

Uncontested Divorces Additional Instructions

The Court Clerk's Office Is Prohibited From Providing Legal Advice

The Court Clerk's Office cannot assist you in the completion of these forms. If you require assistance, seek the advice of an attorney.

You may be able to obtain assistance from

Legal Aid Society of Mid-New York..	703-6600
Legal Services of Central New York.	703-6600
Hiscock Legal Aid Society.	422-8191
Onondaga County Bar Association Lawyer Referral Service.	471-2690
Volunteer Lawyer Project.	471-3409

The Onondaga County Bar Association's Volunteer Lawyer Project conducts a "Pro Se Divorce Workshop" three times each year. You may call 471-3409 for information on upcoming dates and eligibility.

Filing Fees

At the start. You must pay the following fees to the Onondaga County Clerk to begin your action for an uncontested divorce unless you are granted Poor Person status by the Court:

Index Number Fee.	\$ 210.00
Note of Issue Fee.	\$ 30.00
Request for Judicial Intervention Fee..	\$ 95.00

Please check with the Onondaga County Clerk's Office to determine how to pay the fees. The Onondaga County Clerk's Office telephone numbers are 435-2226 or 435-2227.

At the end. You must pay the following fees to the Onondaga County Clerk to finalize your action for an uncontested divorce unless you are granted Poor Person status by the Court:

Certificate of Dissolution Filing Fee.	\$ 5.00
Certified Copy Judgment of Divorce (to send to Defendant).	\$ 5.00 Minimum

Information Available On The Internet

You may obtain additional information on divorce on the Unified Court System's Divorce Resources website at www.nycourts.gov/divorce.

Current Address Needed

Please be sure to provide the Court Clerk's Office with your current address and telephone number.

Forms NOT Required By Onondaga County Supreme Court

You do not have to use these forms:

- Support Collection Unit Information Sheet (Form UD-8a)
- Postcard or
- Notice of Settlement

Revised Forms

The *Uniform Uncontested Divorce Packet Forms* have been revised effective January 2013.

The most recent *Uniform Uncontested Divorce Packet Forms* is dated "Revised" with no date and the most recent *Uniform Uncontested Divorce Packet Filing Instructions and Glossary* is dated "Revised 2013".

You may always obtain the most up-to-date copies of the *Uniform Uncontested Divorce Packet Forms* from the Unified Court System's CourtHelp website at www.nycourts.gov/divorce/forms.

Additional Forms Required Or Used By Onondaga County Supreme Court

Matrimonial Checklist. You must complete the Matrimonial Checklist (*2013-2014 Edition*) and include it with your papers when you file them with the Court Clerk's Office.

You May Request a Judicial Hearing Officer ("JHO") or Court Attorney-Referee to Review Your Paperwork. Paperwork submitted to a Justice assigned to the **Dedicated Matrimonial Part** will be reviewed when that Justice's calendar and trial schedule allow. Because a JHO or Court Attorney-Referee is only responsible for reviewing uncontested matrimonial actions, paperwork submitted to a JHO or Court Attorney-Referee may be reviewed sooner than paperwork submitted to a Justice assigned to the **Dedicated Matrimonial Part**. If you want your paperwork reviewed by a JHO or Court Attorney-Referee, you must sign the **Stipulation on Uncontested Matrimonial Action**.

Findings of Fact and Judgment of Divorce. The **Fifth Judicial District Dedicated Matrimonial Part Rules (Revised 07/08)** require that you include additional language with respect to the referral of future matters to Family Court in the Judgment of Divorce. The Court Clerk's Office has included substitute pages for the **Judgment of Divorce (Form UD-11)** (last 3 pages).

Copy of Separation Agreement, Opting-Out Agreement or Family Court Order. A copy of any Separation Agreement, Opting-out Agreement or Family Court Order must be attached to the **Judgment of Divorce (Form UD-11)** if the terms are being incorporated in the Judgment of Divorce.

Application for Child Support Services (LDSS-2521). Complete this form if you want your child support payments through the Support Collection Unit. This form is available in the Court Clerk's Office or on the Unified Court System's CourtHelp website at www.nycourts.gov/divorce/divorce_withchildrenunder21.shtml.

