

DIVORCE
(including Dissolution of Civil Unions)
AND
ANNULMENT
ANSWER PACKET



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Sample Forms.

NOTE: DO NOT FILE THESE FORMS.

They are simply guides to assist you in completing the actual forms.

DIVORCE (Including dissolution of Civil Unions)/ ANNULMENT ANSWER PACKET

For purposes of this packet, whether you are married or have entered into a civil union, the act of dissolving the marriage or union will be referred to as **Divorce**.

Use the **Answer to Petition for Divorce/Annulment ONLY** when:

- You have been named as the Respondent in a Petition for Divorce;

AND

- The Petition for Divorce was filed in Delaware

Although this packet appears to discuss only what you need to do if you were served with a Petition for Divorce, you should also use this packet if you were served with a **Petition for Annulment**.

HOW TO USE THIS PACKET

This packet contains general information about the Divorce process and basic instructions on how to complete the Court forms featured in the **ANSWER FORMS PACKET** which includes both blank forms for your completion as well as sample forms which have been filled out with generic information to help you better understand what information is requested by the Court.

You should read all of the instructions carefully **before** filling out any of the forms. All of the forms must be neatly filled out by hand or typed.

For word versions of these forms that can be completed electronically visit the Court's website at www.courts.delaware.gov/family

YOU MAY NOT NEED TO COMPLETE ALL OF THE SECTIONS IN THIS PACKET.

A paragraph at the beginning of each Section will describe who should complete that Section. **Read carefully** to determine if that Section applies to you. **ONLY** complete the sections that apply to you.

YOU DO NOT HAVE TO COMPLETE ALL THE SECTIONS AT ONCE.

For example, you do not have to file the forms in Section 2 at the same time as the forms in Section 1. Read the information carefully to make sure that you know what you are supposed to do and when to do it.

SECTIONS WITH EMPHASIS

While all of the information within this packet is relevant and important, there are sections with added emphasis which will help guide you through the instruction packet.

 Sections that are **SHADED** indicate example text



The **EYE** icon indicates a section that should be read carefully



The **FILE FOLDER** icon indicates a Court Document




The **WRITING** icon is found on the **SAMPLE FORMS** indicating where you must input information on the forms you will file with the Court.





The **STOP** icon indicates either the end of a section or that items should be completed before continuing




TIPS AND REMINDERS


- 


The laws governing divorce and annulment are found in Title 13 of the Delaware Code. It will be helpful for you to read these statutes, so that you are aware of the law that the Court will be applying when deciding your case. The Delaware Code is available in the Family Court Resource Centers, public libraries throughout Delaware and on the internet at:
www.delcode.state.de.us
- 


BE AWARE that this packet does **NOT** address the issues of custody, visitation or child support. Speak with the staff at the Family Court Resource Centers or visit the Family Court website for information and packets addressing these issues. Additional resources will contain information specific to these types of filings as well as the forms required by the Court.
- 


Remember who is the Petitioner and who is the Respondent.

 - ◆ The **PETITIONER** is the person who files the Petition
 - ◆ The **RESPONDENT** is the person answering or responding to the **Petition**.
- 

Remember that properly completing the forms does not guarantee that the Court will grant the Petitioner's requests. It is up to the Petitioner and Respondent at the Court Hearing to prove why the Court should give the relief that has been requested.
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Representing yourself may take a lot of time, may be difficult and may be confusing. The Court will expect you to follow the same rules that attorneys must follow. **If at any point during the process you are unsure about representing yourself, you should speak with an attorney.**
- 

Please remember that **COURT STAFF CAN NOT GIVE YOU LEGAL ADVICE**. While staff can tell you what options exist within Family Court's jurisdiction, they can not tell you which pleading you should file. Family Court's instruction packets and FAQ's are the best information available from the Court regarding what a certain filing is, what to file, and how to file. If after reviewing the Court's resources you still have questions, please contact an attorney.
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If you would like assistance in finding an attorney, you can call **Lawyer Referral Services** in New Castle County, 302-478-8850, and in Kent and Sussex Counties, 1-888-225-0582 There is also an **Attorney Roster** available in the Resource Centers in each County. This roster will list a sample of attorneys practicing Family Law in Delaware and help you to understand the costs and areas in which they practice.
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Always bring your photo identification. The Court will only accept either State or Federally issued photo identification. Primary examples are drivers licenses, state issued ID cards or passports.

