

# DEFAULT

## Dissolution of Marriage without Children and Proposed Order

**How to Get a (default) Court Order  
When the Other Party Has Not Filed a  
Response**

**FORMS AND INSTRUCTIONS**

## SELF-SERVICE CENTER

# HOW TO GET A DEFAULT COURT ORDER IN FAMILY COURT CASES

## CHECKLIST

*You may use this packet if . . .*

- ✓ You have filed a summons and petition for one of the following:
  - Divorce
  - Legal Separation
  - Annulment
  - To Establish Paternity
  - To Establish a first court order for Legal Decision Making authority (custody) and/or Parenting Time and/or Support **AND**
- ✓ The other party was served with the court papers;
- ✓ Proof of service has been filed with the Clerk of the Court, **AND**
- ✓ The other party has not filed a written response or answer within the time frame set by law. (Check the court file to be sure this is true.), **AND**
- ✓ You want to proceed to get a (default) court order.

**PROCEDURES: WHEN AND HOW TO FILE AN APPLICATION AND AFFIDAVIT FOR DEFAULT IN FAMILY COURT CASES WITH OR WITHOUT CHILDREN**

**WHEN TO FILE THE APPLICATION FOR DEFAULT:**

- after the other party has been served with the court papers, AND
- the appropriate response period has passed (see Default Timetable below), AND
- the other party has not filed a response or answer with the court.

**STEP 1: COUNT.** Look at the **Default Timetable** below to find the method of service you used and the number of calendar days to count before you can apply for a default hearing or order.

- Begin counting the day after the other party was served with the Petition.
- Include weekends and holidays until you reach the number of days listed.
- If the last day for the other party to respond falls on a Saturday, Sunday, or legal holiday, do NOT count that day.

**DEFAULT TIMETABLE**

<b><u>SERVICE MADE IN ARIZONA</u></b>	<b><u>COUNT</u></b>	<b><u>EVENT</u></b>
Acceptance of Service	20 Days	after the other party signs the “ <i>Acceptance of Service</i> ”
Delivery with Signature Confirmation*	20 Days	after other party signs delivery confirmation*
Process Server	20 Days	after other party receives papers from a process server
Service by Sheriff	20 Days	after other party receives papers from Sheriff
Publication	50 Days	after the 1st publication in newspaper

**SERVICE MADE OUT OF STATE**

Acceptance of Service out of State	30 Days	after the other party signs the “ <i>Acceptance of Service</i> ”
Process Server out of State	30 Days	after other party receives papers from a process server
Delivery with Signature Confirmation*	30 Days	after other party signs delivery confirmation*
Service by Sheriff	30 Days	after other party receives papers from Sheriff
Certified Mail out of State	30 Days	after other party signs a green return receipt card
Publication	60 Days	after 1st publication in newspaper

*\* available for Family Court matters only*

**STEP 2:**     **WAIT.** Wait until the day after the number of days indicated in the Default Timetable above. If the other party did not file an *Answer/Response* with the Court you may complete, file and mail a copy of the Application and Affidavit for Default as instructed in Steps 3 and 4 below. You must take this action for your case to proceed.

**STEP 3:**     **SIGN AND COPY:** Sign and date the “*Application and Affidavit for Default.*” Do NOT sign and date the “*Application and Affidavit for Default*” before the amount of time shown in the Default Timetable has passed.