UNCONTESTED MATRIMONIAL ACTION CHECKLIST

2013-2014 Edition (Revised 03/01/2013)

(This edition must be submitted; no earlier form will be accepted.)

____ v. _____
Plaintiff Defendant Index Number Attorney/Self-Represented Litigant

Telephone Number

The following checklist must be filled in by the Attorney or Self-Represented Litigant before the Supreme Court Clerk will accept papers as an Uncontested Matrimonial Action pursuant to 22 NYCRR § 202.21(i).

Please submit the papers in the order listed. Forms beginning with "UD" are from the *Uniform Uncontested Divorce Packet Forms*.

If the papers are prepared by an Attorney, substantial conformity to the *Uniform Uncontested Divorce Packet Forms* is required (22 NYCRR § 202.21(i)(2)).

NOTE: The *Uniform Uncontested Divorce Packet Forms* were revised in January 2013. You must use the revised forms either from that Packet or from the OCA website at www.nycourts.gov/divorce.

- ____ WRITTEN RETAINER AGREEMENT (22 NYCRR § 1400.3) if Attorney filing
- ____ STIPULATION ON UNCONTESTED MATRIMONIAL ACTION (Referral to JHO) if used
- ____ REQUEST FOR JUDICIAL INTERVENTION (RJI) (Form UD-13 or UCS-840 [*Revised 03/2011*])
- ____ TRIAL NOTE OF ISSUE (Form UD-9 [No Children Under 18] or UD-9a [Children Under 18])
- ____ SUMMONS WITH NOTICE (Form UD-1) or SUMMONS (Form UD-1a) containing
- (A) ____ Venue basis
- (B) ____ Index Number assigned
- (C) ____ Date of Filing with County Clerk printed by County Clerk on SUMMONS WITH NOTICE (Form UD-1) or SUMMONS (Form UD-1a)
- (D) ____ Statement of nature of action (i.e., "Action for a Divorce")
- (E) ____ If SUMMONS WITH NOTICE (Form UD-1) was served without COMPLAINT (Form UD-2), Statement of nature of action and full statement as to any ancillary relief requested (such as child support, custody, maintenance, equitable distribution, etc.) and specific nature thereof, including any request to incorporate any prior court orders, must be on SUMMONS WITH NOTICE (Form UD-1)(*Attach copy(ies) of orders*)
- (F) ____ **For Actions commenced on or after September 1, 2009**, NOTICE OF ENTRY OF AUTOMATIC ORDERS pursuant to DRL § 236 (Part B)(2)(b) **as amended March 30, 2010** in the form provided in 22 NYCRR § 202.16a **as amended December 4, 2012** by Administrative Order AO/524/12 must be attached to SUMMONS WITH NOTICE (Form UD-1) or SUMMONS (Form UD-1a)
- (G) ____ **For Actions commenced on or after October 9, 2009**, NOTICE OF HEALTH INSURANCE COVERAGE pursuant to DRL § 255 must be attached to SUMMONS WITH NOTICE (Form UD-1) or SUMMONS (Form UD-1a)
- ____ COMPLAINT (Form UD-2)
- (A) ____ Statement as to required jurisdictional residence
- (B) ____ Statement that Plaintiff has taken or will take all steps solely within Plaintiff's power to remove any barrier to the Defendant's remarriage following divorce, if marriage officiant is listed in DRL § 11(1)
- (C) ____ Full statement of the grounds for the relief requested and, if the grounds are based on Defendant's misconduct, the nature and circumstances of such misconduct, including the date and place of each act complained of, with detail as required by CPLR 3016 (c)
- (D) ____ Full statement as to any ancillary relief requested (such as child support, custody, maintenance, equitable distribution, etc.) and specific nature thereof, including any request to incorporate any prior court orders (*Attach copy(ies) of orders*)
- (E) ____ Verified and jurat signed by notary public
- ____ For "Irretrievable Breakdown in Relationship Cause of Action [DRL § 170(7)] ": Ancillary Issues Have Been Resolved By
- (A) Distribution of Property ____ Separation/Opting-Out Agreement ____ Not Required (per Affidavit of Plaintiff)
- (B) Spousal Support ____ Separation/Opting-Out Agreement ____ Not Required (per Affidavit of Plaintiff)
- (C) Child Support ____ Separation/Opting-Out Agreement ____ Not Required ____ Family Court Order
- (D) Counsel/Expert Fees ____ Separation/Opting-Out Agreement ____ Not Required (per Affidavit of Plaintiff)
- (E) Custody and Visitation ____ Separation/Opting-Out Agreement ____ Not Required ____ Family Court Order

