

# MISC. DOCKET NO. 12-9192

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## IN THE SUPREME COURT OF TEXAS

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### IN RE ORDER APPROVING UNIFORM FORMS: DIVORCE SET ONE

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#### BRIEF OF THE STATE BAR OF TEXAS FAMILY LAW COUNCIL AS AMICUS CURIAE

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Respectfully submitted by,

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## DISCLOSURE

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This amicus curiae brief is filed by the State Bar of Texas Family Law Council, which is the governing body of the State Bar of Texas Family Law Section. The State Bar of Texas Family Law Section is a voluntary section associated with the State Bar of Texas. This brief does not necessarily represent the views of the members of the Board of Directors of the State Bar of Texas or the State Bar itself. A copy of the *Guidelines for Submission of Amicus Curiae Briefs on Behalf of the Family Law Council* is attached hereto as **Appendix 1**.

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**BRIEF OF THE STATE BAR OF TEXAS  
FAMILY LAW COUNCIL AS AMICUS CURIAE**

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**TO THE HONORABLE JUSTICES OF THE SUPREME COURT OF TEXAS:**

The State Bar of Texas Family Law Council (“Council”) submits this Amicus Curiae Brief pursuant to Rule 11 of the Texas Rules of Appellate Procedure and respectfully requests that it be received and considered by the Court.

**I.  
FAMILY LAW COUNCIL’S INTEREST**

The Council, the governing body for the State Bar of Texas Family Law Section, represents the interest of over 6000 lawyers practicing family law located throughout the State. The Council is elected by vote of the members of the Family Law Section of the State Bar of Texas. No one was paid for the preparation of this brief.

This brief is filed in support of a revision to one of the forms submitted as part of this Court’s *Order Approving Uniform Forms—Divorce Set One*. Specifically, the Council would ask that this Court revise the form entitled *Final Decree of Divorce (Divorce Set 1—Uncontested, No Minor Children, No Real Property)* to omit on pages 3 and 5 any reference to “employment benefits, including retirement, pension, profit-sharing, and stock option plans that are in [his/her] name alone, along with all individual retirement accounts, such as IRA’s, that are in [his/her] name alone.”

## II. STATEMENT OF FACTS

- A. **On January 11, 2012**, the Family Law Section of the State Bar of Texas, Texas Family Law Foundation, Texas Chapter of the American Academy of Matrimonial Lawyers, and Texas Academy of Family Law Specialists submitted their *Response to Report of the Uniform Task Force*.
- B. **On November 13, 2012**, this Court issued Miscellaneous Docket No. 12-9192 *Order Approving Uniform Forms – Divorce Set One*. **Appendix 2.**

## III. SUMMARY OF THE ARGUMENT

As employment benefits may constitute the most valuable asset in the marital estate of people who are likely to use these forms, giving all of the benefits to the party in whose name those benefits are held could lead to an “unjust” division rather than a “just and right division.” Additionally, the current form fails to instruct the litigants how to differentiate employment benefits earned prior to marriage from those accruing during marriage or after divorce. Rather, the form encourages that employment benefits be awarded 100% to the spouse in whose name such benefits are held, without regard to marital property characterization or value. Finally, the form fails to advise the employee spouse that he/she should change the survivor beneficiary of such benefits after the trial court signs the decree of divorce. The current treatment of retirement benefits in the *Final Decree of Divorce* ignores the complex nature of these benefits.



Consequently, this form should not be used if the parties possess an interest in employment benefits.

#### IV. ARGUMENT

##### A. Texas Law on Retirement Benefits.

##### 1. Family Code Chapter 3.

Chapter 3 of the Texas Family Code addresses marital property rights and liabilities. Specifically, the *Introductory Comment* to Chapter 3, Subchapter A, provides in pertinent part as follows:

***Retirement benefits:*** Retirement benefits are among the most difficult assets to allocate between separate property and community claims. Determining the separate claim for employment before marriage and its proper allocation for service during marriage can give rise to a number of complexities.

Tex. Fam. Code Chapter 3, *introductory comment*. Section 3.007 further addresses the division of certain employee benefits and provides in pertinent part as follows:

##### **§ 3.007. Property Interest in Certain Employee Benefits**

- (c) The separate property interest of a spouse in a defined contribution retirement plan may be traced using the tracing and characterization principles that apply to a nonretirement asset.

Tex. Fam. Code Ann. 3.007(c). The remainder of Section 3.007 addresses how to determine the separate property interest in employer provided stock option plans and restricted stock plans. *See id.*

## **2. Pensions.**

Under Texas law, pensions are characterized as separate or community property based on a time-allocation rule. *Taggart v. Taggart*, 552 S.W.2d 422 (Tex. 1977). If the employee spouse will continue working after the divorce, then the trial court must value the pension benefit as of the date of divorce. *Berry v. Berry*, 786 S.W.2d 672 (Tex. 1990). Pension benefits are sometimes the most valuable asset of the marital estate, particularly in parts of the state with military installations. The proper treatment of pensions is too complex for a simple form. Awarding the pension to the employed spouse may be expedient, but it sacrifices the state's concern for a property division is just and right and encourages an easy way out of what should be a carefully determined financial analysis.

## **3. Family Code Chapter 7.**

Texas Family Code Chapter 7 addresses the division of the marital estate. The *Introductory Comment* to that Chapter 7 provides in pertinent part as follows:

### ***Introductory Comment***

Sections 7.001 and 7.002 are the most important sections in Title 1. The origins of these statutes date from 1841; the mandate consistently has been for the courts to divide the property in a manner that the judge deems "just and right," not "50/50" or "equally" as many people seem to think. The Supreme Court of Texas has held that these sections apply only to community property and that they do not authorize the divesting or division of a spouse's separate property.

While the statutory mandate to divide the property in a “just and right” manner may seem simple, its application is fraught with complexity. The valuation of the marital assets, factors to be considered in making a just and right division of the property, and the technique for dividing the marital assets can be very complicated. Issues regarding disposition of the homestead, division of retirement benefits, as well as payment of attorney’s fees, further compound the problems.

Tex. Fam. Code Chapter 7, *introductory comment*. Chapter 7 further provides as follows:

**§ 7.001. General Rule of Property Division**

In a decree of divorce or annulment, the court shall order a division of the estate of the parties in a manner that the court deems just and right, having due regard for the rights of each party and any children of the marriage.

...

**§ 7.003. Disposition of Retirement and Employment Benefits and Other Plans**

In a decree of divorce or annulment, the court shall determine the rights of both spouses in a pension, retirement plan, annuity, individual retirement account, employee stock option plan, stock option, or other form of savings, bonus, profit-sharing, or other employer plan or financial plan of an employee or a participant, regardless of whether the person is self-employed, in the nature of compensation or savings.

Tex. Fam. Code Ann. §§ 7.001, 7.003.

**B. Objections and concerns regarding the final decree's confirming all of employee benefits as the separate property of the employee spouse without regard as to whether any of those benefits increased in value after marriage or were earned after marriage or, in the alternative, awarding all of employee benefits as community property to the employee spouse even if such benefits are the most significant asset of the marital estate.**

The Council again refers this Court to all of its objections and concerns set forth in its *Response to Report of the Uniform Task Force*. Although the Council believes that all of those concerns are valid, this brief is limited to the Council's objections and concerns regarding this Court's inclusion of employment- related benefits in this Court's proposed *Final Decree of Divorce* because as currently addressed the confirmation/award of all employment benefits in full to one or the other party has the most potential for harm to the parties. Unfortunately, the dividing of employment benefits leads to even more complicated problems. *See* Tex. Fam. Code Chapter 3, *introductory comment*. For the reasons set forth below, this Court should delete any and all reference to employment benefits from its proposed uniform forms and should warn that the forms should not be used if either party to the divorce has retirement benefits.

**1. Confirming/Awarding 100% of employment benefits to the spouse in whose name such benefits are held has the potential for an unjust division in violation of § 7.001.**

While the instructions for the *Original Petition for Divorce* advise litigants, "do not use the form unless each of you wants to keep your own retirement," it goes on to indicate that separate property is an asset owned prior to the marriage. Additionally, in

both the *Original Petition for Divorce* and the *Final Decree of Divorce (Divorce Set 1—Uncontested, No Minor Children, No Real Property)*, the Court acknowledges that married parties may have both community property and separate property that needs to be addressed in a divorce. With respect to a retirement account, however, that is only true as to the benefits existing at the time of marriage, and any increase in that account is considered part of the community estate and should be divided upon divorce. *Cearley v. Cearley*, 544 S.W.2d 661, 662 (Tex. 1976); *Herring v. Blakeley*, 385 S.W.2d 843, 846 (Tex. 1965). Without understanding that part of a spouse's retirement account may be separate property and another part may be community property, a litigant could be unintentionally waiving all interest in what is often the most significant asset with no showing that the other spouse's retirement account is in whole or in part that spouse's separate property. *McKinley v. McKinley*, 496 S.W.2d 540, 543 (Tex. 1973) (the spouse claiming separate property carries a burden to trace the asset to prove its separate characterization). Further, the form decree fails to explain to spouses how to allocate or value employment benefits that were earned in part before marriage and in part after marriage. Instead the form expressly provides, under the division of community property, that employee benefits held in either wife's or husband's name are awarded 100% as if they were community property of the party in whose name the employment benefits are held. These provisions ignore Section 7.001, which expressly mandates that the trial court make a just and right division of the parties' estate and

which necessarily requires a valuation of that estate in order to fulfill that mandate. *See* Tex. Fam. Code Ann. § 7.001. Also, the form fails to take into consideration that federal and state employment benefits, which includes pensions, differ from private employment benefits, which are tax-sheltered depository account balances. Finally, the form fails to advise the spouses that they may need to change the beneficiaries of their employment benefits.

