

MATRIMONIAL JUDGMENT CHECKLIST

SUPREME COURT , STATE OF NEW YORK, COUNTY OF NASSAU

MA TRIMONIAL CENTER

4 00 COUNTY SEAT DRIVE, MINEOLA, NY 11501

(Intake Office: 516-493-3454 / Judgment Office: 516-493-3444)

Matrimonial Center Web Site: <http://www.nycourts.gov/courts/10jd/nassau/matrimonial/index.shtml>

Mat forms on the web: www.courts.state.ny.us/

All papers to be filed in commencing an action or proceeding (*i.e. summons, complaint, petition*), shall be filed with the County Clerk, which is also the Clerk of the Supreme Court. The County Clerk is located at 240 Old Country Rd., Mineola, NY 11501. All filing fees are to be paid to the County Clerk. The Matrimonial Clerk's Office cannot process any filing fees. *[Please see item # 22 as to the schedule of fees.]*

- When submitting papers to the Matrimonial Clerk's Office, please make sure your index number is reflected on all submitted papers.
- Litigants are advised to utilize the *Uncontested Divorce Packets* when representing themselves in their divorce action, and submitting papers for a judgment of divorce. They are available at the Matrimonial Clerk's Office, or on the Unified Court System website listed above.
- If counsel wishes to utilize the forms contained in the *Uncontested Divorce Packet*, it is requested that all inapplicable information be redacted out of the forms prior to submission, to make for a more professional work product. As always, the use of the *Uncontested Divorce Packet* is not mandatory - if you have a work product that meets the requirements of the statute - it will be accepted for processing.

INQUESTS: Uncontested Divorce

- If you are submitting a case where there is *no written agreement* and there are ancillary issues involving child support, custody, visitation, spousal maintenance, equitable distribution of marital property, etc. that need to be determined, and there are no *Family Court Orders* as to such issues, the court may require that oral testimony be taken at an inquest.
- If you need an inquest, please submit the following papers:
 - Affirmation or Affidavit requesting inquest, and setting forth the issues needed to be determined by the court.
 - Where spousal maintenance is being sought: Completed forms (UD-8(1), UD-8(2))
 - If child support is being sought: Completed form (UD-8(3))
 - Request for Judicial Intervention (*new RJI & addendum with proof of payment*)
 - Note of Issue (*with proof of payment*)
 - Pleadings (*summons with notice / summons and complaint with proof of filing with County Clerk*) with Proof of service of pleadings (*with proof of filing with County Clerk*)
 - Self- Addressed stamped envelope (*for notification of inquest date*)

SUBMISSION OF A JUDGMENT OF DIVORCE:

- **Contested Matrimonial Judgments** - these are divorce judgments issued in cases where there was opposition to the divorce, and the **case was assigned to a judge** for conference or motion. The case either settled after that, or was decided by the court.
- **Uncontested Matrimonial Judgments** - these are divorce judgments issued in cases where either the parties have agreed to the divorce **before** submission to the court, or where there has been a default in appearance by the defendant. **There has been no prior assignment of the case to a judge.**

The following papers are needed when submitting your judgment of divorce for signature by the court: *(not every document is necessary in every case - please see the comments below, and the submission chart.)* Most documents can be used for contested or uncontested submissions, and can be found in the Uncontested Divorce Packet.

DO NOT SUBMIT EXTRA COPIES OF YOUR FORMS WITH YOUR ORIGINALS - MAKE SURE YOU KEEP AN EXTRA COPY OF ALL FORMS SUBMITTED.

