

Commonwealth of Virginia



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Clerk

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CIRCUIT COURT FOR THE CITY OF PORTSMOUTH

Dear Circuit Court Patron:

My staff and I are dedicated to providing the best possible service to those using the Portsmouth Circuit Court. Enclosed is a packet of information to help you understand the legal procedure required to obtain an **uncontested, no-fault divorce**.

This packet is not intended to provide you with legal advice regarding your individual circumstances. State law prohibits Court personnel from giving you legal advice or assistance. If you choose to represent yourself, you will be expected to follow the same procedures as an attorney. In fact, I strongly recommend you hire an attorney to assist you with this process because there are many significant issues that can arise during a divorce.

You are responsible for preparing all the necessary documents for your case. There are no fill-in-the-blank forms for divorce prepared or approved by the Virginia Court System. Due to the changing nature of the law, the information and forms contained in this brochure may become outdated. Therefore, you should make sure before filing for divorce that the information in this packet is current. **Under no circumstances will the Portsmouth Circuit Court Clerk's Office or anyone contributing to the production of this informational packet assume any liability for any direct, indirect, or consequential damages that may occur as a result of its use.**

It is my sincere hope that this information will help make your divorce process easier as you pursue legal proceedings in the Portsmouth Circuit Court.

Sincerely,

A handwritten signature in cursive script that reads "Cynthia P. Morrison".

Cynthia P. Morrison
Clerk, Portsmouth Circuit Court



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I. General Information

Who is a Pro Se Litigant?

If you choose to represent yourself in judicial proceedings, including divorce proceedings, you are a *pro se* litigant. Although you may choose to represent yourself, your spouse may choose to proceed *pro se* or elect to hire an attorney to represent his/her interests.

What is a No-Fault Divorce?

No-fault divorce suits are those in which each party seeks a divorce on the grounds that they lived separate and apart for the period of time required by law—six months or one year, depending on the circumstances.

Is a Pro se, no-fault divorce for me?

Pro se, no-fault divorce suits are best suited for parties who completely agree to the divorce. If you have children, property, or support issues that need to be decided by the court and that have not been resolved by an agreement, an attorney may best protect you, but you are not required to retain an attorney. Furthermore, if you do not know your spouse's whereabouts, or if he/she is in jail for committing a felony, these are special circumstances that you should address with an attorney.

If you proceed without legal counsel, you may unknowingly lose rights to custody, visitation, child or spousal support, distribution of property, or other legal claims arising out of your marriage.

Please be aware the Clerk's Office has no specific forms to fill out for your divorce. You are responsible for preparing all documents pertaining to the divorce. Please do NOT ask Court personnel for legal advice or assistance. State law prohibits Court personnel from providing legal advice or assistance.

Where can I find an attorney?

The Clerk's Office cannot make recommendations for specific attorneys, but you can call the following organizations for information on finding an attorney:

1. The Virginia Lawyer's Referral Service
1-800-552-7977
2. The Norfolk & Portsmouth Bar Association Lawyer Referral Service
(757) 623-0132



Legal Resources for Divorces

Before you file for divorce, you may wish to review the appropriate divorce laws in the Virginia Code. The Virginia Code books can be found in the Portsmouth Public Law Library, which is located at 601 Court Street, Portsmouth, VA 23704. The Virginia Code is also available in many other public libraries and online at <http://leg1.state.va.us/>. A review of these laws may help you better understand the divorce process.



II. General Requirements

The Court will only accept filings of original documents. **Copies, facsimile transmissions, and electronic documents will not be accepted for filing.** All documents submitted to the Court must be typed on standard sized paper and signed.

All submissions to the Court must be made at the proper time, in the appropriate order and format, and must be accompanied by the required fee. If any of the materials you submit to the Court do not comply with the Rules of the Supreme Court of Virginia and the Virginia Code, in either substance or form, you will be asked to correct the problem and resubmit your documents.

After your *ore tenus* hearing¹ or after all of your paperwork is submitted for a divorce by deposition², the Circuit Court Judicial Law Clerk will notify you in writing of any issues to be corrected. It is then your responsibility to correct these errors brought to your attention by the Law Clerk. Law Clerks cannot give any legal advice about your situation or help you with the preparation or correction of any of your documents.