**2. Dividing a spouse's retirement benefits raises many complex issues, which are not addressed by the *Final Decree*.**

In order to divide employment benefits between the parties, the parties would first need to determine if the spouse in whose name the employment benefits are held earned any of those benefits prior to marriage. *In re Marriage of Gongwer*, 554 S.W.2d 49, 50 (Tex. Civ. App.—Amarillo 1977, no writ); *Dessommes v. Dessommes*, 505 S.W.2d 673, 681 (Tex. Civ. App.—Dallas 1973, writ ref'd n.r.e.). If so, then it must be determined the value of those benefits so that they may be confirmed as that spouse's separate property since the trial court may not divest a spouse of their separate property. *See Eggemeyer v. Eggemeyer*, 554 S.W.2d 137, 141-42 (Tex. 1977).

After which, among other things, the following must be determined:

- Value of the employee benefits earned during marriage;
- The date on which such benefits will be divided;
- How the survivorship issues will be handled;
- How cost of living adjustments will be handled;
- The type of plan—federal, state, or private, as different rules apply to each of these plans; and

- Whether a Qualified Domestic Relations Order (“QDRO”) will be needed to divide the plan benefits and, if so, whether that QDRO will be a separate interest or shared payment QDRO, which is vital to know in order to calculate the former spouse’s share under a defined benefit plan, which also affect survivor annuities.

Because of the complexity of many QDROs, many lawyers retain specialists to draft these documents. Although many federal agencies, state agencies, and companies will provide form QDROs for the parties to use, those forms are typically drafted in the employee spouse’s favor. As a practical matter, many pro se litigants will not prepare QDROs, leaving enforcement of the property division to subsequent litigation.

#### **PRAYER**

For all of the reasons set forth and briefed herein, the Family Law Council requests this Court to revise its proposed *Final Decree of Divorce* and eliminate all references to employee benefits and warn against using the form in a case involving retirement benefits, pensions, 401k plans, and other deferred compensation.

Respectfully submitted by,

/s/ Georganna L. Simpson

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**CERTIFICATE OF COUNSEL REGARDING WORD COUNT**

Pursuant to Texas Rule of Appellate Procedure 9, I certify that the word count in this Amicus Curiae Brief, excluding the caption, table of contents, index of authorities, signature, proof of service, certification, and certificate of service **totals 2,099 words.**

/s/ Georganna L. Simpson

**Georganna L. Simpson**



**CERTIFICATE OF SERVICE**

This is to certify that on the \_\_\_\_\_ day of January 2013, a true and correct copy of the *Brief of the State Bar of Texas Family Law Council as Amicus Curiae* has been delivered as follows:

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Chair, Uniform Forms Task Force  
1301 McKinney St., Ste. 5100  
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Mr. Buck Files  
President, State Bar of Texas  
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Ms. Trish McAllister  
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Texas Access to Justice Commission  
1414 Colorado  
Austin, Texas 78701

**Via First Class Mail**

Mr. Chip Babcock  
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**Via First Class Mail**

**/s/ Georganna L. Simpson**  
**Georganna L. Simpson**



## **GUIDELINES FOR SUBMISSION OF AMICUS CURIAE BRIEFS ON BEHALF OF THE FAMILY LAW COUNCIL**

1. The Family Law Council will submit amicus briefs only in matters involving substantive or procedural law on major issues of importance to the practice of family law. Issues of importance to the practice of family law may arise in cases involving other issues, such as probate or corporate matters, but where the decisions reached will carry over into the family law practice.
2. The Council shall submit no briefs which purport to resolve or take a position with regard to factual disputes.
3. The Council shall submit amicus briefs only in the Texas Supreme Court. Briefs may be submitted upon granting of writ of error or in order to encourage the Court to grant writ of error or discretionary review.
4. Amicus briefs shall not be submitted in any case in which an officer or member or liaison member of the Family Law Council has participated, either directly or indirectly.
5. Submission of an amicus brief may be suggested to the Amicus Curiae Brief Committee by any Section member or by any member of the Family Law Council. The Committee shall investigate the matter and then vote to recommend for or against the filing of such a brief, and the position to be taken by the Section in such brief, such votes being taken by the Committee Chairman by mail or telephone. Upon receiving a request to consider filing a brief in a particular matter, the Committee chairman may but is not required to communicate with counsel for the parties, to solicit copies of briefs or other information pertinent to the decision. The Chairman of the Amicus Curiae Brief Committee shall communicate the vote of the Committee to the entire Family Law Council. The Chairman of the Family Law Section shall conduct a poll of all Council members, by mail or telephone, or at a Council meeting. Two-thirds of the Council's voting members must vote in favor of submission of the brief, and the position to be taken in the brief, before an amicus curiae brief may be submitted on behalf of the Family Law Section.
6. Upon receipt of the affirmative consensus vote required by these guidelines, the Chairman of the Family Law Council shall notify the chairman of the Amicus Curiae Brief Committee to begin assignment and preparation of the amicus brief.
7. Upon notification, the committee chairman shall attempt to notify the lead attorneys involved in the case in question as to the decision of Council to participate. If time permits, the chairman shall request the attorneys to forward copies of their briefs or a letter setting forth their position in the case.
8. The final brief shall be submitted to all amicus committee members and Executive Committee members for approval if time permits. Approval by a

) majority of the Family Law Section's Executive Committee shall be required for submission. In the event of serious time constraints where it is likely that a decision will be delivered before a full review by committees may be had, the Chairman of the Family Law Council may issue approval for submission.

9. The brief shall be signed by the Chairman of the Family Law Council on behalf of the council and by the authors of the brief.
10. Any inquiries or comments as to contents of the amicus briefs shall be directed to the Amicus Curiae Committee chairman.
11. Any amicus curiae brief filed by the Council shall comply with all requirements by the Texas Rules of Appellate Procedure pertaining to amicus briefs.
12. Any amicus brief filed by the Council shall contain any disclosure recommended by the State Bar of Texas, and shall state that the brief is filed by a voluntary section associated with the State Bar of Texas, and that the brief does not necessarily represent the views of members of the Board of Directors of the State Bar of Texas or of the State Bar itself. A copy of these guidelines shall be attached to every amicus brief filed by the Council.
13. The substance of the brief and the fact of its filing on behalf of the Council will be announced to the membership of the Family Law Section by publication of a summary of the case, and contentions of the amicus brief, in the Family law Section Report.
14. Any of these Rules can be suspended by affirmative vote of two-thirds (2/3) of the Family Law Council.

) APPROVED by the Family Law Council on December 7, 1991.

AMENDED by the Family Law Council on February 19, 1994 and December 3, 1994.



# IN THE SUPREME COURT OF TEXAS

Misc. Docket No. 12- 9132

## ORDER APPROVING UNIFORM FORMS — DIVORCE SET ONE

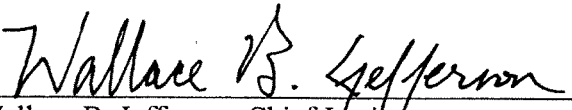
**ORDERED** that:

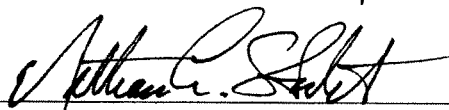
1. The following set of uniform forms, Divorce Set One, is approved for use in uncontested divorces that do not involve children or real property. Use of the approved forms is not required. However, a trial court must not refuse to accept any of the approved forms simply because the applicant used forms or is not represented by counsel. If the approved forms are used, the court should attempt to rule on the case without regard to non-substantive defects.

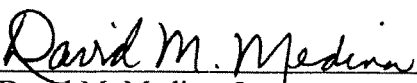
2. The Clerk is directed to cause a copy of this Order to be mailed to each registered member of the State Bar of Texas by publication in the *Texas Bar Journal*.


3. These forms may be changed in response to comments received on or before February 1, 2013. Any interested party may submit written comments directed to Marisa Secco, Rules Attorney, at P.O. Box 12248, Austin, TX 78711, or [marisa.secco@txcourts.gov](mailto:marisa.secco@txcourts.gov).

Dated: November 13, 2012.

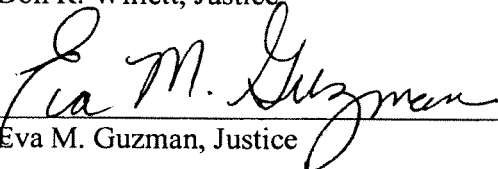
  
Wallace B. Jefferson, Chief Justice

  
Nathan L. Hecht, Justice

  
David M. Medina, Justice

  
Paul W. Green, Justice

Phil Johnson, Justice

Don R. Willett, Justice  
  
Eva M. Guzman, Justice

Debra H. Lehrmann, Justice

**PER CURIAM**

JUSTICE LEHRMANN filed a dissenting statement, in which JUSTICE JOHNSON joined in part.

JUSTICE JOHNSON filed a statement dissenting in part, in which JUSTICE WILLETT joined.

This Order promulgates a set of uniform forms — Divorce Set One, for uncontested divorces that do not involve children or real property — for pro se litigants. The Court, after careful consideration, is confident that these forms will be a useful tool in addressing the burgeoning population of litigants who cannot afford representation and are unable to obtain representation through a legal service provider.

On March 15, 2011, in Misc. Docket No. 11-9046, the Court, “concerned about the accessibility of the court system to Texans who are unable to afford legal representation,” appointed the Uniform Forms Task Force (“Task Force”) to address “the need for statewide standardized forms for pleadings frequently used by pro se litigants.”<sup>1</sup> The Task Force was charged with “develop[ing] proposed models of uniform pleading and order forms to be evaluated and approved by the Court for statewide use.”<sup>2</sup> The Task Force was also instructed to “consult with and seek input from stakeholders,” including the Texas Access to Justice Commission and legal services providers.<sup>3</sup> The Task Force began meeting in March 2011 and, after reviewing data from various sources on the legal

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<sup>1</sup> See Misc. Docket No. 11-9046.