___ AFFIDAVIT OF SERVICE (Form UD-3 or substitute UD-3) unless AFFIDAVIT OF DEFENDANT (Form UD-7) is provided

- (A) ___ Date of Service on Defendant shown
- (B) ___ Date of Filing with County Clerk printed on AFFIDAVIT OF SERVICE (Form UD-3) by County Clerk
- (C) ___ Statement of knowledge the affiant had that the person served was the Defendant and how the affiant acquired such knowledge (*Attach photograph if used*)
- (D) ___ Physical description of the person served

___ AFFIDAVIT OF DEFENDANT (Form UD-7) if signed by Defendant, admitting service of SUMMONS WITH NOTICE and/or SUMMONS and COMPLAINT. The Defendant's signature must be notarized

___ AFFIRMATION/AFFIDAVIT OF REGULARITY (Form UD-5). If the default in appearing or answering occurred more than one (1) year before date of submission of the AFFIRMATION/AFFIDAVIT OF REGULARITY, an affirmation or affidavit pursuant to CPLR § 3215(c) showing sufficient cause for the delay in filing must be submitted and the CONCLUSIONS OF LAW and JUDGMENT OF DIVORCE must contain an ordering paragraph permitting the late filing

___ SWORN STATEMENT OF REMOVAL OF BARRIERS TO REMARRIAGE (Form UD-4) only if marriage officiant is listed in DRL § 11(1), stating that pursuant to DRL § 253(3) and (4) that Plaintiff has taken all steps solely within his or her power to remove any barrier to the Defendant's remarriage following divorce

- (A) ___ AFFIDAVIT OF SERVICE of REMOVAL OF BARRIERS STATEMENT upon Defendant (Form UD-4a or substitute Form UD-3) must be attached
- (B) ___ but if divorce is based upon the parties living separate and apart pursuant to a decree or judgment of separation or a written agreement of separation for a period of one or more years pursuant to DRL § 170(5) or (6), both parties must comply with DRL § 253(3) and (4) requirements