All documents must be submitted in person or by mail (electronic or faxed submissions will not be accepted) to:

Clerk of the Circuit Court
Portsmouth Judicial Center
1345 Court Street, Suite 101
Portsmouth, VA 23704

¹ An *ore tenus* hearing is simply an oral hearing or proceeding before a judge. In most divorces the plaintiff and a witness must give oral testimony in front of a judge to prove certain facts about the marriage.

² In cases where the Plaintiff is incarcerated, this *ore tenus* hearing can be waived and both the plaintiff and witness can provide affidavits to prove their claim.



III. Documents Needed for a *Pro Se* Divorce to Be Made Final

1. Bill of Complaint and a check payable to the Clerk of the Circuit Court in the amount of \$84.
2. Addendum for Protected Identifying Information (with social security numbers): Available at <http://www.courts.state.va.us/forms/circuit/cc1426.pdf> or at the Circuit Court Clerk's Office.
3. Property Settlement Agreement (if applicable).
4. VS-4 Form: Available at the Circuit Court Clerk's Office.
5. Proof of Service or Service Waiver: If you want the Sheriff to serve the Defendant, you will need to include an extra \$12 service fee in your check payable to the Clerk of the Circuit Court. The Service Waiver can be obtained at the Circuit Court Clerk's Office or at <http://www.courts.state.va.us/forms/circuit/civil.html>.
6. Plaintiff/Complainant and Witness Questionnaires/Affidavits if you choose to submit a divorce by deposition or affidavit and not to have an *ore tenus* hearing. These two documents must be signed and notarized. They can be obtained at the Circuit Court Clerk's Office.
7. Order for a change of name (if applicable) and a check payable to the Clerk of the Circuit Court for \$21³. Available at <http://www.courts.state.va.us/forms/circuit/cc1411.pdf> or at the Circuit Court Clerk's Office.
8. Final Divorce Decree

Please note that the Supreme Court of Virginia has not approved any standardized forms for the Bill of Complaint, Final Divorce Decree, or Property Settlement Agreement. However, below you will find a sample Bill of Complaint and Final Divorce Decree.

³ The fee for a name change submitted with a Complaint for Divorce is \$21. However, if you choose to change your name after your divorce has been finalized and the name change was not memorialized on the Final Decree then the cost is \$39.



IV. Procedure to Obtain a No-Fault Divorce

Step One—Preparing Your Bill of Complaint

1. Residency Requirements

To obtain a divorce in Virginia, you or your spouse must have lived within Virginia for a minimum of six (6) months immediately prior to filing for divorce. In addition, either you or your spouse must be a domiciliary of the Commonwealth of Virginia, meaning you consider Virginia to be your home state at the time you file for divorce.

2. Venue for Divorce (in which city's/county's circuit court should you file your divorce)

The correct venues for divorce proceedings are: 1) the county or city in which the parties last cohabited; 2) the county or city in which the Defendant resides, if the Defendant is a resident of Virginia; or 3) in cases in which an order of publication may be issued against the Defendant (i.e. you cannot contact/locate your spouse or your spouse lives outside of Virginia), in the county or city in which the Complainant/Plaintiff resides. *Please note that the county or city where you and your spouse were married may not be the correct venue for your divorce proceedings.*

3. Grounds for a No-Fault Divorce

Six-months separation requirements:

- There are no minor children born of the parties, born of either party and adopted by the other, or adopted by both parties.
- You must have lived separately and apart from your spouse, with no cohabitation, for at least six (6) months prior to filing for divorce.
- Your Bill of Complaint must clearly state that there are no minor children, and the separation was at least six (6) months prior to the filing date of the Complaint.
- You and your spouse must have entered into a Property Settlement Agreement.

One-year separation requirements:

- You must have lived separately and apart from your spouse, with no cohabitation, for at least one (1) year prior to the filing for divorce.
- Your Bill of Complaint must clearly state a date of separation that is more than one (1) year prior to the filing date of the Complaint.

You may not file your documents before the appropriate separation period has ended; otherwise, your case may be dismissed. If the case is dismissed, you must re-file for divorce and pay another filing fee.



4. Required Components of the Complaint

In addition to stating the residency requirements, venue, and grounds for divorce, the Complaint must include the following:

- Current residence of each party;
- The date and place of marriage;
- The names and dates of birth of all minor children born of or adopted by the parties;
- A statement that each party is over eighteen (18) years of age and of sound mind;
- A statement of each party's military status; and
- A statement that each party is not incarcerated.