<sup>2</sup> *Id.*

<sup>3</sup> *Id.*



needs of pro se litigants, focused its efforts on drafting a set of forms for uncontested divorces with no children and no real property.

In August 2011, the Family Law Section of the State Bar objected to the work of the Task Force, citing concerns about “fundamental legal issues that average laypersons will not be able to resolve by themselves.”<sup>4</sup> On September 2, 2011, members of the Family Law Section, the Task Force, and the Texas Access to Justice Commission met to discuss the concerns. The meeting did not resolve the conflict, and the Family Law Section continued to oppose the forms effort. In early January 2012, the president of the State Bar of Texas sent a letter to the Court stating that the “Executive Committee of the State Bar of Texas . . . after much respectful discussion and consideration voted to request that the Supreme Court of Texas suspend the work of its Uniform Forms Task Force.”<sup>5</sup> The Court responded with a letter that requested the State Bar’s input on the forms, but declined to stop the work of the Task Force.<sup>6</sup> The State Bar then appointed its own Task Force, Solutions 2012, to investigate the forms issue and other issues regarding indigent pro se litigants.<sup>7</sup>

The Task Force, meanwhile, continued its work and on January 11, 2012, forwarded a set of forms termed the “Divorce No Children, No Property kit” to the Court for approval. The kit

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<sup>4</sup> Email from Family Law Chair Tom Ausley to Family Law Section, dated Aug. 8, 2011.

<sup>5</sup> Letter from State Bar of Texas President Bob Black to the Supreme Court of Texas, dated January 5, 2012.

<sup>6</sup> Letter from Chief Justice Jefferson to Bob Black, dated January 25, 2012.

<sup>7</sup> Letter from Bob Black to the Supreme Court of Texas, dated January 30, 2012.

included instructions, an original petition for divorce, an affidavit of indigency, a waiver of service, an answer, a notice of change of address, a certificate of last known mailing address, a military status affidavit, and a final decree of divorce. After receiving the Task Force's proposal, the Court referred the forms to the Supreme Court Advisory Committee for review at its April 13-14, 2012 meeting.

The Chair of the Committee referred study of the forms to a subcommittee that reviewed the forms in advance of the meeting. The Court utilized the April Committee meeting as an opportunity for the three groups at odds over the forms to present their views: the Family Law Section of the State Bar, the Solutions 2012 Task Force, and the Access to Justice Commission. Each group, along with the Committee subcommittee, submitted a report on the forms<sup>8</sup> and spoke at the meeting. The reports contained both substantive critiques of the forms and critiques of the policy underlying the forms effort. The full Committee discussed those critiques and raised several independent issues concerning the forms. The Committee also allowed time for members of the public to comment on the forms during the meeting.

Following the April Committee meeting, the Court undertook its own review of the forms and the feedback received from the various stakeholders. The Court studied each report and reviewed the transcript of the Committee meeting, analyzing in detail every substantive critique

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<sup>8</sup> Family Law Section of the State Bar of Texas Response to the Report of the Uniform Forms Task Force, dated April 10, 2012; Solutions 2012 Final Report, dated April 13, 2012; Report to the Supreme Court Advisory Committee from the Texas Access to Justice Commission on the Court Uniform Forms Task Force, dated April 6, 2012; Report of the Rules 15-165a Subcommittee of the Texas Supreme Court Advisory Committee on Proposed Divorce-Related Forms, dated April 11, 2012.

lodged against the forms. The Court then revised the forms, aiming to eliminate inconsistencies and simplify the forms as much as possible.

The Court also discussed at length the policy issues implicated by the forms. While it is clear that forms will not work in every circumstance, the Court firmly believes that forms are an integral part of any effort to aid indigent litigants. This belief is bolstered by the fact that 48 states have implemented some type of standardized family law forms.<sup>9</sup> The Court notes the efforts of both the State Bar and the Family Law Section in proposing other solutions to the issues facing indigent pro se litigants, including improving the methods used to match those litigants with pro bono attorneys. While the Court recognizes that obtaining legal representation, pro bono or otherwise, for every pro se litigant would be ideal, the resources needed to meet the demand are simply not available. Nearly 58,000 family law cases were filed pro se in Texas in the 2011 fiscal year, more than one-fifth of total family law case filings.<sup>10</sup> Even if every one of the 4400 members of the Family Law Section<sup>11</sup> were to take on one of these cases pro bono annually, tens of thousands of litigants would remain unserved each year.

The Court is deeply committed to improving access to justice in Texas. Impediments threaten the integrity of the rule of law. Recognizing this, the Legislature has provided critical

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<sup>9</sup> <http://www.texasatj.org/files/file/2StatesFormResearch.pdf>.

<sup>10</sup> <http://www.texasatj.org/files/file/3ProSeStatisticsSummary.pdf> (data derived from statistics of the Office of Court Administration and does not include Title IV-D child support cases).

<sup>11</sup> <http://www.sbotfam.org/section.html>

support for basic legal services, and the State Bar of Texas has generously provided resources and strongly encouraged Texas lawyers in their professional responsibility to provide legal representation to those who cannot afford it. With all this effort, however, millions of Texans who need legal assistance cannot obtain it. No effort to meet this challenge can be rejected.

The Court encourages members of the State Bar and the public to provide constructive, substantive feedback on the forms during the comment period. The Court commends the Family Law Section and the State Bar for their recent initiatives to assist the ever-growing number of litigants who are unable to obtain afford legal representation and expects that the forms promulgated by this Order will become part of a greater solution, one reached through the concerted efforts of the Court, the State Bar, and the Access to Justice Commission.

JUSTICE LEHRMANN, joined in part by JUSTICE JOHNSON, dissenting.

Ensuring that the poor are not denied access to our system of justice is an undeniably laudable goal, and this Court has worked tirelessly to further that end. In developing the forms it approves today, the Court has made great efforts to ensure that the voices of all interested parties have been heard. Although I greatly respect the Court's efforts in this endeavor, I cannot endorse the forms the Court proposes to issue in their present form.

Two aspects of the forms cause me great concern. I address each in turn.

## I.

First, the forms expressly state that they are “[a]pproved by the Supreme Court of Texas.” Divorce Set 1, Uncontested, No Minor Children, No Real Property. I believe that the Court’s express endorsement will inadvertently increase the amount of pro se litigation in our family courts among parties with the means and the need to retain counsel. As the instructions the Court provides acknowledge, “[i]t is always best to hire a lawyer.” Divorce Set 1, Uncontested, No Minor Children, No Real Property, Instructions. I fear that the Court’s endorsement of the forms may falsely assure potential litigants that the forms will serve their best interests. But the forms’ target audience will likely not have the benefit of the Court’s observation that “it is clear that forms will not work in every circumstance.” MISC. DOCKET 12-\_\_\_\_\_ at 6. The Court’s instructions aim to prevent the forms’ use in situations where they clearly should not be used—for example, where there are children or real property or one of the spouses is in bankruptcy. But ending a marriage is an emotional, often devastating process, and there are many other instances where a party may not be in a position to assess the long-range, practical implications of a divorce. In some cases, one spouse may simply be unaware of community property acquired by the other spouse that would otherwise be weighed in arriving at a just and fair division of the couple’s property. *See, e.g., Schlueter v. Schlueter*, 975 S.W.2d 584, 586 (Tex. 1998). In others, one spouse may be subject to manipulation by the other due to emotional or physical abuse and consequently may be all too prepared to make

financial concessions he or she will later regret.<sup>1</sup> I am concerned that the Court's explicit stamp of approval will lull people who could and should receive the benefit of experienced counsel into believing that the form will adequately protect their interests. In light of the serious interests at stake and the possibility that unsophisticated litigants will be misled, I dissent.

## II.

My other concern about the forms is more tangible. Specifically, the Final Decree for Divorce form awards "all of [husband's or wife's] employment benefit, including retirement, pension, profit-sharing, and stock option plans that are in [that spouse's] name alone, along with all individual retirement accounts, such as IRA's, that are in [that spouse's name]" to that spouse. The Court has undoubtedly included this provision because, to the extent a divorce decree divides pension benefits, it cannot be enforced unless it meets the highly technical, specific requirements of a Qualified Domestic Relations Order (QDRO). *See* 29 U.S.C. §§ 1056(d)(3)(B)(I), 1144(a); *Barnett v. Barnett*, 67 S.W.3d 107, 119–20 (Tex. 2001). While the forms warn parties not to use them if they want to divide retirement or employment benefits, many spouses may be prepared to forego a claim to these benefits because they undervalue an asset that seems to be relatively insignificant, or because of an unjustified sense that, "if she earns it, she owns it." But it seems particularly likely that in the cases in which these forms will be used—where there is no real property—pension benefits will be

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<sup>1</sup> The forms seem to invite their use in these situations; the Original Petition for Divorce form contemplates its use in situations where a spouse is seeking a protective order or where an order is already in place. Original Petition for Divorce form at 2-3.

the most significant asset in the community estate. Thus, I think it is likely that the Court's approval of this model decree will result in property divisions that violate the mandate that community property be divided "in a manner that [is] just and right." TEX. FAM. CODE § 7.001; *see Cearley v. Cearley*, 544 S.W.2d 661, 662 (Tex. 1976) (recognizing that "pension benefits earned by either spouse during the marital relationship are part of the community estate and thus subject to division upon dissolution of the marriage"). In my view, the Court should either instruct potential litigants that the forms should not be used if either spouse has pension or other retirement benefits, or provide for a fifty/fifty division of those benefits that were accumulated during the marriage.<sup>2</sup>

### III.

As I noted, I applaud the Court's efforts to improve the delivery of legal services to the less fortunate among us. I believe, however, that the forms the Court has approved will, however unintentionally, disserve the community the Court aims to assist. Accordingly, I respectfully dissent.