MAINTAINING YOUR PAPERWORK

Please read and remember these important tips which will not only assist you with finding documentation in the future but also save you money.

REMEMBER

- ◆ Keep a copy of every document and Court paper.
- ◆ Keep all notes, documents and Court papers together and organized in a folder with the most recent papers on top
- ◆ Bring this folder with you each time you come to Court
- ◆ When you file a document with the Court, bring the required number of copies of each paper and an extra copy for you to have “clocked in” Keep the clocked-in copy in your folder as proof of the time and date you filed the document.

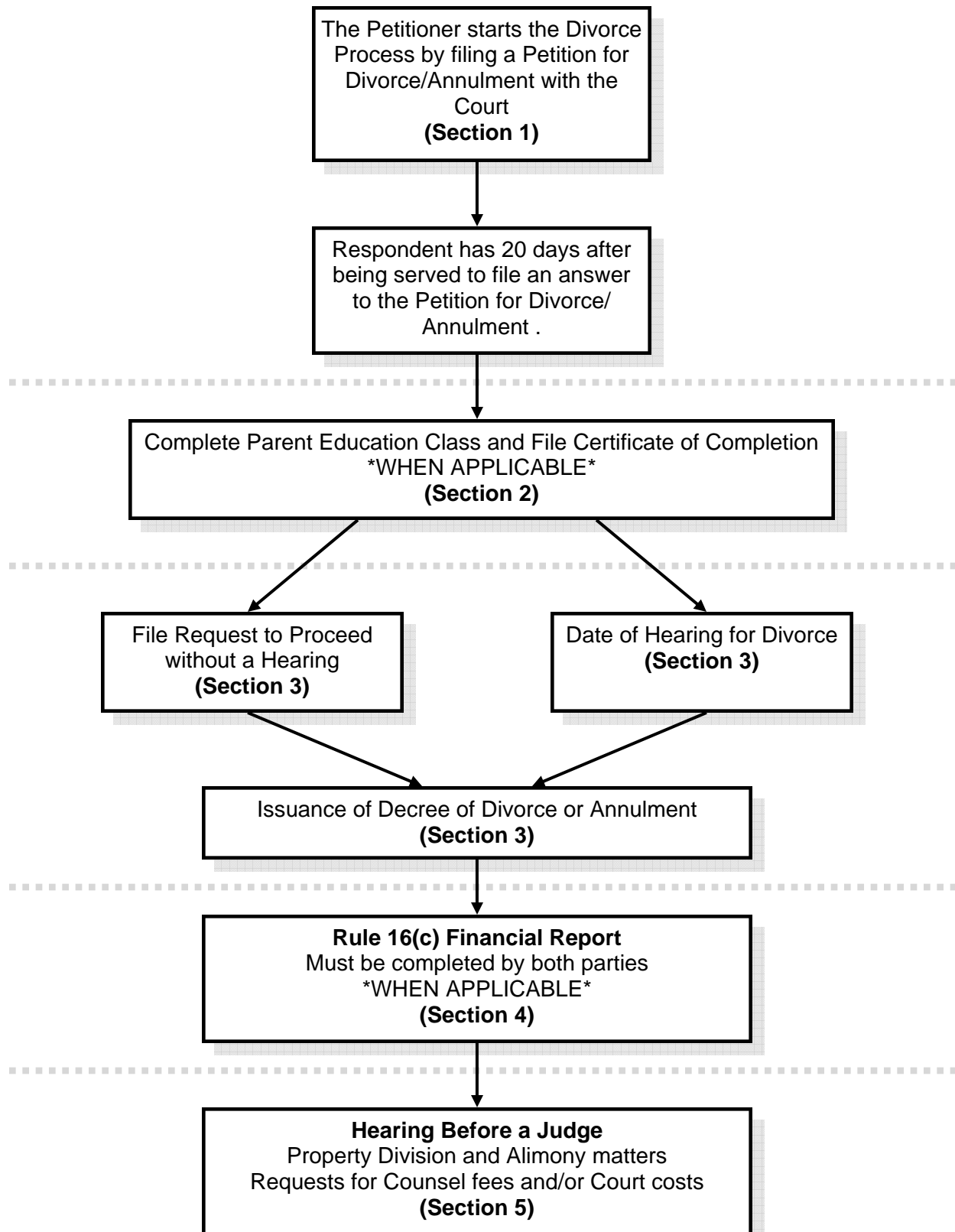


- ◆ Printing the required number of copies prior to coming to Court will save you money.