Step Two—Filing Your Complaint

Submit the original Complaint, one copy of the Complaint, and the VS-4 Form to the Circuit Court Clerk's Office at 1345 Court Street, Suite 101, Portsmouth, VA 23704.

The VS-4 Form must be obtained from the Clerk's Office and it must be in your file before your divorce can be finalized. You must pay a filing fee in the amount of \$84 at the time you file your Complaint. (Fees are subject to change. Please contact the Clerk's Office at (757) 393-8671 prior to filing your Complaint to confirm the correct fee.)

Once you file your Complaint, the Clerk will assign your case a number. This is the number by which the Court references your case, and it must appear on all documents regarding your divorce.

Step Three – Serving the Defendant with the Complaint (Service of Process)

1. Service of Process

You must serve a copy of the Complaint, Summons, and any other documents you file in the case on your spouse (the Defendant). Service may be by a Deputy Sheriff or a person authorized to serve process under Va. Code § 8.01-293. If service is to be made by the Sheriff or a private process server, you must request the Clerk to prepare a Summons to attach to the Complaint to be served on the Defendant along with a copy of the Complaint (this is known as the "process" in a divorce action).



2. Types of Service

Proof of service must be in the Court file before you will be able to proceed further in the case, regardless of the method of service you use.

Acceptance of Service:

A Defendant may accept service by signing a proof of service or an “Acceptance/Waiver of Service of Process and Waiver of Future Service of Process and Notice” pursuant to Code § 20-99.1:1. This indicates the Defendant has received the papers in the suit. This must be signed under oath before a notary public or deputy clerk and cannot be done prior to the filing of the suit. This form may be accessed at <http://www.courts.state.va.us/forms/circuit/civil.html>. If the Defendant signs this form, this will constitute effective service and there is no need for the Sheriff or a private process server to also serve the Complaint.

Sheriff’s Office:

If the Defendant lives in the Commonwealth of Virginia, the Sheriff’s Office can serve the Complaint by including the Sheriff’s fee (in the amount of \$12 by check) in the initial filing fee. You must advise the Clerk at the time of filing that you would like the service to be made by the Sheriff. The Sheriff will give the Defendant a copy of the Complaint and the Summons. The Sheriff will execute the Proof of Service and file it with the Clerk of the Court.

If the Defendant lives outside the Commonwealth of Virginia, you will need to contact the Sheriff’s department in the county in which your spouse resides to determine the local regulations and costs for service.

Private Process Service:

You may hire a private company to serve process. The Private Process Server will give the Defendant a copy of the Complaint and Summons. The Process Server will execute an Affidavit of Service and will file it with the Clerk of the Court within seventy-two (72) hours of service.

Service by Publication:

Service may be accomplished through order of publication in cases in which the Defendant is a non-resident or whose whereabouts are unknown. A publication can be printed in a newspaper the Court has authorized to print legal notices and publications in accordance with Code § 8.01-324.

The required documentation and forms for service by publication can be obtained from the Clerk’s Office.



Step Four – Proceeding with the Divorce Action

This informational packet is not intended for use in contested cases. A contested case is one where there is an unresolved issue not settled by agreement nor waived by the Defendant's failure to respond. Please note that any request for equitable distribution not agreed to in writing renders a divorce contested even where the defendant is in default. You may refer to the Court Rules on the Clerk of Court's website for procedures regarding setting contested divorce cases on the docket.

Uncontested divorces are cases where all property, custody, child support, and spousal support issues are resolved. Please note that equitable distribution awards cannot be made through the uncontested divorce procedure unless there is a written Separation Agreement as to the disposition of property to be ordered by the Court. Furthermore, in uncontested divorces, neither party claims any fault grounds for the divorce, nor puts on evidence regarding the facts and events that lead to the termination of the marriage.

Uncontested, no-fault, divorces can be completed either through an oral hearing or by deposition or affidavit. The following explains the process for each of these two options.

3. Option 1 - Ore Tenus Hearing

Request for a Hearing:

If your divorce is uncontested, a party can request a hearing to have the Court hear the evidence in your case. Uncontested divorces are heard *ore tenus* each Friday before one of the Judges of the Court upon a Waiver signed by the adverse party or upon proper notice to the adverse party. However, if the Defendant fails to answer or otherwise appear after having been personally served with notice of the suit, no additional notice to take depositions is required to be served on the Defendant and the Court may enter the Final Decree without notice to the Defendant.