JUSTICE JOHNSON, joined by JUSTICE WILLETT, dissenting in part.

I join today's Order Approving Uniform Forms-Divorce Set One, except for two parts of the forms to which I object as I set out below. I dissent from the Court's order to the extent it includes those parts.

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<sup>2</sup> It is not necessary that the forms themselves meet all the requirements of a QDRO, since a QDRO is required only for enforcement. It is possible (and common) for a spouse to secure a QDRO years after the initial decree is rendered. *See, e.g., Reiss v. Reiss*, 118 S.W.3d 439 (Tex. 2003).

First, I do not agree that the Final Decree form should only provide for each spouse to be awarded all “employment benefits, including retirement, pension, profit-sharing, and stock option plans” standing solely in that spouse’s name, even with the warnings included. In my view the form should at a minimum provide an option allowing the trial court to divide such employment benefits equally between the spouses to the extent the benefits were earned during the marriage.

Second, the forms now are annotated as having been approved by the Supreme Court of Texas. I would annotate the forms simply as being promulgated by or approved by the Uniform Forms Task Force of the Supreme Court of Texas. My concern is that by annotating the forms as being approved by the Court, the Court has effectively committed itself to maintain the forms. The Court’s actions to increase access to justice are exemplary, and I have always joined and continue to join them wholeheartedly. But the Court has enough to do with its limited resources without maintaining divorce forms when members of the Task Force have indicated no reticence regarding the task of maintaining and updating forms. I would let them do so and continue acknowledging the Task Force as the promulgating entity.

I join those parts of Justice Lehrmann’s dissent that expand on and are consistent with the objections I express above.



# Divorce Set 1

## Uncontested, No Minor Children, No Real Property

### INSTRUCTIONS

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**This Divorce Set Contains** instructions and seven forms: an Affidavit of Indigency, an Original Petition for Divorce, a Waiver of Service, a Final Decree of Divorce, a Certificate of Last Known Address, a Notice of Change of Address, and an Affidavit of Military Status. The chart on the next page describes each form and when to use it.

#### Do Not Use This Divorce Set if:

- ☐ You and your spouse disagree about any issue in your divorce.
- ☐ You or your spouse wants to file specific grounds for divorce, such as cruelty or adultery. This Set provides for a no-fault divorce, for example, you do not get along and do not plan to get back together.
- ☐ The wife is pregnant, even if the husband is not the father.
- ☐ The wife has had a child by another man since the date of marriage.
- ☐ You and your spouse have a disabled child, regardless of that child's age.
- ☐ You and your spouse have a biological or adopted child together who is either under 18 years old or who is 18 years old and still in high school.
- ☐ You or your spouse wants spousal support or maintenance, referred to as "alimony" in some states.
- ☐ You or your spouse wants a part of the other's retirement benefits (including pensions and 401K plans). **You may be entitled to a part of your spouse's retirement benefits, but these forms do not allow you to split those benefits.** If both spouses agree to keep their own retirement benefits, and give up any rights to the other spouse's retirement benefits, you can still use these forms.
- ☐ You or your spouse owns or is buying real property (such as a house, building, piece of land, or other real estate).
- ☐ You or your spouse has an ongoing bankruptcy case.

#### Use This Divorce Set if:

- ☐ Nothing in the above "Do Not Use This Divorce Set" section applies to you.
- ☐ You think you and your spouse will agree on every issue in your divorce or you do not think your spouse will participate in the divorce process.
- ☐ You or your spouse has lived in Texas for at least 6 months and in the county where you are filing for divorce for at least 90 days.
  - **Immigrants:** You may file for divorce in Texas even if you do not have legal status in the United States if you have lived in Texas and in your county for the above time periods.
  - **Military Families:** If you are serving in the armed forces outside of Texas, or you have accompanied your spouse who is serving in the armed forces outside of Texas, you may still use these forms if Texas has been the home state for either spouse for at least 6 months and the county where you plan to file the divorce has been the home county of either spouse for at least 90 days.

#### Need Help?

- It is always best to hire a lawyer. To get a referral to a lawyer or, if you are poor, to a free Legal Aid program, call the State Bar of Texas Lawyer Referral Information Service at 1-800-252-9690.
- If you are a victim of domestic violence, you can get legal help by calling 1-800-374-4673.
- If you are poor, you may be able to talk to an attorney online by live chat at [www.TexasLawHelp.org](http://www.TexasLawHelp.org).

**Contents of Divorce Set 1 - Uncontested, No Minor Children, No Real Property:**

Name of Form	What It Is and How to Use It
<b>Affidavit of Indigency</b>	If you are poor, or on government benefits because you are poor, or you cannot pay court fees, you may fill out this form to ask the Court if you can file for divorce without paying the court and filing fees. The Court may ask you to present evidence of your income and expenses at a hearing. The Court may or may not decide to let you file without paying. It is sometimes called a "Pauper's Oath" or an "Affidavit of Inability to Pay Costs."
<b>Original Petition for Divorce</b>	This form must be filed at the courthouse to start your divorce case. It tells the Court and your spouse that you want a divorce and states what you want the Court to order in the Final Decree of Divorce. It is sometimes called the "Original Petition" or "Petition."
<b>Waiver of Service</b>	This form may be filled out by your spouse, if he or she agrees to sign it. It tells the Court that your spouse has received a copy of the Original Petition for Divorce and does not want to be formally given a copy by a constable, sheriff, or process server. This form allows the judge to finalize your divorce as long as your spouse has signed the Final Decree of Divorce, and allows your spouse to be notified of any hearings in the case. Other Waiver of Service forms are not the same. Your spouse must sign the Waiver in front of a notary. The Waiver must be signed at least one day <u>after</u> the Original Petition for Divorce is filed.
<b>Final Decree of Divorce</b>	This form finalizes your divorce and states what the Court has ordered in your case. Fill it out and bring it to your final divorce hearing.
<b>Certificate of Last Known Address</b>	This form tells the Court what your spouse's last known address is and is filled out only in certain situations. If a Waiver or an Answer ( <i>see below for definition</i> ) has not been filed and your spouse has not signed the Final Decree of Divorce, you must bring this form to the final divorce hearing.
<b>Notice of Change of Address</b>	This form <u>must</u> be filed if you or your spouse moves. It tells the Court what the new address is so that the Court can contact you about hearings, etc.
<b>Affidavit of Military Status</b>	This form tells the Court whether or not your spouse is on active military duty. If a Waiver or an Answer ( <i>see below for definition</i> ) has not been filed and your spouse has not signed the Final Decree of Divorce, you must bring this form to the final divorce hearing.

**Glossary:**

Term	Definition
<b>Legal Notice</b>	Your spouse has a right to know, in writing, that you are filing for divorce. You cannot simply send your spouse a letter. You must use a legally acceptable way <i>and</i> prove to the Court that you did so. There are (3) ways to give legal notice: Waiver of Service, Official Service of Process, or by Posting or Publication. Each is described in Step 4 in these instructions.
<b>Official Service of Process</b>	Official service of process is when your spouse is formally "served" with (given) the Original Petition for Divorce by a constable, sheriff, or private process server, or when the clerk sends it by certified mail, return receipt requested. You <u>must</u> use official service of process if a Waiver of Service form has not been filed in your case. It is always best to officially serve your spouse if there has been domestic violence in the relationship or a Protective Order is in effect.
<b>Waiving Service of Process</b>	When your spouse tells the Court in writing that s/he has received a copy of the Original Petition for Divorce and does not want to be formally "served" with the Original Petition for Divorce, your spouse is "waiving service of process."
<b>Answer</b>	If your spouse contests the divorce, your spouse may file an "answer" instead of signing the Waiver of Service. This Set has no answer form because it is for uncontested cases. However, you may still use this Set if your spouse signs the Final Decree of Divorce after filing an answer.

## How to Use this Set:

### Step 1: Read These General Instructions

- Do not change the forms to include children, spousal support or maintenance (called “alimony” in some states), real estate, or 401K, retirement or pension plans. This Set is NOT to be used for those situations.
- Use blue ink to complete the forms. Pencil and other color ink will not scan clearly.
- You must fill out all the spaces on the forms unless instructed otherwise. The judge and court personnel will not fill them out for you.
- Make two copies of each form you complete. Keep one copy. The other copy is for your spouse.
- Find out where to file for divorce in your county at the TexasLawHelp.org website (<http://www.texaslawhelp.org/TX/courts/>) by answering the questions at the bottom of the page.

### Step 2: Fill out the Original Petition for Divorce and, if you are poor, the Affidavit of Indigency

- Fill out the Original Petition for Divorce and sign it. You are the Petitioner. Your spouse is the Respondent.
- If you are poor, are receiving public assistance, or do not think you have enough money to pay the court costs for your divorce, fill out the Affidavit of Indigency.
- You will need to fill out a Civil Case Information Sheet form, which you can get at the courthouse.
- Make two copies of the Original Petition for Divorce and, if you are using it, the Affidavit of Indigency.

### Step 3: File (turn in) your Original Petition for Divorce, and if applicable, your Affidavit of Indigency

- Take the original and the two copies of your Original Petition for Divorce and your Affidavit of Indigency, if applicable, to the courthouse and file them (turn them in) with the District or County Court at Law Clerk.
  - NOTE: If you are using an Affidavit of Indigency, you must sign it in front of a notary and you must file the Original Petition for Divorce and the Affidavit of Indigency at the same time.
- Ask the clerk:
  - If there is a local standing order that you need to follow or attach to any of your documents.
  - If there are local rules that you need to know about for your divorce case.
  - For a Civil Case Information Sheet. Fill it out and file it with your Original Petition for Divorce.
  - For an Information on Suit Affecting the Family Relationship form, also called a BVS or Bureau of Vital Statistics form. You will need this form later, when your divorce is finalized.
  - To “file-stamp” your copies. The clerk will stamp your papers with the date and time you turned them in. The clerk will keep the original and give you back your file-stamped copies.
- If you are not filing an Affidavit of Indigency, you will need to pay a filing fee. The fee may be between \$150-\$300, depending on where you live.
- The clerk will ask you if you want to have your spouse “served” with the papers. See Step 4 for an explanation.