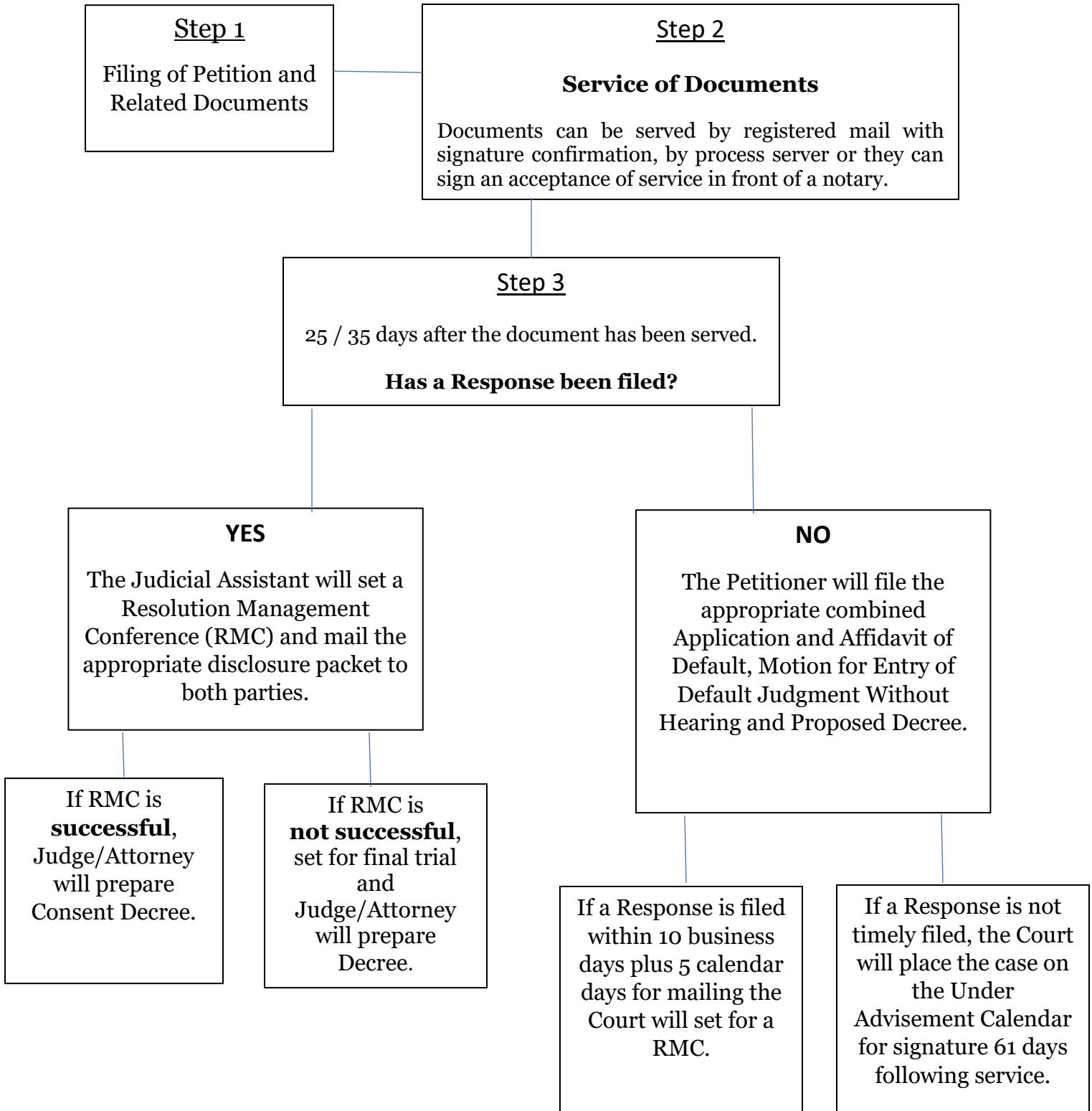
Make two copies of your signed and dated “*Application and Affidavit for Default.*”

**STEP 4:**     **FILE:** File the original Application and Affidavit for Default with the Clerk of the Court.

Hand the original & both copies of the “*Application and Affidavit for Default*” to the Clerk at the filing counter. The Clerk will keep the original, date-stamp both sets of copies and return the copies to you. Make sure both copies are stamped.

**STEP 5:**     **MAIL:** Mail one of the date-stamped copies of the “*Application and Affidavit for Default*” to the other party on the same day you file the papers with the Clerk of the Court. Keep the other copy for your records. (The “*Application and Affidavit for Default*” must be mailed, hand delivery is not acceptable.)