- **1 FINDINGS OF FACT and CONCLUSIONS OF LAW // JUDGMENT OF DIVORCE** *(under separate cover)* **with Notice of Settlement and Affidavit of Service** *(Uniform Court Rules 202.48, 5 days personal, 10 days by mail)* **or Waiver of Notice**
- a) If a *Family Court Order* is being continued, you must attach a copy of said order, and reference same in the findings and judgment. In addition, the judgment must direct service of a copy of the judgment on the Clerk of the Family Court within 10 days.
 - b) When child support is an issue, the findings and judgment must contain the *social security numbers of the parties AND children.*
 - c) When child support is an issue, the findings must identify the health plan that will cover the children of the marriage, and the judgment should refer to a separate *Qualified Medical Child Support Order* signed simultaneously with the judgment. *(If there is no health plan, or if it a private insurance , the findings should reflect that as well as the proof)*
 - d) The findings of fact must contain the required child support findings pursuant to *DRL 240* showing the *net incomes* of the parties, the *child support percentage* to be applied, the *basic obligation* and *pro rata share* of such obligation, the *agreed upon support*, whether it *deviates* from such pro rata obligation, and if so, the *reasons* for such deviation. *(This information must be in conformance with the CSSA language in the settlement agreement or transcript of the court's decision)*
 - e) If child support is to be paid through the *Support Collection Unit*, the judgment or order directing such support *must* have the required notice on its face pursuant to *DRL 240- c(5)(b)*. It must also have such *method of payment* recited in the findings, and the judgment must reflect the *frequency* of payments, *commencement date* of payments, and *address* of the Support Collection Unit where payments are to be made to :

**NYS CHILD SUPPORT PROCESSING CENTER
P.O. BOX 15363
ALBANY, NY 12212-5363**

- **f) The findings should state that the parties agreement or addendum to agreement complies with DRL § 255.**
- **g) All Judgments, where there is an order of child support, need to include Notice pursuant to DRL 236 (7) in eight point bold type inserted following the caption. Refer to ‘Court Notices’ on the Matrimonial web site for a copy of the notice.**
- **h) Section 240 of the Domestic Relations Law was amended to increase the “combined parental income amount”
Effective January 31, 2012 - from \$130,000 to \$ 136,000
January 31, 2014 - from \$136,000 to \$141,000
January 31, 2016 - from \$141,000 to \$143,000**

Please be aware that all actions commenced on or after the effective date (as well as any agreements executed after that date) will be controlled by the new legislation.

- 2 QUALIFIED MEDICAL SUPPORT ORDER - (QMCSO) -DRL 240(1) (must be issued separate from judgment of divorce where child support ordered, and there is an employer - provided medical plan to cover the children.) with Notice of Settlement and Affidavit of Service or Waiver of Notice.**

- 3 (QUALIFIED) DOMESTIC RELATIONS ORDER -(QDRO,) - (distribution of retirement benefits) with Notice of Settlement and Affidavit of Service or Waiver.**
 - *pre-approved by plan administrator, if possible .*
 - *If stipulation not specific as to identity of account and other pertinent information, a separate affidavit or addendum to stipulation is needed. (see separate information sheet for submission of a Domestic Relations Order)*

- 4 INCOME WITHHOLDING ORDER - CPLR 5242(c)(1), DRL 240(2)(b)(2) (see addendum) with Notice of Settlement and Affidavit of Service or Waiver.**

- 5 AFFIRMATION OF REGULARITY (Set forth the procedural history of the action as to dates of filing of summons, complaint, service on defendant ,appearances, etc.)**

- 6 AFFIDAVIT IN LIEU OF TESTIMONY, (Affidavit of proof from party getting divorce in their favor) or TRANSCRIPT OF INQUEST (if testimony done in court on the record) or COURT DECISION DIRECTING SUBMISSION OF JUDGMENT.**
 - *Must contain the social security numbers of the parties, and if applicable, the children*
 - *Must contain specific information concerning health plan coverage for the children, if applicable . (If no coverage, proof must indicate such situation)*
 - *Should list the maiden name or prior surname to be resumed by the wife.*
 - *If action for annulment or divorce based on adultery, provide an affidavit of a corroborating witness in addition to any other proof.*
 - *Must contain information regarding children’s address and whereabouts pursuant to DRL § 76-h (contained in plaintiff’s affidavit in Uncontested Divorce Packet)*