___ If there are any UNEMANCIPATED CHILDREN:

- (A) ___ AFFIDAVIT OF PLAINTIFF (Form UD-6) or DRL § 76-h AFFIDAVIT (Form UCCJEA-3)
 - (1) ___ Certified copy of any Family Court Order of Custody or Visitation to be continued by Judgment of Divorce
 - (2) ___ Certified copy of any Family Court Order of Support to be continued by Judgment of Divorce
- (B) ___ If AFFIDAVIT OF PLAINTIFF (Form UD-6) is not used, statement of Plaintiff pursuant to DRL § 240(1) either requesting or declining child support enforcement services and if child support is to be paid through Support Collection Unit, complete APPLICATION FOR CHILD SUPPORT SERVICES
- (C) ___ SEPARATION AGREEMENT or OPTING-OUT AGREEMENT, if signed
 - (1) ___ Must contain provision regarding custody and
 - (2) ___ Must contain provision that any self-represented party has been provided with a copy of the CHILD SUPPORT STANDARDS CHART (Form LDSS 4515) prepared by the New York State Office of Temporary and Disability Assistance and
 - (3) ___ Must contain either a calculation of the basic child support obligation made pursuant to DRL § 240(1-b) or have a CHILD SUPPORT WORKSHEET (Form UD-8) attached or continue an existing Family Court Order of Support containing the calculations and have a certified copy of the Family Court Order of Support attached and
 - (4) ___ If the agreed upon child support deviates from the basic child support obligation calculated pursuant to DRL § 240(1-b), must contain a provision stating that the parties were advised of the provisions of the Child Support Standards Act or were provided with a copy of the CHILD SUPPORT STANDARDS CHART; showing the calculation of the basic child support obligation; stating that the basic child support obligation would presumptively result in the correct amount of child support to be awarded; and the reason or reasons for deviation from the basic child support obligation, and
 - (5) ___ If the parties are opting out of the right to seek modification of the child support obligation based upon either (i) the passage of three (3) years and/or (ii) a change in either party's income by fifteen percent (15 %) or more since the order was entered, last modified, or adjusted, must contain a provision stating that the parties have been advised of their right pursuant to DRL § 236(Part B)(9)(b)(2)(ii) and (iii) to seek such modification and that the parties have specifically opted out of either or both provisions of DRL § 236(Part B)(9)(b)(2)(ii) and (iii) and
 - (6) ___ Must contain a provision with respect to which party will provide health insurance for the children or whether the children will be covered by Child Health Plus and must also contain a calculation of the pro rata shares of the cost to provide health insurance, child care expenses and any uncovered health expenses for the children
- (D) ___ CHILD SUPPORT WORKSHEET (Form UD-8) with Plaintiff's signature notarized if child support is sought or provided for unless a full statement complying with DRL § 240(1-b)(h) with respect to child support is incorporated in Attorney-prepared Separation Agreement or Opting-out Agreement. **Note:** For STEP 10 on the CHILD SUPPORT WORKSHEET (Form UD-8), starting March 1, 2013 the self-support reserve amount is \$ 15,512 and the poverty level amount is \$ 11,490
- (E) ___ QUALIFIED MEDICAL CHILD SUPPORT ORDER (Form UD-8b) if applicable
- (F) ___ NEW YORK STATE CASE REGISTRY FILING FORM (in APPENDIX to Uniform Uncontested Divorce Packet Forms) if child support is not paid through Support Collection Unit or APPLICATION FOR CHILD SUPPORT SERVICES (LDSS-2521)(available from the Court Clerk's Office) if child support is to be paid through Support Collection Unit

- (G) ___ INCOME WITHHOLDING FOR SUPPORT (Child Support and Combined Child and Spousal Support)(IWO Form Non-IV-D)(8/2012) if child support is to be paid by withholding from employer

___ With respect to EQUITABLE DISTRIBUTION:

- (A) ___ AFFIDAVIT OF PLAINTIFF (Form UD-6) with Paragraph 5 filled out completely, including the applicable statement regarding equitable distribution or
- (B) ___ Affidavit of equitable distribution of marital property pursuant to DRL § 236B, including sworn waiver of equitable distribution, if applicable, and if not included in complaint or
- (C) ___ OPTING-OUT AGREEMENT (Original, County Clerk certified or Attorney certified copy), or
- (D) ___ SEPARATION AGREEMENT (Original, County Clerk certified or Attorney certified copy)

___ For OPTING-OUT AGREEMENT or SEPARATION AGREEMENT,

- (A) ___ Sworn Statement of Plaintiff that the agreement was fair and reasonable when entered into and is not now unconscionable
- (B) ___ For Agreements **signed before October 9, 2009**, a Signed Statement pursuant to DRL § 177(1) with respect to health insurance coverage not continuing
- (C) ___ For Agreements **signed on or after October 9, 2009**, a provision pursuant to DRL § 255 with respect to health insurance coverage continuing or not continuing (The ADDENDUM TO STIPULATION OF SETTLEMENT/AGREEMENT RE: COMPLIANCE WITH DOMESTIC RELATIONS LAW 255(2) may be used)
- (D) ___ For Agreements **signed on or after October 12, 2010**, a provision pursuant to DRL § 236 (Part B)(5-a)(f) with respect to the presumptive amount of temporary maintenance

___ WITHDRAWAL OF ANSWER/REPLY BY STIPULATION if applicable. The CONCLUSIONS OF LAW and JUDGMENT OF DIVORCE must order withdrawal