## Petition for Annulment, Legal Separation or Dissolution of Marriage



Person Filing: \_\_\_\_\_  
Address (if not protected): \_\_\_\_\_  
City, State, Zip Code: \_\_\_\_\_  
Telephone: \_\_\_\_\_  
Email Address: \_\_\_\_\_  
Representing: [ ] Self or [ ] Lawyer for \_\_\_\_\_  
Lawyer's Bar Number: \_\_\_\_\_



**IN THE SUPERIOR COURT  
GRAHAM COUNTY, STATE OF ARIZONA**

In re the Marriage of:

\_\_\_\_\_,  
Petitioner,

and

\_\_\_\_\_,  
Respondent.

Case No. DO-\_\_\_\_\_

**APPLICATION AND AFFIDAVIT FOR  
DEFAULT IN FAMILY COURT CASES,  
MOTION AND AFFIDAVIT FOR ENTRY OF  
DEFAULT DECREE WITHOUT HEARING  
AND PROPOSED FORM OF DECREE**

**NOTICE:** THIS IS AN IMPORTANT COURT DOCUMENT. When this document is properly completed and filed, Default has been applied for and entered. The Default will be effective ten (10) working days after the filing of this completed document, unless the Respondent files an Answer/Response or otherwise defends before the ten working days period expires. If an Answer/Response is not timely filed, the Court will enter the attached final Decree by default.

**APPLICATION AND AFFIDAVIT FOR DEFAULT IN FAMILY COURT CASES**

1. I am the Petitioner in this court case. I understand and make the following statements under oath or by affirmation. I give notice that I am requesting entry of default against the other party, the Respondent, because the Respondent has not filed an Answer/Response.

2. Service of the court papers on Respondent has been accomplished as follows: (Check ONLY one box.)

[ ] The Respondent has signed an Acceptance of Service and has accepted service of the Summons, Complaint

or Petition and other papers. The Respondent has not filed an Answer/Response, or otherwise appeared in this court case. Default may be entered.

OR

[ ] I have served the Respondent according to law with the Summons, Complaint or Petition and other papers. Respondent has not appeared, answered or otherwise responded in the time required by law.

3. The Respondent is either not in the active military service of the United States or has otherwise waived his/her rights under the Service Members Civil Relief Act (formerly "Soldiers and Sailor's Civil Relief Act").

4. By completing the Certificate of Mailing I certify to the Court that on the same day I file this document I will mail a copy of this Application and Affidavit to the Respondent at his or her current or last known address even if that is my own address and/or I have served the other party by publication, and if applicable, to his or her attorney as notice that I have applied for default.

5. I UNDERSTAND THAT I WILL NOT QUALIFY FOR DEFAULT if I fail to mail this document and/or I fail to complete the Certificate of Mailing below.

CERTIFICATE OF MAILING: I hereby certify that I have mailed a **copy** of this Application and Affidavit for Default in Family Court Cases and Motion and Affidavit for Entry of Default Decree Without Hearing, on the same day I filed the **original** with the Clerk of Court, postage-prepaid to the Respondent at the following address:

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

**I understand that this mailing must be done even if the last known address is my address and/or I know the Respondent is no longer at the last known address.**

If I believe the Respondent is represented by an attorney, I certify that I have also mailed a copy of this Application and Affidavit for Default in Family Court Cases and Motion and Affidavit for Entry of Default Decree Without Hearing to that attorney on the day I filed this document. **IF THE RESPONDENT IS REPRESENTED BY AN ATTORNEY, PLEASE CHECK HERE TO INDICATE THAT YOU MAILED A COPY OF THIS DOCUMENT TO THE ATTORNEY AS WELL** [ ].

**WARNING**

If the Respondent fails to file a responsive pleading or otherwise defend in this action within 10 working days of the filing of this Application, a default judgment will be entered as set forth in the attached final Decree.