- 7 AFFIDAVIT OF DEFENDANT** - (signed *AFTER* the service of the summons)
 - *Allows defendant to appear in an action and waive the required time frames for submission of a judgment of divorce by plaintiff.*
 - *Can be used to have defendant withdraw a previously interposed answer or neither admit nor deny plaintiff's allegations.*
 - *Defendant can waive service of all papers being submitted to the court, or request service and notice of any or all papers.*
 - *May not be needed if defendant's intent is expressed on the record or in an agreement.*
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- 8 ATTORNEY CERTIFIED COPY OF AGREEMENT, or COPY OF STIPULATION PLACED ON RECORD.**
 - *If child support is to be awarded, stipulation MUST contain the required language found in DRL 240 1-b (h) as to the Child Support Standards Act.*
 - *Must be properly acknowledged by the parties (DRL §236B(3)).*
 - *Must include statement in compliance with DRL § 255 - if not - an addendum to the agreement is needed.*
 - *Must have fee paid receipt (see #22 for fee schedule)*
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- 9 REMOVAL OF BARRIERS AFFIDAVIT** - (DRL 253 (3) - make sure it says that removal of barriers *HAS* been done)
 - **Needed where the marriage was performed in a religious ceremony. Not required if the parties were married in a civil ceremony.**
 - **Filed by the party in whose favor the divorce is being granted (usually the plaintiff) - UNLESS the divorce is being granted under DRL§ 170(5) or (6)- conversion of a judgment or agreement of separation. In such a case, BOTH parties are required to file and serve the affidavit.**
 - **DRL §253(3) allows a written waiver by the other party (usually defendant) to the filing of this affidavit.**
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Additional forms where Child Support or Spousal Maintenance is an issue:

- 10 AFFIDAVIT AS TO CHILD SUPPORT ENFORCEMENT SERVICES** -DRL 236B (7)(b)
 - *Must be submitted whenever child support is an issue - provides proof of notice to custodial parent as to availability of Support Collection Unit ("SCU") for collection of payments of child support or combined child support / maintenance.*
 - *If custodial parent wants to have payments made to SCU pursuant to agreement or court decision, the affidavit will be used to help set up the account with them.*
 - *Stipulation can contain the requisite notice, but can be used ONLY if the custodial parent declines such services. Otherwise, the affidavit would be needed for the court to send to Support Collection Unit.*
- 11 CHILD SUPPORT WORKSHEET - UD-8(3)**
- 12 ANNUAL INCOME UD-8(1), MAINTENANCE GUIDELINES (UD-8(2) WORKSHEETS** - *If the divorce was commenced on or after **January 25, 2016** and if either party is seeking maintenance , Forms (UD-8(1)and UD-8(2) are required forms - UNLESS maintenance is agreed upon or waived in a written agreement, or an oral agreement on the record before the court.*
- 13 DIVORCE AND CHILD SUPPORT SUMMARY FORM (UCS -111)**
- 14 SUPPORT REGISTRY INFORMATION FORM** (to be submitted on all matters involving child support, or child support and maintenance combined, where payment is to be made **OTHER THAN** through the Support Collection Unit)

****MUST HAVE COMPLETE SOCIAL SECURITY NUMBERS INCLUDED - NO REDACTIONS ALLOWED.**

15 PROOF OF SERVICE OF:

- **CHILD SUPPORT STANDARDS CHART** (where party is **unrepresented by counsel**, and child support is to be paid)
- **** NOTICE OF GUIDELINE MAINTENANCE** (where party is unrepresented by counsel, and spousal maintenance is to be paid) **** for actions commenced on or after 1/25/2016.**

Additional forms where the defendant has defaulted in appearance:

16 AFFIDAVIT AS TO MILITARY STATUS OF DEFAULTING PARTY. (included in plaintiffs' affidavit in Uncontested Matrimonial Packet)

17 AFFIDAVIT OF SERVICE OF SUMMONS WITH NOTICE/SUMMONS AND COMPLAINT ON DEFENDANT

- *Provide photo, if necessary, used to ID defendant on service, or other such proof used to identify defendant served.*

18 COPY OF PLEADINGS (all affidavits of service of initiating pleading should reflect that index number and date of filing were endorsed on the papers when served)

- *Copy of summons with notice / summons and complaint with proof of filing with County Clerk, together with the receipt for payment of index number .(CPLR 305, 306-a) A stamped copy by the County Clerk is sufficient proof. Provide proof of service of same.*
- *Answer, Counterclaim or Notice of Appearance filed by defendant with proof of service*

19 CERTIFICATE OF DISSOLUTION (DOH-2168) - (include social security numbers- make sure it is signed - County Clerk will not enter judgment w/o this)