- ◆ When you must mail something, we suggest that you use regular mail AND “certified mail, return receipt requested” so that you have proof that the other party received the envelope. If you cannot afford to pay for “certified mail” we suggest you get a “certificate of mailing” at the post office to prove that you mailed the envelope to the other party. You may purchase both small and medium stamped envelopes at the Resource Centers and the Court will mail your papers for you by regular mail. YOU are responsible for certified mail.



The Divorce Process



Section 1: Types of Divorce



There are different types of divorce in Delaware. Your divorce will be processed differently depending upon what type it is. Divorces can be **Contested** or **Uncontested**.

- ◆ The Petition for Divorce/Annulment is contested if the Respondent (YOU) challenges material information in the petition such as the jurisdiction of the Court to address the divorce petition or challenges the grounds (reasons) for divorce stated in the Petition for Divorce/Annulment. If you contest (challenge) the petition, the matter **will automatically** be directed to a Commissioner for appropriate scheduling.
- ◆ If the Respondent does not file an Answer **within 20 days** of service of the Petition for Divorce/Annulment **OR** files an Answer agreeing with the Petitioner's request for a divorce, the petition is uncontested. If the petition is uncontested **the Petitioner can choose** what type of divorce proceeding he/she would like to have
 - ◆ The Petitioner may request that the Court decide the Petition for Divorce/Annulment based solely **on the papers** that are filed, without the parties appearing in Court for a hearing; **OR**
 - ◆ The Petitioner may chose to have the Court decide the Petition for Divorce/Annulment **after holding a hearing** which the Petitioner must attend and the Respondent may, but is not required to, attend

The Respondent has no say in what type of uncontested divorce proceeding is chosen. Delaware law allows the Petitioner alone to make this decision. The Respondent **may NOT change** the type of uncontested divorce proceeding that the Petitioner has chosen. The Court will use the same standard for granting a divorce regardless of the type of divorce proceeding that the Petitioner chooses.



BE AWARE. If the Petitioner in an uncontested divorce chooses to proceed on the papers, you will not have a hearing to decide whether your divorce should be granted. However, **IF** you or your spouse request that the Court divide your marital property/debts and/or award alimony, you **MAY** still have a hearing in front of a Judge. The hearing in front of a Judge on these ancillary matters **CANNOT** be waived, unless the parties settle their case prior to the scheduled hearing.

STARTING THE PROCESS



After the Petitioner files a Petition for Divorce/Annulment, you will be **served** with notice of the petition. This means that you will receive a **Summons** (a Court document explaining your rights and responsibilities) and **copies** of the petition and any other paperwork that the Petitioner filed. Service can be accomplished in the following ways:

- ◆ Personal service. This means that a person designated by the Court will hand the papers to you directly at your home or your job.
- ◆ Service by mail. This means that the papers will be mailed to you by certified mail.
- ◆ By publication of a notice in the newspaper.
- ◆ By your coming into the Court and picking up a copy of the papers from Court staff.

Regardless of how you receive notice of the petition, it is **VERY IMPORTANT** to read all of these documents **carefully** so that you can properly respond to the allegations in the Petition for Divorce/Annulment.

In some situations, Delaware law allows a divorce to be granted without holding a Court hearing. If the Petitioner opts to proceed without a hearing, then **the ONLY OPPORTUNITY that you will have to respond to the allegations in the Petition for Divorce/Annulment is by filing an Answer within 20 days of being served with the petition. **FILING AN ANSWER IS THE ONLY WAY YOU CAN TELL YOUR SIDE OF THE STORY TO THE COURT.** The Court will rely on the information in your Answer when determining whether to grant the divorce. If you **do not** file an Answer, you will **NOT be given another opportunity to respond** to the Petition for Divorce/Annulment and the Court will rely **ONLY** on the information provided by the Petitioner when deciding whether to grant the petition for divorce.**



To respond to the Petition for Divorce/Annulment, you **MUST** file the **ORIGINAL** with the Court and mail **ONE (1) COPY** of each form below to the Petitioner **within 20** days of receiving the Petition:



Answer form (*file original and mail copy to the Petitioner*)

- ◆ In your answer you may do the following:
 - ◆ **Admit** (you agree that the statement is true) or **deny** (you believe the statement is false) any statements made by your spouse in the Petition for Divorce/Annulment by checking the appropriate box. If you deny the statement, explain to the Court **why** the Petitioner's statement is not true. If you do not respond to a statement, the Court as-

sume that you agree that the statement is true. If you believe a statement is false, you **must deny** it.