**MOTION AND AFFIDAVIT FOR ENTRY OF DEFAULT DECREE  
WITHOUT HEARING**

I am the Petitioner and I am asking the Court to enter a Decree of Dissolution of Marriage, Decree of Legal Separation or Annulment by default without a Court hearing as set forth in the attached Exhibit "A," which is incorporated herein by reference. **If a Response is not timely filed by Respondent, I request that the Court enter the attached Decree by default and without a hearing.** I have put a check mark in each box in front of the statements below that are true and I understand that if any statement is not true, I cannot get a default decree without a hearing.

- I have read this "Motion and Affidavit for Default Decree Without a Court Hearing" and to the best of my knowledge everything I have said is true.
- The relief to be awarded in the Decree for Dissolution of Marriage, Legal Separation or Annulment is the same as the relief I requested in the underlying Petition, OR if the relief to be awarded is different, it has been approved by both parties, as reflected in a notarized statement from the other party, or a Decree for Dissolution of Marriage, Legal Separation or Annulment containing the notarized signatures of both parties.
- To the best of my knowledge, neither Petitioner nor Respondent are minors and are both competent and sane at this time (even if "legal incompetence" or "insanity" at the time of the marriage is listed as a ground for an annulment).
- Service was not done by publication.
- My case does not involve a member of the military waiving service OR I have submitted a notarized "Service Members Civil Relief Act Waiver" completed by the other party.

Complete this section by marking ONLY those that apply:

- At the time this action was filed, the Petitioner or the Respondent was domiciled in Arizona or was stationed in Arizona while a member of the United States Armed Forces. If this is an action for dissolution of marriage (divorce) or annulment, the Petitioner or the Respondent was domiciled or stationed in Arizona for more than 90 days.
- The Conciliation Services provisions have been met since the filing of the Petition for Dissolution of Marriage or the provisions do not apply. (A.R.S. §25-381.09).
- If a claim for spousal maintenance/support has been made, a completed Form 6, Rule 97 Default Information for Spousal Maintenance is attached hereto.
- All of the allegations, including those concerning property and debts listed in the Petition were true at the time filed and remain true as of the date of the filing of this motion and affidavit, OR any changes are explained as follows: \_\_\_\_\_  
\_\_\_\_\_
- Everything in the Petition for Dissolution of Marriage, Legal Separation or Annulment concerning who gets the property and who pays the bills/debts is fair and reasonable. If applicable, attorney fees are itemized on the paper attached to this Motion and Affidavit.





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# EXHIBIT “A”

Proposed Form of Decree

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**ONLY COMPLETE THIS FORM IF YOU ARE REQUESTING SPOUSAL MAINTENANCE**

**Form 6. Default Information for Spousal Maintenance**

To qualify for spousal maintenance under A.R.S. § 25-319, you must provide the following information.

(Check all boxes that apply).

- I lack sufficient property, including property I will be receiving in the dissolution, to provide for my reasonable needs.
- I am unable to be self-sufficient through appropriate employment.
- I am unable to earn enough money to support myself.
- I am the custodian of a child whose age or condition is such that I should not be required to seek employment outside the home.
- I contributed to the educational opportunities of my spouse.
- My marriage has lasted \_\_\_\_\_ years.
- I am \_\_\_\_\_ years old.
- There have been excessive or abnormal expenditures, destruction, concealment or fraudulent disposition of community, joint tenancy and other property held in common.
- There are actual damages and judgments from conduct resulting in criminal conviction of either you or your spouse in which the other spouse or child was the victim.

If the court finds you qualify for spousal maintenance, it will need the following information in determining the appropriate amount and duration. To assist the court, please answer the following:

1. If you have been employed during the marriage, state how and when you have been employed.

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2. Do you have a physical or emotional condition that limits your ability to work? Describe:

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3. Describe any contributions you have made to your spouse's earning ability or how you reduced your income or career opportunities to benefit your spouse.

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4. If your request for spousal maintenance is granted, will you and the other party be able to contribute to the educational expenses of your children? Describe.

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5. Why are the financial resources available to you, including property awarded in the decree, not adequate to meet your needs?