### Step 4: Give Your Spouse “Legal Notice” that You Have Filed for Divorce. (See definition on page 2)

- There are three ways to give legal notice for this Set. Choose the one method that best fits your situation:
  1. **By Waiver of Service.** If your spouse agrees to fill out the Waiver of Service form in this Set, you do not need to have your spouse served by Official Service of Process. Follow the steps below to use the Waiver of Service.

- Mail or hand-deliver a “file-stamped” copy of the Original Petition for Divorce and a blank Waiver of Service form to your spouse. **WARNING: Do not hand-deliver these papers if there has been domestic violence in the relationship**, especially if a judge has signed a Protective Order ordering you or your spouse to stay away from the other. Mail or give legal notice by official service of process instead.
  - Tell your spouse to sign the Waiver in front of a notary public at least one day after you filed the Original Petition for Divorce. Otherwise, your spouse will have to redo it.
  - You or your spouse must file (turn in) the Waiver where you filed your Original Petition for Divorce.
  - If you change anything in the Original Petition for Divorce after your spouse signs this Waiver, you must give your spouse a copy of the Amended (changed) Original Petition for Divorce and your spouse must complete a new Waiver or be given legal notice by Official Service of Process.
2. **By Official Service of Process.** This method must be used in certain situations, described in the Glossary chart on page 2. Follow the steps below to use Official Service of Process.
- Tell the clerk where you filed your Original Petition for Divorce that you need to “serve” your spouse with the Original Petition for Divorce. There will be a fee for this service.
  - Tell the clerk if you want a constable, sheriff, or private process server to handle service of process or if you want the clerk to handle it by certified mail, return receipt requested.
    - If a constable, sheriff or private process server handles it, they will complete a Return of Service form stating where and when your spouse was served. This form is proof to the Court that you gave your spouse legal notice. They may file the Return of Service at the courthouse or give it to you. If they give it to you, make a copy and file the original.
    - If the clerk handles it, the return receipt (or, “green card”) is proof to the Court that you gave your spouse legal notice. The return receipt must be signed by your spouse, so only use this option if you know that your spouse is the only person who will sign for the letter when the mailman delivers it. If the return receipt is delivered to you, make a copy and file the original.
  - Make sure the Return of Service or the return receipt is filed (turned in) to the court where you filed your Original Petition for Divorce, at least 12 days before your final hearing.
3. **By Posting or Publication.** If you do not know where your spouse is, you will need to give legal notice by posting (posting the paperwork at the courthouse) or by publication (publishing legal notice in the newspaper).
- Go to [www.TexasLawHelp.org](http://www.TexasLawHelp.org) and look at the Legal Notice, Service by Posting, and Service by Publication Sets for more details.

### Step 5. Complete Final Forms and Prepare for Court.

- Fill out the Final Decree of Divorce form and sign it. If your spouse has filed an Answer or a Waiver, your spouse must sign the Final Decree of Divorce.
  - NOTE: A creditor’s right to collect on a debt is not affected by a divorce decree. So, if the Court orders your spouse to pay a specific debt from the marriage and your spouse does not pay it, the creditor can still seek payment from you.
- Fill out the Information on Suit Affecting the Family Relationship form (a BVS, or Bureau of Vital Statistics form.)
  - You got this form from the clerk when you filed your Original Petition for Divorce. It changes state records about your marital status, etc.

- If a Waiver or an Answer has not been filed, you must fill out the Certificate of Last Known Address form and the Military Status Affidavit form. Make two copies.
- Prepare for Court.
  - You will need to give testimony when talking to the judge. Some judges will ask you questions, others want you to read a "script" of testimony. You can find sample "prove up" testimony online at [www.TexasLawHelp.org](http://www.TexasLawHelp.org).
  - Learn tips on what to do when you go to court and when the judge calls your case online at [www.TexasLawHelp.org](http://www.TexasLawHelp.org).

### Step 6. Go to the "Uncontested Docket" and Present Your Divorce Case to the Judge

- After 61 days have passed since you filed the Original Petition for Divorce, you may finalize your divorce.
  - Victims of domestic violence may be able to finalize a divorce earlier. Call 1-800-374-4673 to get advice from an attorney at no charge.
- Ask the clerk when uncontested divorce cases are heard and bring the following to court with you on that day:

**If your spouse has signed the Final Decree of Divorce, bring:**

1. A file-stamped copy of your Original Petition for Divorce;
2. Your completed Final Decree of Divorce form, signed by you and your spouse;
3. The Information on Suit Affecting the Family Relationship form (BVS form); and
4. The Waiver of Service signed by your spouse (if not already filed) or a file-stamped copy of the Return of Service (if a Waiver or Answer has not been filed).

**If your spouse has not signed the Final Decree of Divorce or filed a Waiver or an Answer, bring:**

1. A file-stamped copy of your Original Petition for Divorce;
2. A file-stamped copy of the Return of Service;
3. Certificate of Last Known Address;
4. Military Status Affidavit;
5. Information on Suit Affecting the Family Relationship form (BVS form); and
6. Your completed Final Decree of Divorce, signed by you.

- When you go to the court for the uncontested docket, stop by the clerk's office:
  - Ask if you need the court file, a docket sheet (list of what has been filed), or anything else from their office to bring with you to the uncontested docket.
  - If a Waiver or an Answer has not been filed, you need to file the Certificate of Last Known Address and the Military Status Affidavit in the clerk's office before you go to the uncontested docket, then bring a file-stamped copy of each with you to court.

### Step 7. Finalize Your Divorce

- Once the judge has signed your Final Decree of Divorce, take it to the clerk's office and file it along with the Information on Suit Affecting the Family Relationship form (BVS form). Your divorce is NOT final until you do so.
- Get a certified copy of your Final Decree of Divorce from the clerk while you are there. You will need one if you are changing your name or dealing with creditors and may need one for other circumstances.
- Check with the clerk to see if you need to do anything else to finalize your divorce. Each county is different.
- NOTES:
  - You cannot get married to someone else until 30 days after your Final Decree of Divorce is signed.
  - After your divorce is final, remember to sign documents to get car titles changed; revise your will; change beneficiaries on your life insurance policies, retirement plans, bank accounts, etc.

**WARNING:** Without the advice and help of an attorney, you may be putting yourself, your personal property, and your money at risk. To get a referral to an attorney, call the State Bar of Texas Lawyer Referral Information Service at 1-800-252-9690. If you are a victim of domestic violence, you can get legal help by calling 1-800-374-4673.

(Print your answers in blue ink)

Cause Number: \_\_\_\_\_  
(The Clerk's office will fill in the Cause Number when you file this form)

**IN THE MATTER OF THE MARRIAGE OF**

Petitioner: \_\_\_\_\_ In the (check one):  
(Print first, middle, and last name of the spouse  
filing for divorce) ☐ District Court ☐ County Court at  
Law of:  
And \_\_\_\_\_ (Court Number)  
Respondent: \_\_\_\_\_ County, Texas  
(Print first, middle, and last name of other spouse) (County)

**Affidavit of Indigency  
(Divorce Set 1 - Uncontested, No Minor Children, No Real Property)**

**WARNING:** Read all of the Instructions for Divorce Set 1 before filling out this form.

The person who signed this affidavit appeared, in person, before me, the undersigned notary, and stated under oath:

"My name is \_\_\_\_\_ My phone number is: (\_\_\_\_) \_\_\_\_\_  
"My mailing address is: \_\_\_\_\_

"I am above the age of eighteen (18) years, and I am fully competent to make this affidavit. I am unable to pay court costs. The nature and amount of my income, resources, debts, and expenses are described in this form.

Check ALL boxes that apply and fill in the blanks describing the amounts and sources of your income.

"I receive these public benefits/government entitlements that are based on indigency: ☐ SSI ☐ WIC  
☐ Food stamps/SNAP ☐ TANF ☐ Medicaid ☐ CHIP ☐ Needs-based VA Pension  
☐ County Assistance, County Health Care, or General Assistance (GA) ☐ Community Care via DADS  
☐ AABD ☐ Public Housing ☐ Low-Income Energy Assistance ☐ LIS in Medicare ("Extra Help")  
☐ Emergency Assistance ☐ Child Care Assistance under Child Care and Development Block Grant  
☐ Other: \_\_\_\_\_

If you receive any of the above public benefits, you may attach proof to this form and label it "Exhibit: Proof of Public Benefits."

"My income sources are stated below (check all that apply).

☐ Unemployed since: \_\_\_\_\_  
Date  
-or-  
☐ Wages: I work as a \_\_\_\_\_ for \_\_\_\_\_  
Your job title Your employer  
☐ Child/spousal support ☐ My spouse's income or income from another member of my household (if available)  
☐ Tips, bonuses ☐ Military Housing ☐ Worker's Comp ☐ Disability ☐ Unemployment ☐ Social Security  
☐ Retirement/Pension ☐ Dividends, interest, royalties ☐ 2<sup>nd</sup> job or other income: \_\_\_\_\_  
Describe

"My income amounts are stated below.