- ◆ You may **ALSO** request that the Court determine matters of **division of marital property/debts, alimony, attorney fees, court costs and/or any other ancillary relief allowed in Title 13, § 1507 (f)**. You **DO NOT** have to file a counterclaim to request that the Court decide the above matters except for fees and costs. Filing fees will be charged by the Court for each matter that you ask the Court to determine. You may also request that the Court **change your name**. Please note that you can only request to change **YOUR** name. You may not request to change your spouse's name. You may only change your name to your maiden name or other former name
- ◆ **Counterclaim** for divorce or annulment. If you counterclaim, you are filing your own Petition for Divorce/Annulment.
- ◆ Carefully read each question on the Answer form. Questions **DO NOT** correspond with questions on the Petition for Divorce/Annulment. You **MUST** read the petition carefully to properly answer the questions on the Answer form.
- ◆ The Answer must be notarized by a notary public or authorized court staff. **DO NOT** sign you petition until you are in the presence of a notary.
- ◆ You must mail a copy of the Answer to the Petitioner or the Petitioner's attorney, if there is one. Complete the Affidavit of Mailing at the end of the Answer form to swear to the Court that you have mailed a copy to the other party. The Affidavit of Mailing must be notarized.

You have now reached the Situational Forms section.



Each form in this section should **ONLY** be completed if the situation described matches your situation. We suggest that you review the entire list of "Situational Forms" before filling any of them out. Once you've identified the forms that pertain to you, fill them out using the sample forms in the Forms Packet as a guide. Please read carefully and complete the forms that apply to you.

 **Affidavit of Children's Rights** (*File original and one copy*)

File this form IF: Petitioner and Respondent together have a child or children who are under the age of 18.


 **Affidavit of Appearance and Waiver of Rights** form *(file original only)*

- ◆ **ONLY** file these forms if you wish to **give up your right** to be given notice of the Petition for Divorce and/or to file an Answer.
- ◆ By filing an **Affidavit of Appearance**, you are telling the Court that you do not need to be given notice of the Petition for Divorce/Annulment (or in other words, you do not need to be served if you have not already been).
- ◆ The **Waiver of Rights** form tells the Court that you do not want to file an Answer form. **BE AWARE** that if you waive your right to file an Answer form, you will **NOT BE GIVEN ANOTHER CHANCE** to respond to the allegations in the Petition for Divorce/Annulment. The Court will assume that you agree that all of the allegations in the petition are **TRUE**.
- ◆ If you have already been served with the Petition for Divorce/Annulment, you may still file the Waiver of Rights and give up your right to file an Answer.

 **Separation Agreement** *(File original and one copy)*

File this form IF: you and your spouse have agreed on the terms of your divorce and you want the Court to be able to have the power to make you and your spouse follow your agreement by enforcing it

- ◆ A separation agreement is **NOT** a Court Form and is **NOT** included in the Forms Packet.
- ◆ To file a separation agreement, you must write down how you and your spouse are dividing your marital property and/or debts and any other agreements (such as custody, visitation, child support, alimony etc.) that you and your spouse have regarding the divorce.
- ◆ At the top of the document, write the case name and file number (this is in the top right hand corner of the Petition for Divorce/Annulment).
- ◆ Title the paper "Separation Agreement."
- ◆ **BOTH** you and your spouse **MUST** sign the Separation Agreement in the presence of a notary.
- ◆ When you file this document, you **MUST ALSO** file a Stipulation to incorporate the Separation Agreement.
- ◆ The Court will **NOT** review your agreement to decide if it is fair.

 **Stipulation to Incorporate the Separation Agreement Form**
(file original and one copy)

File this form IF: you have a Separation Agreement and you want the Court to be able to enforce the Separation Agreement.

- ◆ **BOTH** you and your spouse **MUST** sign the Stipulation to Incorporate the Separation Agreement in the presence of a notary.
- ◆ This is to be filed at the same time as your Separation Agreement



You may file a Separation Agreement and the Stipulation to Incorporate the Separation Agreement AT ANY TIME UNTIL the Court decides your petition.

Waiver of Rights under the Servicemembers Civil Relief Act

(file original and one copy)

File this form IF: The Respondent **IS** in the military.