___ FINDINGS OF FACT AND CONCLUSIONS OF LAW (Form UD-10) or Attorney-prepared (22 NYCRR § 202.50(b) Appendix B)

- (A) ___ Findings of Fact incorporating evidentiary allegations actually set forth in the Complaint and any supplemental affidavits
- (B) ___ Findings regarding custody
- (C) ___ Findings in compliance with DRL § 240(1-a) with respect to Records Check
- (D) ___ Findings in compliance with DRL § 240(1-b)(c) or (h) if child support awarded, showing the calculation of the basic child support obligation and the reason or reasons for deviation from the basic child support obligation, if any
- (E) ___ Findings in compliance with DRL § 255 with respect to health insurance coverage continuing or not continuing
- (F) ___ Conclusions of Law containing recitals providing for each aspect of relief to be ordered by the Court

___ JUDGMENT OF DIVORCE (Form UD-11) or Attorney-prepared (22 NYCRR § 202.50(b) Appendix B)

- (A) ___ Award of matrimonial relief
- (B) ___ Provision regarding custody, if there are any unemancipated children, including the name(s) and date(s) of birth of the child(ren)
- (C) ___ Provision in compliance with DRL § 240(1-b)(c) or (h) if child support awarded
- (D) ___ Provision in compliance with DRL § 236(Part B)(7)(d) with respect to the right to seek modification of the child support obligation
- (E) ___ Provisions in compliance with DRL §§ 240-a, 240-b and 240-c if child support awarded and child support is to be paid through the Support Collection Unit, providing the Social Security Numbers of the parties and the subject child(ren); the name and address of the employer of the party paying child support; notice of the requirement to report certain information changes to the Support Collection Unit; and notice of the right to a review and cost of living adjustment of the child support provisions
- (F) ___ Copy of SEPARATION AGREEMENT or OPTING-OUT AGREEMENT attached and statement as to incorporation and merger or non-merger
- (G) ___ Provision permitting either party to resume use of pre-marriage name or any other former surname
- (H) ___ Family Court referral provision pursuant to Fifth Judicial District Dedicated Matrimonial Part Rules (*Revised 07/08*) added to Judgment of Divorce (*Replace the last three (3) pages of Form UD-11 with Court-provided pages*)
- (I) ___ Copy of any Family Court Order of Custody or Visitation and/or Order of Support to be continued by Judgment of Divorce
- (J) ___ Provision in compliance with DRL § 251 directing filing of Judgment in Onondaga Family Court within ten (10) days if support, custody or visitation matters are referred to Family Court

___ FORM UCS-111 (*Revised 08/11*), if there are any unemancipated children and/or maintenance/spousal support is awarded

SUPREME COURT
STATE OF NEW YORK
COUNTY OF ONONDAGA

_____,
(Print Your Name) Plaintiff,

-VS-

_____,
(Print Other Party's Name) Defendant.

STIPULATION
ON
UNCONTESTED
MATRIMONIAL ACTION
(Referral to Judicial Hearing Officer or
Court Attorney-Referee)

INDEX No.

IT IS HEREBY stipulated and agreed that the above-captioned uncontested matrimonial action be referred to a Judicial Hearing Officer or Court Attorney-Referee for hearing and determination.

Date: (Print Date) _____

Sign Name
Attorney for Plaintiff or
Self-Represented Plaintiff

Sign Name
Attorney for Defendant or
Self-Represented Defendant
(If Applicable)

ONONDAGA
2013-2014

Judicial Hearing Officer or Court Attorney-Referee

A Judicial Hearing Officer (or "JHO") is a retired Judge or Justice who has been assigned to review uncontested matrimonial actions.

A Court Attorney-Referee is an attorney employed by the Unified Court System who has been assigned to review uncontested matrimonial actions as a Special Referee.

You May Request a Judicial Hearing Officer ("JHO") or Court Attorney-Referee to Review Your Paperwork. Paperwork submitted to a Justice assigned to the **Dedicated Matrimonial Part** will be reviewed when that Justice's calendar and trial schedule allow. Because a JHO or Court Attorney-Referee is only responsible for reviewing uncontested matrimonial actions, paperwork submitted to a JHO or Court Attorney-Referee may be reviewed sooner than paperwork submitted to a Justice assigned to the **Dedicated Matrimonial Part**. If you want your paperwork reviewed by a JHO or Court Attorney-Referee, you must sign the **Stipulation on Uncontested Matrimonial Action**.