(A) My monthly take-home wages:	Total amount received →	\$
(B) The amount I receive each month in public benefits is:	Total amount received →	\$
(C) The amount of income from other people in my household: (list this income only if other members contribute to your household income)	Total amount received →	\$
(D) The amount I receive each month from other sources is:	Total amount received →	\$
(E) My TOTAL monthly income	Add all sources of income above →	= \$

**About my dependents:**

"The people who depend on me financially are listed below:

Name	Age	Relationship to Me
1 _____	_____	_____
2 _____	_____	_____
3 _____	_____	_____
4 _____	_____	_____
5 _____	_____	_____
6 _____	_____	_____

**"My property includes:**

**Value\***

Cash	\$ _____
Bank accounts, other financial assets (List)	\$ _____
_____	\$ _____
_____	\$ _____
Vehicles (cars, boats) (List make and year)	\$ _____
_____	\$ _____
_____	\$ _____
Other property (like jewelry, stocks, etc.) (Describe)	\$ _____
_____	\$ _____
_____	\$ _____
_____	\$ _____

**"My monthly expenses are:**

**Amount**

Rent/house payments/maintenance	\$ _____
Food and household supplies	\$ _____
Utilities and telephone	\$ _____
Clothing and laundry	\$ _____
Medical and dental expenses	\$ _____
Insurance (life, health, auto, etc.)	\$ _____
School and child care	\$ _____
Transportation, auto repair, gas	\$ _____
Child / spousal support	\$ _____
Wages withheld by court order	\$ _____
Debt payments paid to: (List)	\$ _____
_____	\$ _____
_____	\$ _____

**Total value of property → = \$**

**Total Monthly Expenses → = \$**

\*The value is the amount the item would sell for less the amount you still owe on it, if anything.

**"My debts include:** (List debt and amount owed)

**"I am unable to pay court costs. I verify that the statements made in this affidavit are true and correct."**

To list any other facts you want the court to know, such as unusual medical expenses, family emergencies, etc., attach another page to this form and label it "Exhibit: Additional Supporting Facts." Check here if you attach another page. ☐

**Do not sign until you are in front of a notary.**

Signature of Person Signing Affidavit

Date

**Notary fills out below.**

State of Texas, County of \_\_\_\_\_  
(Print the name of county where this Affidavit is notarized)

Sworn to and subscribed before me, the undersigned notary, on this date: \_\_\_\_/\_\_\_\_/20\_\_\_\_ at \_\_\_\_ a.m./p.m.  
month day year time (circle one)

by \_\_\_\_\_  
(Print name of person who is signing this Affidavit. NOT the notary's name.)

Notary's Signature

**WARNING:** Without the advice and help of an attorney, you may be putting yourself, your personal property, and your money at risk. To get a referral to an attorney, call the State Bar of Texas Lawyer Referral Information Service at 1-800-252-9690. If you are a victim of domestic violence, you can get legal help by calling 1-800-374-4673.

(Print your answers in blue ink)

Cause Number: \_\_\_\_\_  
(The Clerk's office will fill in the Cause Number when you file this form)

**IN THE MATTER OF THE MARRIAGE OF**

Petitioner: \_\_\_\_\_ In the (check one):  
(Print first, middle, and last name of the spouse  
filing for divorce) ☐ District Court ☐ County Court at  
Law of:  
And \_\_\_\_\_ (Court Number)  
Respondent: \_\_\_\_\_ County, Texas  
(Print first, middle, and last name of other spouse) (County)

**Original Petition for Divorce  
(Divorce Set 1 - Uncontested, No Minor Children, No Real Property)**

**WARNING:** Read all of the Instructions for Divorce Set 1 before filling out this form.

**1. Parties**

**Petitioner**

My name is: \_\_\_\_\_  
First Middle Last

The last three numbers of my driver's license number are: \_\_\_\_\_. My driver's license  
was issued in \_\_\_\_\_.  
State

Or ☐ I do not have a driver's license number.

The last three numbers of my social security number are: \_\_\_\_\_.  
Or ☐ I do not have a social security number.

**Respondent**

My spouse's name is: \_\_\_\_\_  
First Middle Last

**2. Discovery**

The discovery level in this case is Level 2.

**3. Legal Notice**

(Check one box)

☐ I do not think my spouse will sign a Waiver of Service. I will have a sheriff, constable, process server, or the clerk serve my spouse with this Original Petition at this address:

\_\_\_\_\_  
Street Address City State Zip

If this is a work address, name of business: \_\_\_\_\_

I ask the clerk to issue a Citation of Service (the form necessary to provide legal notice to my spouse). I understand that I will need to **pay the fee** (or file an Affidavit of Indigency form to show the Court that I am unable to pay the fee) and **arrange for service**.

☐ I think my spouse will sign a Waiver of Service. Do not send a sheriff, constable, or process server to serve my spouse with this Original Petition.





If I get the Protective Order, I will file a copy of it before any hearings in this divorce.

- ☐ **My spouse has** filed paperwork asking to get a Protective Order against me, but a judge has not decided if my spouse will get it. My spouse asked for a Protective Order on

\_\_\_\_\_ in \_\_\_\_\_, \_\_\_\_\_. The cause  
Date Filed County State

number is \_\_\_\_\_. If my spouse gets the Protective Order, I will file a  
Cause Number  
copy of it before any hearings in this divorce.

**C. Protective Order in Place –**

- ☐ I **do have** a Protective Order against my spouse. I got the Protective Order in \_\_\_\_\_,  
County  
\_\_\_\_\_ on \_\_\_\_\_. The cause number for the Protective Order  
State Date Ordered  
is \_\_\_\_\_. Either I have attached a copy of the Protective Order to this  
Cause Number  
Original Petition or I will file a copy of it with the court before any hearings in this divorce.

- ☐ My spouse **does have** a Protective Order against me. The Order was made in \_\_\_\_\_,  
County  
\_\_\_\_\_ on \_\_\_\_\_. The cause number for the Protective Order  
State Date Ordered  
is \_\_\_\_\_. Either I have attached a copy of the Protective Order to this  
Cause Number  
Original Petition or I will file a copy of it with the court before any hearings in this divorce.

**6. Marriage and Grounds for Divorce**

My spouse and I got married on or about: \_\_\_\_\_.  
Month Day Year

The marriage has become insupportable due to discord or conflict of personalities that destroys the legitimate ends of the marital relationship and prevents any reasonable expectation of reconciliation.

**7. Children**

My spouse and I do not have any biological or adopted children together who are under the age of 18.

My spouse and I do not have any biological or adopted children together who are 18 years old or older and are still in high school.

My spouse and I do not have any disabled children of any age.

The wife has not had a child by another man since the date of marriage.

The wife is not pregnant.

**8. Property and Debts**

**Community Property**

My spouse and I will try to make an agreement about how to divide the personal property and debts we acquired during our marriage. If we cannot agree, I ask the Court to divide our personal property and debts according to Texas law.

### ***Separate Personal Property***

I own the following separate personal property. I owned this personal property *before* I was married or I received this personal property as a gift or inheritance *during* my marriage.

#### **1. Cars, trucks, motorcycles or other vehicles**

I owned these vehicles *before* marriage:

Year	Make	Model	Vehicle Identification No. [VIN]

I received these vehicles as a gift or inheritance:

Year	Make	Model	Vehicle Identification No. [VIN]

#### **2. Other Money or Personal Property**

I owned the following money or personal property *before* my marriage:

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I inherited or received as a gift the following money or personal property *during* my marriage:

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I received the following money recovery for personal injuries that occurred during the marriage that is not for lost wages or medical expenses:

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---

I ask the Court to confirm this personal property as my separate personal property in my Final Decree of Divorce.

## 9. Name Change

Note: You cannot use this form to change your name to anything other than a name that you used before you got married.

(Check only one)

- ☐ I am NOT asking the court to change my name.
- ☐ I ask the Court to change my name back to a name I had before my marriage. I am not asking the court to change my name to avoid criminal prosecution or creditors.

\_\_\_\_\_  
*First*

\_\_\_\_\_  
*Middle*

\_\_\_\_\_  
*Last*

## 10. Prayer

I ask the Court to grant me a divorce.

I also ask the Court to make the other orders I have asked for in this Original Petition for Divorce and any other orders to which I am entitled.

\_\_\_\_\_  
*Petitioner's Name (Print)*

\_\_\_\_\_  
*Date*

(     )

\_\_\_\_\_  
*Petitioner's Signature*

\_\_\_\_\_  
*Phone Number*

\_\_\_\_\_  
*Petitioner's Mailing Address*

\_\_\_\_\_  
*City*

\_\_\_\_\_  
*State*

\_\_\_\_\_  
*Zip*

**I understand that I *must* let the Court and my spouse (or my spouse's attorney) know in writing if my mailing address or phone number changes during this case. If I don't, any notices about this case will be sent to me at the address on this form.**

**WARNING:** Without the advice and help of an attorney, you may be putting yourself, your personal property, and your money at risk. To get a referral to an attorney, call the State Bar of Texas Lawyer Referral Information Service at 1-800-252-9690. If you are a victim of domestic violence, you can get legal help by calling 1-800-374-4673.

Print court information exactly as it appears on your Original Petition for Divorce.

(Print your answers in blue ink)

Cause Number: \_\_\_\_\_

**IN THE MATTER OF THE MARRIAGE OF**

Petitioner: \_\_\_\_\_  
(Print first, middle, and last name of the spouse filing for divorce)

In the (check one):

\_\_\_\_\_  
(Court Number) ☐ District Court

☐ County Court at Law of:

And

Respondent: \_\_\_\_\_  
(Print first, middle, and last name of other spouse)

\_\_\_\_\_  
(County) County, Texas

**Waiver of Service**

**(Divorce Set 1 - Uncontested, No Minor Children, No Real Property)**

**WARNING to Respondent:**

Do not use this form if:

- You and your spouse disagree about any issue in your divorce.
- You or your spouse wants to file specific grounds for divorce, such as cruelty or adultery.
- The wife is pregnant, even if the husband is not the father.
- The wife has had a child by another man since the date of marriage.
- You and your spouse have a disabled child, regardless of that child's age.
- You and your spouse have a biological or adopted child together who is either under 18 years old or who is 18 years old and still in high school.
- You or your spouse wants spousal support or maintenance, referred to as "alimony" in some states.
- You or your spouse wants a part of the other's retirement benefits (including pensions and 401K plans). **You may be entitled to a part of your spouse's retirement benefits, but these forms do not allow you to split those benefits.** If both spouses agree to keep their own retirement benefits, and give up any rights to the other spouse's retirement benefits, you can use this form.
- You or your spouse owns or is buying real property (such as a house, building, piece of land, or other real estate).
- You or your spouse has an ongoing bankruptcy case.