- ◆ **ONLY** file this form if you **ARE** in the military and would like to **WAIVE** your rights under the Servicemembers Civil Relief Act.
- ◆ This Waiver allows the Court to proceed with the divorce process if you are unavailable because of military duties
- ◆ If you are in the military and do not file a Waiver of Rights under the Servicemembers Civil Relief Act, file an Affidavit of Appearance **OR** file an Answer, the Court will not schedule your Divorce Hearing until a Waiver of Rights under the Servicemembers Civil Relief Act is filed **OR** an attorney is appointed for you.



BE SPECIFIC WHEN COMPLETING THE FORMS for filing. **DO NOT LEAVE ANY ANSWER BLANK.** If a question does not apply to you write “N/A” in the blank. When you complete a form, write in blue or black ink **AND** write neatly.

REMEMBER to mail a copy of all the papers that you file with the Court to the Petitioner or, if Petitioner has an attorney who filed an Entry of Appearance, to the attorney. You **MUST** fill out the **Affidavit of Mailing** on the bottom of the form telling the Court that you have mailed a copy of the papers that you filed to the Petitioner or the Petitioner’s attorney (if there is one). If you do not mail a copy of the form to the Petitioner, the Court **may not consider** the information on that form.

Additional Instructions for Section 1

If you file a Counterclaim with your Answer, your spouse will have **20 days** after receiving the Answer and Counterclaim to file with the Court his/her own Answer (response) to the Counterclaim.



You can move to Section 2 once you have filed the relevant forms from Section 1

SECTION 2

PARENT EDUCATION CLASS

Only complete this section if you and your spouse are parents of a living child(ren) of the marriage up to the age of 17.

If you and your spouse do not have children in common up to the age of 17, continue on to Section 3.



You **MUST** file the certificate below:



Certificate(s) of Completion of Parent Education Class

All divorcing parents must take a Parent Education Class if they have children of the marriage up to the age of 17, unless the Court, upon motion, determines that participation in the Course is deemed not necessary. A listing of available classes is available at the Family Court Resource Centers.

You may motion the Court to approve a Parent Education Course that is not currently listed on the Court's approved course list. It is prudent to wait until the Court grants approval of a non-approved class before participation because your request may be denied.

Once you have completed the Parent Education Class, a Certificate(s) of completion of Parent Education Class will be given to you. You must file the **ORIGINAL** Certificate of Completion of Parent Education Class with the Family Court. **YOU CANNOT PROCEED WITH THE DIVORCE PROCESS UNTIL THE CERTIFICATE OF COMPLETION OF PARENT EDUCATION CLASS HAS BEEN FILED WITH THE COURT.**



Once you've reviewed all of Section 2 **and** your petition becomes **Trial Ready**, proceed to **Section 3**

SECTION 3

PETITION IS TRIAL READY



The Court will not proceed with the divorce process until the Petition for Divorce/Annulment becomes **trial ready**. The petition is trial-ready when the following jurisdictional requirements have been met.

- ◆ You and your spouse have been **separated for at least 6 MONTHS**, unless you are filing on the grounds of misconduct, then you do not have to be separated for any specified period of time. However, be aware that you must prove any allegations of misconduct by presenting evidence of the misconduct to the Court before a divorce will be granted on this ground
- ◆ You were **served** with a copy of the Petition for Divorce/Annulment or you entered your appearance
- ◆ The Petitioner and your child(ren) have completed the required Parent Education Classes and filed the **ORIGINAL** Certificate of Completion with the Court
 - ◆ Both parties are required to take the Parent Education Classes. However, the Court will proceed with the divorce process **as soon as the Petitioner and the child(ren) have filed the Certificates of Completion**. If you do not take the class and file your Certificate of Completion, your failure to do so **will be considered** by the Court when deciding custody and visitation matters



Once the Petition for Divorce/Annulment is trial-ready, one or both parties will receive a **Notice** from the Court telling them that you can proceed with the divorce process. The type of notification that you will receive will depend upon what type of divorce proceeding the Petitioner requested on his/her Petition for Divorce/Annulment. The following pages will describe the steps that you must follow for each type of divorce proceeding. **REMEMBER** that the Petitioner can proceed with either type of uncontested divorce as long as the divorce is uncontested. Also, remember that the Petitioner is not obligated to have the type of uncontested divorce proceeding that he/she initially chose on the Petition for Divorce/Annulment. The Petitioner can change his/her mind as long as the filing requirements are met.

DIVORCE DECIDED ON THE PAPERS



If the petition is uncontested and the Petitioner marked on the Petition for Divorce/Annulment that he/she wanted the Court to proceed without a hearing, solely on the papers, you, the Respondent, will receive NO notification from the Court.