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6. Do you think additional education or training would enable you to find employment sufficient to meet your needs? \_\_\_\_\_. Is this education or training readily available? \_\_\_\_\_. How long do you think it will take to complete this education or training? \_\_\_\_\_

7. How much will it cost you per month to obtain health insurance after the divorce? \_\_\_\_\_. How much will the other party save per month if the insurance changes from a family plan to employee only health insurance? \_\_\_\_\_.

8. What is your spouse's present occupation and monthly income? (If you do not have documentation of your spouse's income, describe how you came to your estimate.)

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**NECESSARY MONTHLY EXPENSES** (For yourself and minor child(ren) who reside with you)

House (mortgage/rent)	\$ _____
Repair/Upkeep	\$ _____
Electricity	\$ _____
Gas	\$ _____
Water	\$ _____
Sewer	\$ _____
Phone	\$ _____
Garbage	\$ _____
Food	\$ _____
Household Supplies	\$ _____
Medical/Dental/Medication	\$ _____
Clothing	\$ _____
Laundry/Dry Cleaning	\$ _____
Child Care	\$ _____
Car Repair/Maintenance	\$ _____
Car Insurance	\$ _____
Gas/Oil	\$ _____
Vehicle License	\$ _____

<u>Expense</u>	<u>Amount</u>
Other Monthly Expenses (be specific): _____	\$ _____
_____	\$ _____
_____	\$ _____
_____	\$ _____
_____	\$ _____
_____	\$ _____
_____	\$ _____

**Total Monthly Expenses \$ \_\_\_\_\_ (total of above-listed amounts)**

**INCOME**

**Gross Paycheck**

- \$ \_\_\_\_\_ every:
- week
  - every two weeks (i.e. 26 pay periods per year)
  - twice per month (i.e. 24 pay periods per year)
  - monthly

**Less**

- \$ \_\_\_\_\_ (Federal Taxes)
- \$ \_\_\_\_\_ (State Taxes)
- \$ \_\_\_\_\_ (Social Security and Medicare)
- \$ \_\_\_\_\_ (Insurance)
- \$ \_\_\_\_\_ (Savings)
- \$ \_\_\_\_\_ (Other: \_\_\_\_\_)
- \$ \_\_\_\_\_ (Other: \_\_\_\_\_)
- \$ \_\_\_\_\_ (Other: \_\_\_\_\_)

**Total Deductions from Gross Paycheck \$ \_\_\_\_\_ (total of above-listed deductions)**

**NET PAYCHECK: \$ \_\_\_\_\_**

9. I request \$ \_\_\_\_\_ per month for spousal maintenance for \_\_\_\_\_ months.

10. Can the other party's needs be met if you receive this requested spousal maintenance? (Explain):  
 \_\_\_\_\_  
 \_\_\_\_\_

**I declare under penalty of perjury that the foregoing is true and correct.**

**Date:** \_\_\_\_\_ **Signature:** \_\_\_\_\_



**IN THE SUPERIOR COURT  
GRAHAM COUNTY, STATE OF ARIZONA**

<p>In re the Marriage of:</p>  _____, <p style="text-align: right;">Petitioner,</p> <p>and</p>  _____, <p style="text-align: right;">Respondent.</p>
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Case No. DO-\_\_\_\_\_

**DEFAULT  
DECREE OF DISSOLUTION OF MARRIAGE  
WITHOUT MINOR CHILD(REN)**

The Court finds:

1. This case has come before this Court for a final Decree of Dissolution of Marriage. The Court has taken all of the testimony needed to enter a Decree, or the Court has determined testimony is not needed to enter the Decree.
2. This Court has personal and subject-matter jurisdiction over the parties under applicable law.
3. At the time this action was filed, the Husband and/or the Wife was domiciled in Arizona or was stationed in Arizona while a member of the United States Armed Forces for a period of greater than 90 days. The Respondent has been served in accordance with Arizona law.