**INSTRUCTIONS to Respondent:**

Talk to a lawyer if you don't understand this form, or read the instructions for this *Divorce Set 1 - Uncontested, No Minor Children, No Real Property*, which can be found at [www.TexasLawHelp.org](http://www.TexasLawHelp.org). If you do use this form:

- Do not sign it until **at least one day after** the *Original Petition for Divorce* has been filed with the clerk's office. Your spouse should have given you a copy of the *Original Petition for Divorce* when he or she gave you this form. The official court stamp on your copy will tell you when it was filed. If you sign this form before then, you will need to redo it.
- Fill out this form completely. You must include your address.
- **Sign this form in front of a notary.** If you sign it beforehand, you will need to redo it.
- Give the original signed form back to your spouse or file it (turn it in) to the court where your spouse filed the *Original Petition for Divorce*. Keep a copy for your records.

**The person who signed this affidavit appeared, in person, before me, the undersigned notary, and stated under oath:**

"I am the Respondent in this case.

"My name is: \_\_\_\_\_  
First Middle Last

"My mailing address is: \_\_\_\_\_  
Mailing Address City State Zip

"My phone number is: ( \_\_\_\_\_ ) \_\_\_\_\_ - \_\_\_\_\_.

"The last three numbers of my driver's license number are: \_\_\_\_\_. My driver's license was issued in \_\_\_\_\_ State.

Or ☐ I do not have a driver's license number. "The last three numbers of my social security number are: \_\_\_\_\_.

Or ☐ I do not have a social security number.

☐ I have been given a copy of the *Original Petition for Divorce* filed in this case. I have read the *Original Petition for Divorce* and understand what it says. I do not give up my right to review a different *Petition for Divorce* if it gets changed (*amended*).

☐ I understand that I have the right to be given a copy of the *Original Petition for Divorce* by a constable, sheriff or other official process server (legal notice). I do not want to be given legal notice. I give up my right to legal notice.

☐ I request that the Court not enter any orders or judgment if they are not signed by me or if I have not received prior written notice of the date, time, and place of any hearings.

☐ If I reach an agreement and sign a *Decree of Divorce*, the court can enter the *Decree* without giving me notice.

☐ I understand that I must let the Court and my spouse (or my spouse's attorney) know in writing if my mailing address or phone number changes during this case. If I don't, then I understand that any notices about this case will be sent to me at the address on this form.

☐ I understand that by signing this form I am entering an appearance and am not required to go to Court to tell the judge my side of the case. I agree that a Judge or Associate Judge in the county and state where this case is filed may make decisions about my divorce, even if the divorce should have been filed in another county. I do not want a court reporter to make a record of the testimony.

#### Military Status

(Check only one)

☐ I am not in the military.

☐ I am in the military and I waive all rights, privileges, and exemptions I may have under the Servicemembers Civil Relief Act, including having a lawyer appointed to represent me in this case.

#### Name Change

(Check only one)

Note: You cannot use this form to change your name to anything other than a name that you used before you got married.

☐ I am NOT asking the court to change my name.

☐ I ask the Court to change my name back to a name I had before my marriage. I am not asking the court to change my name to avoid criminal prosecution or creditors."

First \_\_\_\_\_ Middle \_\_\_\_\_ Last \_\_\_\_\_



Signature of Person Signing Affidavit

Date

#### Notary fills out below.

State of \_\_\_\_\_ County of \_\_\_\_\_  
(Print name of state where this Affidavit is notarized) (Print the name of the county where this Affidavit is notarized)

Sworn to and subscribed before me, the undersigned notary, on this date: \_\_\_\_\_ / \_\_\_\_\_ /20\_\_\_\_ at \_\_\_\_\_ a.m./p.m.  
month day year time circle one

by \_\_\_\_\_  
(Print name of person who is signing this Affidavit. NOT the notary's name)



Notary's Signature

**WARNING:** Without the advice and help of an attorney, you may be putting yourself, your personal property, and your money at risk. To get a referral to an attorney, call the State Bar of Texas Lawyer Referral Information Service at 1-800-252-9690. If you are a victim of domestic violence, you can get legal help by calling 1-800-374-4673.

Print court information exactly as it appears on your Original Petition for Divorce.

(Print your answers in blue ink)

Cause Number: \_\_\_\_\_

**IN THE MATTER OF THE MARRIAGE OF**

Petitioner: \_\_\_\_\_  
(Print first, middle, and last name of the spouse  
filing for divorce)

In the (check one):

☐ District Court

☐ County Court at  
Law of:

And

(Court Number)

Respondent: \_\_\_\_\_  
(Print first, middle, and last name of other spouse)

(County):

County, Texas

**Final Decree of Divorce**

**(Divorce Set 1 - Uncontested, No Minor Children, No Real Property)**

**WARNING:** Read all of the Instructions for Divorce Set 1 before filling out this form.

A hearing took place on \_\_\_\_\_. There was no jury. Neither the husband nor wife asked for a jury.  
Date

**1. Appearances**

**Petitioner**

The Petitioner's name is: \_\_\_\_\_  
First Middle Last

(Check one box)

- ☐ The Petitioner **was present**, representing him/herself, and has agreed to the terms of this Final Decree of Divorce (called "Decree" throughout this document).
- ☐ The Petitioner **was not present** but has signed below, agreeing to the terms of this Decree.

**Respondent**

The Respondent's name is: \_\_\_\_\_  
First Middle Last

(Check one box)

- ☐ The Respondent **was present** and agrees to the terms in this Decree.
- ☐ The Respondent **was not present** but has signed below, agreeing to the terms in this Decree.
- ☐ The Respondent **was not present** and has defaulted. The Petitioner has filed a Certificate of Last Known Address and a Military Status Affidavit. The Petitioner has also arranged for a court reporter to record the hearing.

**The Court fills out this box.**

**2. Record**

- ☐ A court reporter did not record today's hearing because the husband, wife, and judge agreed not to make a record.

☐ A court reporter recorded today's hearing.

### 3. Jurisdiction

The Court heard evidence and finds that it has jurisdiction over this case and the parties, that the residency and notice requirements have been met, and that the *Original Petition for Divorce* meets all legal requirements.

The Court finds that the *Original Petition for Divorce* was filed more than 60 days ago.

### 4. Children

Husband and Wife do not have **any** biological or adopted children, together, under the age of 18.

Husband and Wife do not have **any** biological or adopted children together who are 18 years old or older and are still in high school.

Husband and Wife do not have any **disabled children** of any age.

The wife has not had a child by another man since the date of marriage.

The wife is not pregnant.

### 5. Divorce

IT IS ORDERED that the Petitioner and the Respondent are divorced.

### 6. Property and Debts

*About community property:* Texas is a community property state. This means that any new property or debt that either party obtains from the minute they are married until the minute the judge grants the divorce is probably community property, even if the property or debt is only in one spouse's name. There are only a few exceptions to the law of community property. The exceptions are gifts, inheritance, or a recovery for personal injuries that occurred during the marriage that is not for lost wages or medical expenses. All community property and debt should be included in the Final Decree of Divorce.

*About separate property:* If either party receives a gift, an inheritance, or a recovery for personal injuries that occurred during the marriage that is not for lost wages or medical expenses, it is separate property. It is a good idea to list separate property obtained during the marriage as that spouse's separate property in the Final Decree of Divorce.

More information about community and separate property can be found by consulting a lawyer, as well as in the Texas Family Code, Chapters 3, 4, and 5.

The Court makes the following orders regarding the parties' community and separate property:

#### Husband's Property

#### ***Husband's Separate Property***

*(Fill in all lines. If you have no property to declare in any particular category, write "none.")*

The Court confirms that Husband owns the following property as his separate personal property:

#### **1. Cars, trucks, motorcycles or other vehicles**



☐ He owned these vehicles *before* marriage:

Year	Make	Model	Vehicle Identification No. [VIN]
_____	_____	_____	_____
_____	_____	_____	_____

☐ He received these vehicles as a gift or inheritance *during* the marriage:

Year	Make	Model	Vehicle Identification No. [VIN]
_____	_____	_____	_____
_____	_____	_____	_____

**2. Other Money or Personal Property** *(not real property, such as a house or piece of land)*

Husband owned the following money or personal property *before* marriage:

\_\_\_\_\_

\_\_\_\_\_

Husband inherited or received as a gift the following money or personal property *during* the marriage:

\_\_\_\_\_

\_\_\_\_\_

Husband received the following money recovery for personal injuries that occurred during the marriage that is not for lost wages or medical expenses:

\_\_\_\_\_

\_\_\_\_\_

**Community Property**

The Court ORDERS that Husband gets the following property as his sole and separate property, and Wife conveys (*gives*) to Husband her interest in such property, and Wife is divested of (*loses*) all right, title, interest and claim in and to that property.

Wife IS ORDERED to sign any documents needed to transfer any personal property listed below to Husband. Husband is responsible for preparing the documents.

1. All PERSONAL property in Husband's care, custody or control, or in Husband's name, that this Order does not give to Wife.
2. All of Husband's employment benefits, including retirement, pension, profit-sharing, and stock option plans that are in his name alone, along with all individual retirement accounts, such as IRA's, that are in his name alone. *(Note: If you want to divide retirement or employment benefits do NOT use this form. Talk to an attorney.)*
3. All of Husband's cash and money in any bank or other financial institution listed in Husband's name alone.
4. Any insurance policy that covers Husband's life.

