20 days. Here is how that deadline is determined:
 - Your Date of Service + 20 days = Date Answer is due.
 - Example: Served on April 1st + 20 Days = Due on April 20th
- If the due date falls during a weekend, your due date will be the Friday before.
- The file stamped date from the Court Clerk is the official date something is filed.
- Do not wait to complete and file your Answer and Counterclaim. An emergency could make you miss your deadline.
- Caution: Failure to file an Answer on time could cause you to lose rights in the divorce.

Process:

You will need a copy of the Petition you were served to complete the attached forms. The information on the Petition is necessary.

You will also need to make copies of your forms once you have completed them. Many courthouses have copiers that you can use, but they charge for each copy and they are

sometimes broken or unavailable. Use a copy shop or office supply store nearby if you cannot make copies at home.

Basics:

- At the top, write your spouse's name in the blank above "Petitioner". The Petition you were served with can serve as a guide.
- Put your name everywhere there is a blank for your name or "Respondent".
- Fill in the Case Number and Judge's name. The case number should start with "FD-"
- Complete the numbered section. This can get tricky because you will have to take the Petition and respond to each numbered or lettered item.
 - On the Petition, the person who wrote it may have labeled each paragraph with a number (1, 2, 3), letter (A, B, C) or combination of the two (1a, 1b, 2a, 3). We call these labels the "Paragraph number".
 - On your Answer write each paragraph number in the blanks of the numbered section labeled "Paragraph number ____". Do not skip paragraphs!
 - Check either the "AGREES" or "DOES NOT AGREE" box to say whether you agree to the paragraph in the Petition.
 - You do not need to give a reason for agreeing or disagreeing with each paragraph. Sometimes extra information is useful, especially if something is incorrect in the Petition.
 - The first few paragraphs are usually basic information like "Petitioner has been a resident of the State of Oklahoma for six months".
 - If the statement is incorrect, you may want to check "DOES NOT AGREE" and then write in the correct information. For instance, a child's birthdate might be wrong, and you want to give the correct birthdate.
- In the Counterclaim you have the chance to make your wishes known to the judge and your spouse.
 - If there are no children, you can skip the sections about custody and visitation.
 - Check only one box on each line if you have children.
 - Decide what legal custody, visitation, and physical custody you want.
 - Decide whether child support should be paid. If you do not think child support should be paid, leave the box empty.
 - If you believe that your spouse should pay you alimony (now known as Separate Maintenance), check the box.
 - If you have debts and property to divide, check the related boxes.
 - For other requests, use the "Other" box and write out anything else that needs to be decided in the divorce.
- Last information:
 - Sign the document.
 - Print your name.

- Provide your mailing address, phone number, and email address (if you have one)
- The “Verification” must be signed in front of a Notary Public. Leave it blank until there is a notary present. The notary will fill out their portion after you sign.
- Fill in the “Certificate of Mailing”
 - Fill in the date you are putting the filed document in the mail. It is best to fill this out right before you file your Answer and Counterclaim.
 - Write the address your spouse listed in their Petition. If your spouse has hired an attorney, put the attorney’s address in the blanks.
 - Sign your name at the bottom after “By: ”

Final Instructions:

Now, to finish things:

- Check the case number and county. They should match the county and case number on the Petition.
- Check that you listed and responded to each paragraph in the Petition.
- Did you get your Answer and Counterclaim notarized? Double check!
- Make three (3) copies. You should not copy or file these instructions.
- On the Certificate of Mailing fill in the date you are mailing the filed document.
- Take your completed document and copies to the District Court Clerk for the county listed at the very top of the Petition. If you do not know the Court’s address, look in the phone book or search online.
- Take your documents to the Court Clerk’s Office and go to the Family/domestic counter to file. A court employee or Deputy in security can tell you where to go if you get lost. The Clerk will keep your original document and give back your file stamped copies. There should not be a charge.
- Mail one copy of the file stamped Answer and Counterclaim to your spouse or their attorney.
- Keep the remaining copies for your records.

You have done it! You completed the first document in your divorce case and preserved your rights!

Definitions:

1. Petition for Dissolution of Marriage: Your spouse may have filed this document to start a divorce with the court. These instructions and forms call this document the "Petition".
2. Petitioner: The person who started the divorce in court. This would be your spouse.
3. Respondent: The person whom the divorce is directed at. This would be you.
4. Service: Delivery of legal papers. A sheriff, process server, or the post office can be used to deliver the papers to you. The petitioner cannot "serve" you in person.
5. Answer: An official response either admitting or denying the statements made in the petition or other court filing.
6. Counterclaim: A response to the claims made in a petition or answer that brings up new or different information. A Counterclaim is usually part of an Answer, just as it is here.
7. Date of Service: The day you officially received legal papers.
8. Incompatibility: Most divorces in Oklahoma are filed under the grounds (reason) of incompatibility. This means that one or both spouses believes the marriage should not continue because things are not working out. Incompatibility does not mean that someone has done something wrong or that someone is to blame.
9. Equitable Division: A fair split of the property and/or debts between the spouses. This does not always mean an equal split.
10. Physical Custody: A decision about how much time a child spends with each parent. The Court will ask the parents to prepare a regular schedule dividing time between the parents. If the parents cannot decide, the judge will make the schedule. Child support is often based on the number of nights the child spends with each parent in a year.
11. Legal Custody: Separate from physical custody. The right and duty to make decisions about a child's upbringing, including choices about school, medical care, and religion. Legal custody can be divided between parents in any way but is not necessarily related to physical custody.
12. Sole Custody: When one parent has the child the majority of the time.
13. Joint Custody: When both parents have the child an equal amount of time.
14. Custodial Parent: The parent with whom the child lives with most of the time.