Once the petition is trial ready, the Petitioner will receive a Notice of Trial Readiness telling him/her that he/she has **20 days** to file a Request to Proceed without a Hearing and an Affidavit in Support of the Request to Proceed without a Hearing. You do **NOT** need to file any documentation. The Court will notify you if you need to take any action. Because you cannot respond at this time, it is **IMPORTANT** that you have filed an **ANSWER**. Once the Petitioner receives the Notice of Trial Readiness, the following can happen:

- ◆ If the Petitioner **files** the Request and Affidavit, you will receive a copy of the Request and Affidavit in the mail. The Petition for Divorce/Annulment will be forwarded to a Commissioner who will review all of the papers that were filed, **INCLUDING** your Answer. Based on these documents, the Commissioner will decide whether the divorce should be granted and one of the following things will happen:
 - ◆ If the Court **GRANTS** the Petition for Divorce/Annulment you will receive a copy of the Commissioner's Order and the Decree of Divorce/Annulment in the mail. This will most likely be the first notification that you will receive from the Court after filing your Answer. A copy of the Order and Decree will also be sent to the Petitioner. If you or your spouse have requested that the Court retain jurisdiction over ancillary matters, you will also receive a paper telling you what ancillary matters the Court will decide.
 - ◆ If the Court **DOES NOT GRANT** your divorce two things can happen
 - ◆ The Commissioner can deny your Petition for Divorce/Annulment because the statutory requirements for granting a divorce were not met and you and the Petitioner will continue to be married, **OR**
 - ◆ The Commissioner can schedule a hearing to take testimony and other evidence from the parties to determine if the statutory requirements have been met. If your Petition for Divorce/Annulment is scheduled for a hearing, you will be notified by mail of the time and date of your hearing.
- ◆ If the Petitioner **DOES NOT file** the forms within the allotted time, then the Petition for Divorce/Annulment will be scheduled for a hearing and the Petitioner will have to appear in Court. You may appear if you would like. The Court will notify you by mail of time and date of your hearing.



Delaware law requires that in addition to being separated for 6 months, you and your spouse have lived "separate and apart" for 30 days before the Court grants

a divorce. You and your spouse may reside in the same house, **BUT THE COURT CANNOT GRANT YOUR PETITION FOR DIVORCE IF YOU AND YOUR SPOUSE HAVE OCCUPIED THE SAME BEDROOM OR HAD SEXUAL RELATIONS WITHIN THE 30 DAYS PRIOR TO THE COURT GRANTING YOUR DIVORCE.** Failure to adhere to this requirement may mean that your divorce is invalid

DIVORCE DECIDED AT A HEARING



If the petition is uncontested and the Petitioner marked on the Petition for Divorce/Annulment that he/she wanted to proceed with a hearing **OR** if you **contested** the divorce petition, a hearing will be scheduled. You and the Petitioner will receive a **Notice of Hearing** notifying you of the date of your hearing. The Petitioner must attend the hearing for his/her Petition for Divorce/Annulment to be granted. If you are **not contesting** the divorce, then you do **NOT** have to appear at the hearing. You may appear if you would like. But, if you are **contesting** the divorce, then you **MUST** appear at the hearing to have your contest considered.

If, **AFTER you have received a Notice of Hearing**, the Petitioner changes his/her mind and decides to proceed on the papers without having a hearing, the Petitioner may file a Request to Proceed without a Hearing and the accompanying Affidavit anytime at least 7 days prior to the scheduled hearing. The Petitioner **MUST** send you a copy of the Request to Proceed Without a Hearing. If you receive a copy of the Request to Proceed Without a Hearing that was filed **at least 7 days prior** to the scheduled hearing, the uncontested divorce hearing will **NOT** take place and the matter will be decided on the papers. You **DO NOT** have to appear in court the day of your scheduled hearing. Otherwise, the scheduled uncontested divorce hearing will take place

Delaware law requires that in addition to being separated for 6 months, you and your spouse must have lived “separate and apart” for 30 days before the Court grants a divorce. You and your spouse may reside in the same house, **BUT THE COURT CANNOT GRANT YOUR PETITION FOR DIVORCE IF YOU AND YOUR SPOUSE HAVE OCCUPIED THE SAME BEDROOM OR HAD SEXUAL RELATIONS WITHIN THE 30 DAYS PRIOR TO YOUR HEARING.** Failure to adhere to this requirement may mean that your divorce is invalid.