5. Husband's cars, trucks, motorcycles or other vehicles listed below:

Year	Make	Model	Vehicle Identification No. [VIN]
_____	_____	_____	_____
_____	_____	_____	_____

6. Husband will keep the following personal property still held jointly: *(For example, a bank account, but not real property such as a house or land.)*

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**Husband's Debts** *(If you do not want Husband to pay these debts, do NOT use this form.)*

Husband shall pay and shall indemnify and hold the wife and her property harmless for any failure to discharge the debts listed below:

1. All taxes, bills, liens, and other charges, present and future, that are in Husband's name alone or that this Order gives to Husband alone, unless this Order requires otherwise.
2. Any debt Husband incurred after separation. Date of separation: \_\_\_\_\_  
Month Day Year
3. The balance due on any loan for any vehicles that this Order gives to Husband alone.
4. The other debts listed below which are not in Husband's name alone (such as credit cards, student loans, medical bills, income taxes):

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**Wife's Property**

**Wife's Separate Property**

*(Fill in all lines. If you have no property to declare in any particular category, write "none.")*

The Court confirms that Wife owns the following property as her separate personal property:

**1. Cars, trucks, motorcycles or other vehicles**

☐ She owned these vehicles *before* marriage:

Year	Make	Model	Vehicle Identification No. [VIN]
_____	_____	_____	_____
_____	_____	_____	_____

☐ She received these vehicles as a gift or inheritance *during* the marriage:

Year	Make	Model	Vehicle Identification No. [VIN]

**2. Other Money or Personal Property** *(not real property, such as a house or piece of land.)*

Wife owned the following money or personal property *before* marriage:

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Wife inherited or received as a gift the following money or personal property *during* the marriage:

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Wife received the following money recovery for personal injuries that occurred during the marriage that is not for lost wages or medical expenses.

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**Community Property**

The Court ORDERS that Wife gets the following property as her sole and separate property, and Husband conveys (*gives*) to Wife his interest in such property, and Husband is divested of (*loses*) all right, title, interest, and claim in and to that property.

Husband IS ORDERED to sign any documents needed to transfer any personal property listed below to Wife. Wife is responsible for preparing the documents.

1. All PERSONAL property in Wife's care, custody, or control, or in Wife's name, that this Order does not give to Husband.
2. All of Wife's employment benefits, including retirement, pension, profit-sharing, and stock option plans that are in her name alone, along with all individual retirement accounts, such as IRA's, that are in her name alone. *(Note: If you want to divide retirement or employment benefits do **NOT** use this form. Talk to an attorney.)*
3. All Wife's cash and money in any bank or other financial institution listed in Wife's name alone.
4. Any insurance policy that covers Wife's life.
5. Wife's cars, trucks, motorcycles or other vehicles listed below:

Year	Make	Model	Vehicle Identification No. [VIN]

6. Wife will keep the following personal property still held jointly: *(For example, a bank account, but not real property such as a house or land.)*



**9. Court Costs**

The costs of court are to be borne by the party who incurred them to the extent the party is required to pay such costs.

**10. Other Orders**

The court has the right to make other orders, if needed, to clarify or enforce the orders above.

**11. Final Order**

Any orders requested that do not appear above are denied. This Decree is a final judgment that disposes of all claims and all parties and is appealable.

\_\_\_\_\_  
*Judge's Name*

\_\_\_\_\_  
*Judge's signature*

\_\_\_\_\_  
*Date of Judgment*

**By signing below, the Petitioner agrees to the form and substance of this Decree.**

\_\_\_\_\_  
*Petitioner's Name (print)*

\_\_\_\_\_  
*Phone Number*

\_\_\_\_\_  
*Petitioner's Signature*

\_\_\_\_\_  
*Date*

*Mailing  
Address:*

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**By signing below, the Respondent agrees to the form and substance of this Decree.**

\_\_\_\_\_  
*Respondent's Name (print)*

\_\_\_\_\_  
*Phone Number*

\_\_\_\_\_  
*Respondent's Signature*

\_\_\_\_\_  
*Date*

*Mailing  
Address:*

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

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Print court information exactly as it appears on your Original Petition for Divorce.

(Print your answers in blue ink)

Cause Number: \_\_\_\_\_

**IN THE MATTER OF THE MARRIAGE OF**

Petitioner: \_\_\_\_\_  
(Print first, middle, and last name of the spouse  
filing for divorce)

In the (check one):

\_\_\_\_\_  
(Court Number) ☐ District Court

☐ County Court at  
Law of:

And

Respondent: \_\_\_\_\_  
(Print first, middle, and last name of other spouse)

\_\_\_\_\_  
(County) County, Texas

**Certificate of Last Known Mailing Address**

**(Divorce Set 1 - Uncontested, No Minor Children, No Real Property)**

**WARNING:** Read all of the Instructions for Divorce Set 1 before filling out this form.

I, \_\_\_\_\_, certify that the last known mailing  
Your full name  
address that I have for Respondent, \_\_\_\_\_, is:  
Spouse's full name

\_\_\_\_\_  
Spouse's Mailing Address

\_\_\_\_\_  
City State Zip

\_\_\_\_\_  
Telephone

\_\_\_\_\_  
Fax

▶  
\_\_\_\_\_  
Party's Signature (Sign your name)

\_\_\_\_\_  
Date

**WARNING:** Without the advice and help of an attorney, you may be putting yourself, your personal property, and your money at risk. To get a referral to an attorney, call the State Bar of Texas Lawyer Referral Information Service at 1-800-252-9690. If you are a victim of domestic violence, you can get legal help by calling 1-800-374-4673.

Print court information exactly as it appears on your Original Petition for Divorce.

(Print your answers in blue ink)

Cause Number: \_\_\_\_\_

**IN THE MATTER OF THE MARRIAGE OF**

Petitioner: \_\_\_\_\_

(Print first, middle, and last name of the spouse  
filing for divorce)

In the (check one):

\_\_\_\_\_  
(Court Number)

☐ District Court

☐ County Court at  
Law of:

And

Respondent: \_\_\_\_\_

(Print first, middle, and last name of other spouse)

\_\_\_\_\_  
(County)

County, Texas

**Notice of Change of Address**

**(Divorce Set 1 - Uncontested, No Minor Children, No Real Property)**

**WARNING:** Read all of the Instructions for Divorce Set 1 before filling out this form.

I, \_\_\_\_\_, certify that I am party to the above-styled  
cause. My address has changed. I request that the Court's records be updated accordingly.

(Print your full name)

My new address is as follows:

\_\_\_\_\_  
Mailing Address

\_\_\_\_\_  
City

\_\_\_\_\_  
State

\_\_\_\_\_  
Zip

\_\_\_\_\_  
Telephone

\_\_\_\_\_  
Facsimile

▶ \_\_\_\_\_  
Party's Signature (Sign your name)

**Certificate of Service**

I gave a true copy of this *Notice of Change of Address* to my spouse (or my spouse's attorney, if applicable) in person, by fax, or by certified mail, return receipt requested.

▶ \_\_\_\_\_  
Party's Signature (Sign your name)

\_\_\_\_\_  
Date

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Print court information exactly as it appears on your Original Petition for Divorce.

(Print your answers in blue ink)

Cause Number: \_\_\_\_\_

**IN THE MATTER OF THE MARRIAGE OF**

Petitioner: \_\_\_\_\_

(Print first, middle, and last name of the spouse  
filing for divorce)

In the (check one):

☐ District Court

☐ County Court at  
Law of:

And

(Court Number)

Respondent: \_\_\_\_\_

(Print first, middle, and last name of other spouse)

(County)

County, Texas

**Military Status Affidavit**

**(Divorce Set 1 - Uncontested, No Minor Children, No Real Property)**

**WARNING:** Read all of the Instructions for Divorce Set 1 before filling out this form.

State of Texas,

County of \_\_\_\_\_

(Print the name of county where this Affidavit is notarized)

The person who signed this affidavit appeared, in person, before me, the undersigned notary, and stated under oath:

1. "My name is: \_\_\_\_\_  
First Middle Last

2. "The Respondent's name is: \_\_\_\_\_  
First Middle Last

3. "I am the Petitioner in this case. I am an adult and of sound mind.

"I have personal knowledge of the facts stated in this affidavit.

"The facts stated in this affidavit are true and correct.

(Check all boxes that apply)

☐ "I know that the Respondent is **not** in the military because I asked the U.S. Department of Defense to check their Defense Manpower Data Center (DMDC) database. DMDC notified me that the Respondent is not on active duty in any of the armed forces.

"I attached a true copy of the DMDC verification.

(If you check this box, you **must** attach a copy of the DMDC verification. You can print a copy of the DMDC verification from this web address: <https://www.dmdc.osd.mil/app/skra/skraHome.do>.)

☐ "I know that the Respondent is **not** now in the military because:

(List facts that you know would make your spouse ineligible for military service, such as being in prison, having a serious disability, etc.)



\_\_\_\_\_  
\_\_\_\_\_

☐ "I do not know if the Respondent is in the military now.

☐ "The Respondent is in the military now.

**Do not sign until you are in front of a notary.**



\_\_\_\_\_  
Signature of Person Signing Affidavit

\_\_\_\_\_  
Date

**Notary fills out below.**

State of Texas, County of \_\_\_\_\_  
(Print the name of county where this Affidavit is notarized)

Sworn to and subscribed before me, the undersigned notary, on this date: \_\_\_\_/\_\_\_\_/20\_\_\_\_ at \_\_\_\_ a.m./p.m.  
month day year time (a.m. or p.m.)

by \_\_\_\_\_  
(Print name of person who is signing this Affidavit. NOT the notary's name.)



\_\_\_\_\_  
Notary's Signature