20 REQUEST FOR JUDICIAL INTERVENTION. (New RJI in duplicate, together with RJI Addendum sheet, receipt of fee payment and proof of service)

21 NOTE OF ISSUE (in duplicate, with receipt of fee payment and proof of service)

22 SELF ADDRESSED STAMPED POSTCARD - (used for notification when judgment has been signed - **STAPLE or ATTACH to the CERTIFICATE OF DISSOLUTION**) OR notification letter with self addressed envelope

23 FEES - (payable to the Nassau County Clerk 240 Old Country Rd. Mineola, NY)

- **INDEX NO. - \$210.00**
- **RJI - \$95.00**
- **NOTE OF ISSUE - \$30.00**
- **OSC / Motions - \$45.00**
- **STIPULATION OF SETTLEMENT - \$35.00 ****
- **CERTIFIED COPY - \$1.25 per page, \$5.00 minimum charge**

**** Please note that the failure to pay the Stipulation of Settlement fee will delay the processing of your divorce decree. It may also result in the County Clerk returning your papers for further action by the court - which may include having to resubmit the entire divorce judgment papers again.**

Attachments:

- Addendum concerning Support Collection Unit, Family Court Orders, and Income Withholding Orders.
- Submission Chart for “Settled” Contested Judgments. (Uncontested Matrimonials should utilize the Uncontested Divorce Packet)

(Rev. 2/2016)

ADDENDUM

FAMILY COURT ORDERS: Orders issued by the Family Court in regards to **Child Support, Spousal Support (Maintenance), Custody and Visitation**, may be continued by the Supreme Court in a divorce judgment, either by agreement of the parties, or by direction of the Court. The existence of such an order can be helpful to the Court when those issues must be determined. If you have such issues, and you have not yet commenced an action for divorce, you may want to secure a Family Court order as to those issues. The Family Court is located at 1200 Old Country Rd. Westbury, NY 11590.

SUPPORT COLLECTION UNIT: The Support Collection Unit (*Child Support Enforcement Bureau*), is an arm of the Department of Social Services. They maintain computerized payment records, and provide many services in the collection and enforcement of court ordered support payments (***Child Support or combined Child and Spousal Support***), whether or not the custodial parent or child is in receipt of public assistance. Such collection and enforcement procedures include, but are not limited to:

- **Immediate income execution**
- **State and Federal Tax Refund Offset**
- **Credit Bureau Reporting**
- **Seizure of Bank Accounts**
- **License suspension**
- **Department of Taxation and Finance collection**
- **Judgments / Liens being filed**
- **Court Enforcement (Contempt proceedings)**

It is suggested that you speak to your local child support enforcement unit for more information. **For correspondence:** *Nassau County Child Support Enforcement Unit, Health & Human Services Admin., 60 Charles Lindbergh Blvd. Suite 160., Uniondale, NY 11553-3686.* **For telephone inquiries:** *Nassau County SCU, Customer Service Unit, 888-208-4485.* **E-Mail:** CSEWEBNassau@dfa.state.ny.us **Note:** You will receive a response to an e-mail only if you submit the following information: your name, address, telephone number and account number. A sample copy of the SCU payment instructions and application for services (**LDSS-4882**) is available through the SCU or at the Matrimonial Clerks' Office.

INCOME WITHHOLDING ORDERS: **Effective May 31, 2012**, the court must issue an income withholding order ("*IWO*") where it issues a support order in a case not enforced through a local child support collection unit, and involving someone who earns wages that could be subject to income deduction. The court must issue such an order, unless the parties agree to an alternate method of payment, or if the court finds "good cause" not to issue an "IWO".

If you or your spouse is to receive maintenance (spousal support) and/or child support, and if no child support enforcement services are already being provided through a local district Support Collection Unit, you or your spouse may ask the Court to issue an Income Withholding Order/ Notice for Support **or** the Court may decide to issue such an order on its own.

In either case, the Income Withholding Order/ Notice for Support form approved by the federal Office of Management and Budget **must** be used. No other form of Income Withholding Order/Notice for Support should be used.

For more information, go to: <http://www.nycourts.gov/divorce/childsupport/>