If the Court grants the Petition for Divorce/Annulment you will receive a copy of the Commissioner’s Order and the Decree of Divorce/Annulment in the mail. The Petitioner will also receive a copy of the Commissioner’s Order and Decree of Divorce/Annulment. If you or your spouse have requested that the Court retain jurisdiction over ancillary matters, you and the Petitioner will also receive a document telling you the ancillary matters the Court will decide.



If you have **NOT** requested Ancillary Relief, this is the END of the Divorce Answer Packet.

If you **HAVE**, begin section 4 **IMMEDIATELY** after you receive your Divorce Decree

Section 4

RULE 16(c) FINANCIAL REPORT

Begin Immediately After Receiving Your Divorce Decree.

Only Complete This Section If You Or Your Spouse Requested Property Division And/Or Alimony.

The Rule 16(c) Financial Report is a form where both spouses provide the Court and each other information about their finances. Both parties must complete the **SAME** form. Pay careful attention to the instructions so you understand the process, which is **different** than other forms. The two steps for completing the Rule 16 (c) Financial Report are described on the following pages.



The person who requested the Court make a decision on **ANY** of the following ancillary matters must complete the form **first**:

- ◆ Division of Marital Property;
- ◆ Division of marital debts; **AND/OR**
- ◆ Payments of Alimony.

The person who completes the form **FIRST** is the “**Petitioner**” (for the purposes of completing this form **ONLY**), even if this person is not the person who filed the Petition for Divorce/Annulment. The Petitioner must complete all sections pertaining to the “Petitioner,” while the person who did **NOT** make such requests would be the “**Respondent**” and must complete all sections pertaining to the “Respondent.”



If **BOTH** of you requested that the Court make a decision on ancillary matters, the person who filed the Petition for Divorce/Annulment is the “**Petitioner**” (for purposes of completing this form as well).

Instructions for Completing the Rule 16 (c) Financial Report



The entire form **MUST** be completed. Both parties must fill out the Rule 16 (c) Financial Report completely. Even if there is something that you do not want the other party to know you must put it on the form anyway or contact the Court by **Motion immediately** to tell the Court why you think that information should not be on the form. Please see the Motion Instruction Packet for more information about filing a Motion. The Court will decide if you must put the information on the Rule 16 (c) Financial

Report. **DO NOT WAIT UNTIL YOUR 30 DAYS HAVE PASSED TO FILE YOUR MOTION WITH THE COURT.**

If you do not fill out the Rule 16 (c) Financial Report or if you hide property from your former spouse and the Court, the Court can impose the following **SANCTIONS** (penalties):

- ◆ Order you to pay your former spouse's attorney fees;
- ◆ Accept your former spouse's information on the form as true and ignore any information you may have; or
- ◆ Enter a **Default Judgment** or **Dismissal** against you.

If neither party files the Rule 16(c) Financial Report in a timely manner, then the request for the Family Court to determine the ancillary matters will be dismissed.

STEP ONE

The person who is the Petitioner for the purposes of this form **has 30 days AFTER the date that the Divorce Decree is signed by a Commissioner** to complete the following papers:

Rule 16 (c) Financial Report form (*forward original to your spouse*)

- ◆ This is a very long form. Allow yourself enough time to fill in all the necessary information carefully and accurately.
- ◆ REMEMBER. Only fill in the portions of the form that are labeled Petition (P)
- ◆ On the last page of the Rule 16 (C) Financial Report, you are asked to list the proposed division of property and debts. IN other words, you tell the Court how you think the property and debts should be divided. If you do not think that there is enough room in the provided box, you may write in the box "see attached" and write how you think the property should be divided on a separate piece of paper.
- ◆ After the Petitioner completes the Rule 16(c) Financial Report, he/she must sign it in the presence of a notary.
- ◆ The Petitioner must forward the **ORIGINAL** notarized Rule 16(c) Financial Report to the Respondent or the Respondents Attorney (if there is one).
- ◆ Before forwarding the original Rule 16(c) Financial Report, the Petitioner should make a **COPY** of the original and retain it for his/her records. This is **VERY IMPORTANT** in Case the Respondent does not file the original with the Court.

Affidavit of Mailing Form (*file original only*)

- ◆ **AFTER** the Petitioner forwards the original Rule 16(c) Financial Report to the Respondent, he/she must complete the Affidavit of Mailing; Swearing under oath that he/she mailed the original to the Respondent or the Respondent's attorney, and file the Affidavit with the Court.