JHO or Court Attorney-Referee Responsibility. The JHO or Court Attorney-Referee reviews the paperwork submitted for compliance with the appropriate statutes and rules of the court. If the paperwork is in proper order, the JHO or Court Attorney-Referee will sign the **Findings of Fact and Conclusions of Law**, the **Judgment of Divorce** and the **Qualified Medical Child Support Order or Income Deduction Order**, if requested. If there are any problems with the paperwork submitted, you will be contacted.

ORDERED AND ADJUDGED that *Plaintiff* **OR** *Defendant* shall apply to the state sponsored health insurance plan for coverage for the unemancipated children of the marriage. The costs shall be allocated pursuant to written agreement of the parties **OR** the court's decision **OR** *Not applicable*; and it is further

27 **ORDERED AND ADJUDGED** that *Plaintiff* **OR** *Defendant* shall pay to *Plaintiff* **OR** *Defendant* **OR** *third party, namely:* _____; education expenses of the children pursuant to written agreement of the parties **OR** the court's decision **OR** *Not applicable*; and it is further

28 **ORDERED AND ADJUDGED** that *Plaintiff* **OR** *Defendant* is hereby awarded exclusive occupancy of the marital residence located at _____, together with its contents until further order of the court, **OR** as follows: _____

_____; **OR** *Not applicable*; and it is further

29 **ORDERED AND ADJUDGED** that the Settlement Agreement entered into between the parties on the _____ day of _____, *an original* **OR** *a transcript* of which is on file with this Court and incorporated herein by reference, shall survive and shall not be merged into this judgment, and the parties are hereby directed to comply with all legally enforceable terms and conditions of said agreement as if such terms and conditions were set forth in their entirety herein;
OR *Not applicable*; and it is further

30 **ORDERED AND ADJUDGED** that a separate Qualified Medical Child Support Order shall be issued simultaneously herewith **OR** *Not applicable*; and it is further

31 **ORDERED AND ADJUDGED** that, pursuant to the *parties' Settlement Agreement* **OR** *the court's decision*, a separate Qualified Domestic Relations Order shall be issued simultaneously herewith or as soon as practicable **OR** *Not applicable*; and it is further

32 **ORDERED AND ADJUDGED** that, *pursuant to the Court's decision* **OR** *pursuant to the parties' agreement*, the Court shall issue an income deduction order simultaneously herewith **OR** *Not applicable*; and it is further

33 **ORDERED AND ADJUDGED** that both parties are authorized to resume the use of any prior surname, and it is further

34 **ORDERED AND ADJUDGED** that *Plaintiff* **OR** *Defendant* is authorized to resume use of the prior surname _____.

35 **ORDERED AND ADJUDGED** that *Plaintiff* **OR** *Defendant* is hereby awarded counsel and/or expert's fees as follows:

_____ **OR** *Not applicable*; and it is further

36 **ORDERED AND ADJUDGED** that *Plaintiff* **OR** *Defendant* shall be served with a copy of this judgment, with notice of entry, by the *Plaintiff* **OR** *Defendant*, within _____ days of such entry; and it is further

36a

ORDERED AND ADJUDGED that *(If there is an existing Family Court Order for custody or visitation which is being adopted or continued by the judgment of divorce)* all future matters concerning child support and custody or visitation are hereby referred to the appropriate Family Court. All other matters concerning this Judgment will be retained by the Supreme Court Dedicated Matrimonial Part for a period of one (1) year from the date of the signing this Judgment of Divorce. Thereafter, all matters except equitable distribution will be referred to the appropriate Family Court; and it is further

OR *(For all other cases)* all future matters concerning child support are hereby referred to the appropriate Family Court. All other matters concerning this Judgment will be retained by the Supreme Court Dedicated Matrimonial Part for a period of one (1) year from the date of the signing this Judgment of Divorce. Thereafter, all matters except equitable distribution will be referred to the appropriate Family Court; and it is further

36b

ORDERED AND ADJUDGED that if any matters concerning child support and/or custody and/or visitation are hereby referred to the appropriate Family Court, a copy of this Judgment of Divorce must be filed in the Onondaga County Family Court within ten (10) days of the filing of the same in the Onondaga County Clerk’s Office.

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Dated:

ENTER:

J.S.C./Referee