4. The provisions relating to the Conciliation Court either do not apply or have been met.
5. The marriage is irretrievably broken and there is no reasonable proposition of reconciliation, or that one or both of the parties' desire to live separate and apart from the other.
6. At least 60 days have elapsed from the date following service of process or the date of acceptance of process.
7. This is a non-covenant marriage.
8. To the extent is has jurisdiction to do so and where it is applicable to the facts of this case, this court has considered, approved, and made orders relating to issues of spousal maintenance and the division of property and/or indebtedness.
9. The provisions of this Decree are fair and reasonable under the circumstances and the division of property and indebtedness is fair and equitable.
10. The following is the effect, if any, of this Default Decree upon any existing protective orders:

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11. As for a fair and equitable division of **Community Property and Indebtedness:**

- The parties did not acquire any community property or indebtedness during the marriage.
- The parties did acquire community property or indebtedness during the marriage. A fair and equitable division of community property and/or indebtedness is set forth in Exhibit "A" which is attached hereto and incorporated herein by reference.

12. As for **Spousal Maintenance:**

- Neither party is entitled to an award of spousal maintenance/support.
- A party is entitled to an award of spousal maintenance/support for the reason that:
  - Wife      or       Husband

lacks sufficient property, including property awarded to him/her as part of this divorce to provide for his/her reasonable needs, and/or is unable to support himself/herself through appropriate employment or is the custodian of a child whose age or condition is such that the custodian should not be required to seek employment outside the home or lacks earning ability in the labor market adequate to be self-sufficient, and/or has made significant financial or other contribution to the education, training vocational skills, career or earning ability of the other spouse, and/or the marriage was of long duration and is of an age that may preclude the possibility of gaining employment adequate to be self-sufficient, and/or has significantly reduced that spouse's income or career opportunities for the benefit of the other spouse.

Spousal maintenance shall be ordered to be paid by  Wife or  Husband in the amount of \$\_\_\_\_\_ per month, starting on \_\_\_\_\_, 202\_\_ for a period of:  \_\_\_\_\_ months or  indefinitely (until the receiving party either dies or remarries).

The parties further agree that:

- The spousal maintenance award shall be modifiable in accordance with Arizona law, or
- The spousal maintenance award shall not be modifiable in the future for any reason.

- 13. The parties are not the natural or adoptive parents of any minor children. Wife is not pregnant.
- 14. Each party shall provide to the other all necessary documents to file all tax returns. Other orders regarding tax returns (if any) are necessary as follows: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

On the basis of the foregoing findings, IT IS HEREBY ORDERED, ADJUDGED AND DECREED:

- 1. The marriage of the parties is dissolved, and the parties are restored to the legal status of single persons.
- 2. That  Husband or  Wife is restored to the former name of \_\_\_\_\_.
- 3. Temporary Orders:  have been satisfied in full or  judgment is awarded as follows: \_\_\_\_\_  
\_\_\_\_\_ with interest at the highest legal rate allowed by law.
- 4. That spousal maintenance, if any, shall be paid as set forth herein.
- 5. That in cases in which spousal maintenance is ordered, until such time that that order is terminated, the parties shall exchange tax returns, affidavits of income and expenses and current pay information every 24 months or as follows: \_\_\_\_\_
- 6. That the division of community property and indebtedness, if any, shall be made as set forth herein.
- 7. That a Qualified Domestic Relations Order:
  - Is not necessary.
  - Is submitted contemporaneously herewith.
  - Shall be submitted by \_\_\_\_\_ no later than \_\_\_\_\_.



8. Each party shall indemnify, defend and hold harmless the other from any indebtedness ordered to be paid herein.

9. That each party shall execute and deliver to the other, forthwith, any deeds, bills of sale, assignments of title, and other like documents necessary or appropriate to give effect to the division of property herein ordered.

10. Other Orders:

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Pursuant to Arizona Rules of Family Law Procedure 78(c), no further matters remain pending, and this Decree of Dissolution of Marriage is a final, appealable Order.