15. Child Support Guidelines: A payment made by one parent to the other to support the upbringing of a minor child. This is determined using the income of the parents, how many nights the child spends with each parent in a year, child support paid for other children, daycare costs, medical costs, and other factors. The judge may require you to use the Child Support Calculator created by the Oklahoma Department of Human Services or let you decide on a different amount. Usually the judge will go with the monthly child support amount created with the Child Support Calculator.
16. Filing: When a document is given to the District Court Clerk and stamped with a filing date, it is considered "filed". The clerk will keep an original copy of the document and hand back any extra copies after they have stamped them. A filed document is considered an official part of the case.
17. Pro Se: A person in a court case who does not have an attorney and is representing themselves.

IN THE DISTRICT COURT OF _____ COUNTY
STATE OF OKLAHOMA

In re the Marriage of;)
)
_____,)
 Petitioner,) **Case No.** _____
)
and)
)
_____,) **Judge:** _____
 Respondent.)

ANSWER AND COUNTERCLAIM

ANSWER

COMES NOW the Respondent and for their *Answer and Counterclaim* to the *Petition for Dissolution of Marriage* of the Petitioner, denies each and every one of the allegations of said Petition, except as specifically admitted below. The Respondent further informs the Court as follows:

1. Regarding Paragraph number _____ : the Respondent AGREES | DOES NOT AGREE
for the following reason(s): _____
2. Regarding Paragraph number _____ : the Respondent AGREES | DOES NOT AGREE
for the following reason(s): _____
3. Regarding Paragraph number _____ : the Respondent AGREES | DOES NOT AGREE
for the following reason(s): _____
4. Regarding Paragraph number _____ : the Respondent AGREES | DOES NOT AGREE
for the following reason(s): _____
5. Regarding Paragraph number _____ : the Respondent AGREES | DOES NOT AGREE
for the following reason(s): _____
6. Regarding Paragraph number _____ : the Respondent AGREES | DOES NOT AGREE
for the following reason(s): _____

7. Regarding Paragraph number _____ : the Respondent AGREES | DOES NOT AGREE
for the following reason(s): _____
8. Regarding Paragraph number _____ : the Respondent AGREES | DOES NOT AGREE
for the following reason(s): _____
9. Regarding Paragraph number _____ : the Respondent AGREES | DOES NOT AGREE
for the following reason(s): _____
10. Regarding Paragraph number _____ : the Respondent AGREES | DOES NOT AGREE
for the following reason(s): _____
11. Regarding Paragraph number _____ : the Respondent AGREES | DOES NOT AGREE
for the following reason(s): _____
12. Regarding Paragraph number _____ : the Respondent AGREES | DOES NOT AGREE
for the following reason(s): _____
13. Regarding Paragraph number _____ : the Respondent AGREES | DOES NOT AGREE
for the following reason(s): _____
14. Regarding Paragraph number _____ : the Respondent AGREES | DOES NOT AGREE
for the following reason(s): _____
15. Regarding Paragraph number _____ : the Respondent AGREES | DOES NOT AGREE
for the following reason(s): _____
16. Regarding Paragraph number _____ : the Respondent AGREES | DOES NOT AGREE
for the following reason(s): _____
17. Regarding Paragraph number _____ : the Respondent AGREES | DOES NOT AGREE
for the following reason(s): _____

COUNTERCLAIM

COMES NOW the Respondent, and as a Counterclaim to the Petitioner’s *Petition for Dissolution of Marriage*, informs the Court as follows:

- 1. The Respondent adopts and restates all of the admissions and denials made above as if fully set forth herein.
- 2. The Respondent is entitled to a dissolution of marriage from the Petitioner on the grounds of incompatibility.
- 3. The Respondent is entitled to the following relief requested:

SOLE | JOINT legal custody of the minor child(ren).

The Petitioner should have reasonable SUPERVISED | UNSUPERVISED with the minor child(ren).

PRIMARY | JOINT physical custody of the minor child(ren).

CHILD SUPPORT according to the Oklahoma Child Support Guidelines.

ALIMONY/SEPARATE MAINTENANCE as determined by the Court.

Equitable division of real and personal property.

Equitable division of jointly held debts.

Other: _____

WHEREFORE, Respondent respectfully requests this Court grant a Decree of Divorce and Dissolution of Marriage from the Petitioner, all relief detailed above in the Counterclaim, and any other relief deemed equitable by the Court.

Signature: _____

Name: _____

Address: _____

Phone: _____

Email: _____

VERIFICATION

STATE OF OKLAHOMA)
) ss.
COUNTY OF _____)

I, _____, of lawful age, being first duly sworn, upon oath deposes and states: I am the Respondent named above; I have read the foregoing document and I understand its contents; I state that the facts set forth in the foregoing document are true and correct to the best of my knowledge and belief.

Respondent

Subscribed and sworn to before me this _____ day of _____, 20____.

Notary Public

My Commission Expires:

My Commission Number:

CERTIFICATE OF MAILING

I hereby certify that on the _____ day of _____, 20____, I mailed a full, true and correct copy of the foregoing document to the parties listed below, with postage fully paid.

By: _____