STEP TWO

The person who is the Respondent for the purposes of this form **has 30 days AFTER the date of mailing (look at postage date on the Rule 16 (c) Financial Report)** to complete and file the 16 (c) form.



Rule 16(c) Financial Report form (*file original and mail copy to Petitioner*)

- ◆ Once the Respondent receives the Rule 16(c) Financial Report from the Petitioner, he/she must complete the Respondent's portion of it and sign it in the presence of a notary.
- ◆ On the last page of the Rule 16(c) Financial Report, you are asked to list the proposed division of property and debts, in other words, you tell the Court how you think the property and debts should be divided. If you do not think that there is enough room in the provided box, you may write in the box "See Attached" and write how you think the property should be divided on a separate piece of paper
- ◆ The Respondent must **file the ORIGINAL** notarized Rule 16(c) Financial Report with the Court **AND** forward a **copy** to the Petitioner or the Petitioner's attorney (if there is one).
- ◆ Before filing the original Rule 16(c) Financial Report with the Court, the Respondent should make a second copy and retain it for his/her records.



Affidavit of Mailing form (*file original only*)


- ◆ **AFTER** the Respondent forwards a copy of the Rule 16(c) Financial Report to the Petitioner, he/she must complete the Affidavit of Mailing swearing under oath that he/she mailed a copy to the Petitioner or the Petitioner's Attorney.



If one party does not file the Rule 16(c) Financial Report, the Family Court may grant a **Default Judgment** or **Dismissal** against him/her. The Court may also impose the same penalties stated above for not completing the form. If your former spouse fails to file Rule 16(c) Financial Report, you may be directed by the Court to file the following document. You may also be asked to submit a copy of the RUI Rule 16 (c) Financial Report you filled out.

 **Form of Order** (*file original only*)


- ◆ On this document, you tell the Judge what you would like him/her to order by writing a **proposed order** for the judge to sign. You must write down how you want the Court to divide your property/debts and/or how much alimony should be paid.
- ◆ Be specific in what you write because the judge may sign the Form of Order exactly how you have written it, making what you have written an **enforceable Court Order** .
- ◆ **DO NOT FILE THIS DOCUMENT UNTIL DIRECTED BY THE COURT TO DO SO**. This document is only filed IF your former spouse fails to file the Rule 16 (c) Financial Report in a timely manner.
- ◆ This document is **NOT** found in the Forms Packet. It is available in the Resource Centers and on the Family Court Website

 If you tried to finish the Rule 16 (c) Financial Report but you cannot, you may ask the Court to give you more time by filing a **Motion**. Please see the Motion Instruction Packet for more information about filing a Motion. It is up to the Court to decide whether you will get more time and you must have a good reason for the request. Not completing the Rule 16 (c) Financial Report Form because you did not feel like doing it or you did not find the time to complete it, is not a good reason and the Court probably will not give you more time.



When you have finished reviewing this section, continue on to SECTION 5 which describes the next events in the process.


SECTION 5 ANCILLARY HEARING WITH A JUDGE

 If you or your former spouse requested that the Court determine **property division, alimony, counsel fees, court costs and/or any other ancillary relief allowed in Title 13, section 1507 (f)**, these matters will be scheduled for a Hearing before a judge. The hearing will be scheduled **AFTER** the Rule 16(c) Financial Report form is completed by both parties and filed with the Court. The Court will notify you by mail of the date of your hearing.

Depending on how complicated your case is, the Judge may schedule a **Pre-trial Conference**. The Court will notify you if a pre-trial conference will be held. You may also be required to submit additional information regarding your finances to the Court.

If you do not comply with the Court's request for additional information, the Court may impose the following **SANCTIONS** (penalties):

- ◆ Continue the hearing;
- ◆ Accept your former spouse's information as true and ignore any information you may have; or
- ◆ Order you to pay your former spouse's attorney fees; or
- ◆ Dismiss the case.

 Before your Hearing(s) you should refer to the FAQ's (Frequently Asked Questions) dealing with the topics of your Hearings(s) and on How to Prepare for a Hearing. Reviewing these materials will allow you to be prepared to fully participate in the hearing.



This concludes the Divorce (including dissolution of civil union) and Annulment Answer Packet

**The next section, 6, provides examples of sample forms to assist you.
DO NOT FILE THESE FORM SAMPLES.**