DONE IN OPEN COURT this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

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**JUDGE OF THE SUPERIOR COURT**

A COPY of the foregoing was

\_\_\_\_\_ Hand-Delivered

\_\_\_\_\_ Mailed

\_\_\_\_\_ Emailed

To Petitioner:

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To Respondent:

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**EXHIBIT "A"**

Division of Community Property and Indebtedness

1.  Each party is awarded the personal property in his/her possession except as follows: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

- 2.  Husband is ordered to pay all debts unknown to Wife.
- Wife is ordered to pay all debts unknown to Husband.
- Each party is ordered to pay his or her debts from the following date: \_\_\_\_\_
- Each party is assigned his or her separate property and each party must pay their respective separate debt.

3. Community Property is awarded to each party as follows:

Item of Community Property

Awarded to:  
Husband      Wife

_____	<input type="checkbox"/>	<input type="checkbox"/>
_____	<input type="checkbox"/>	<input type="checkbox"/>
_____	<input type="checkbox"/>	<input type="checkbox"/>
_____	<input type="checkbox"/>	<input type="checkbox"/>
_____	<input type="checkbox"/>	<input type="checkbox"/>
_____	<input type="checkbox"/>	<input type="checkbox"/>
_____	<input type="checkbox"/>	<input type="checkbox"/>
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_____	<input type="checkbox"/>	<input type="checkbox"/>
_____	<input type="checkbox"/>	<input type="checkbox"/>
_____	<input type="checkbox"/>	<input type="checkbox"/>
_____	<input type="checkbox"/>	<input type="checkbox"/>
_____	<input type="checkbox"/>	<input type="checkbox"/>
_____	<input type="checkbox"/>	<input type="checkbox"/>
_____	<input type="checkbox"/>	<input type="checkbox"/>

4. Division of Retirement, Pension Benefits, and/or Deferred Compensation:

Neither party has any interest in any retirement, pension, deferred compensation, 401(k) and/or any other benefits obtained during the marriage.

Each party waives and gives up his/her interest in any and all retirement, pension, deferred compensation, 401(k) and/or any other deferred compensation obtained during the marriage in the other parties' name.

The Husband's retirement, pension, deferred compensation, 401(k) and/or any other benefits obtained during the marriage shall be divided as follows: \_\_\_\_\_

\_\_\_\_\_

The Wife's retirement, pension, deferred compensation, 401(k) and/or any other benefits obtained during the marriage shall be divided as follows: \_\_\_\_\_

\_\_\_\_\_

**YOU SHOULD SEE A LAWYER ABOUT RETIREMENT, PENSION, 401(K) AND/OR ANY OTHER DEFERRED COMPENSATION BENEFITS. THERE ARE CERTAIN DOCUMENTS THAT THE PLAN ADMINISTRATOR MUST HAVE FROM YOU FOR YOU TO GET YOUR MONEY. IF YOU DO NOT PROVIDE THE NECESSARY DOCUMENTS YOU RISK NOT GETTING YOUR MONEY.**

The Court retains jurisdiction of the parties and subject matter regarding any necessary Qualified Domestic Relations Order.

5. Real Property is divided as follows:

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

6. Division of Community Indebtedness:

Creditor Name	Amount Owed	Amount to be paid by Husband	Amount to be paid by Wife

7.  Any debts or obligations incurred by either party before the date of separation, that are not identified in the list above or attached, shall be paid by the party who incurred the debt or obligation and that party shall indemnify and hold the other party harmless from any such debt(s).

8. This Decree can be used as a transfer of title and can be recorded. The parties shall sign all documents necessary to complete all transfer of title ordered in this Decree. The parties shall transfer all real and personal property described in this Decree on or before \_\_\_\_\_. If the party required to transfer the property has not transferred the property to the party entitled to receive the property on or before the date and time listed above, the party entitled to receive the property is entitled upon application to a Writ of Assistance or Writ of Execution to be issued by the Clerk of Court commanding the Sheriff to put him or her in possession of the property.

9. Other Orders:

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