An uncontested hearing can be scheduled by contacting the Docket Clerk at (757) 393-5373. Prior to the presentation of evidence, you and your corroborating witness should complete the Record Of *Ore Tenus* Testimony Before The Court attached to this packet.

At the Hearing:

At the hearing, you must put on evidence to support the allegations made in your Complaint. You must be ready to present this evidence through your own testimony along with the testimony of one corroborating witness (This witness must be over the age of eighteen (18) and can be a family member. The witness, however, cannot be your spouse). **It is your responsibility to bring this witness with you at the time of the hearing. If this witness is not present at the time of the hearing, the Judge will not**



be able to hear your case. Your corroborating witness must be a person with direct personal knowledge of the information alleged in the Complaint. This witness's knowledge must come from personal experience and cannot be based on information given to the witness in preparation for the hearing.

The following documents must be filed with the Court no later than the hearing:

- Record Of *Ore Tenus* Testimony Before The Court completed by you and a corroborating witness;
- Settlement Agreement, if any;
- Final Divorce Decree;
- Addendum for Protected Identifying Information (with Social Security Numbers);
- VS-4 Form; and
- If desired, a Name Change Order and a check payable to the Clerk of Court in the amount of \$21.00. (See footnote 3 on page 4)

4. Option 2 - Divorce by Deposition or Affidavit

Incarcerated Plaintiffs may proceed without an *ore tenus* hearing and without leave of court.

To obtain a divorce by deposition or affidavit, you must meet the requirements of Va. Code § 20-106, you must truthfully answer a series of questions and you must provide sufficient evidence to support all of the facts you stated in your Complaint. These are the same questions that are listed in the document "Record of *Ore Tenus* Testimony before the Court". As with an oral hearing, you must present this evidence along with the testimony of one corroborating witness. (This witness must be over the age of eighteen (18) and can be a family member. The witness, however, cannot be your spouse). **If you are using the "Record of *Ore Tenus* Testimony before the Court" form to attain a divorce by deposition or affidavit, it must be signed by you and your witness, and both signatures must be notarized.** Alternatively, you may draft your own Affidavit and have it notarized.

Your depositions or affidavits must be filed with the Clerk's Office. Upon receipt of your depositions or affidavits, the Law Clerk will review your documents. **If your documents are deficient in any way, you will receive a letter from the Law Clerk indicating your errors and you will be given an opportunity to fix any mistakes.** Once you have submitted all the correct documents, your file will be sent to the Judge for review.



V. Conclusion

If all legal requirements have been satisfied, then the Judge will generally enter the Final Decree of Divorce. Once a Judge has signed your Final Decree of Divorce, you will receive a certified copy from the Court. If you would like to call and check on the status of your divorce, please call the Circuit Court Civil Division at (757) 393-8671. If for some reason the Final Decree of Divorce is not entered, the Court recommends consulting with a competent domestic relations attorney to review and assess your issues.

The divorce process can be complicated and confusing. For this reason, you are encouraged to consult with an attorney before filing for divorce to review your rights and obligations under the law. Nothing in this packet is intended to be, nor should you rely on it as, a substitute for the advice that can be provided by competent legal counsel.

Under no circumstances will the Portsmouth Circuit Court Clerk's Office or anyone contributing to the production of this information packet assume any liability for any direct, indirect, or consequential damages that may occur as a result of its use.



VI. Sample Documents

SAMPLE BILL OF COMPLAINT

Instructions:

- **THIS IS A SAMPLE ONLY – DO NOT FILL IN THE BLANKS.**
- **You must retype this form.**
- **Do not retype the language in the parenthesis ().**
- **The information in each paragraph needs to be changed as necessary for your particular case (*this is not a form it is a sample guide*).**
- **Pay attention to what is in bold, italics, and normal typeface. If it is in bold or italics in this sample it must be in bold or italics in your Final Divorce Decree.**
- **Please read this entire sample. If it is submitted incorrectly, it will be returned to you for corrections and you divorce will be delayed.**
- **This sample is NOT intended to be legal advice and should NOT be relied upon as such. You are encouraged to consult an attorney.**

---Sample begins on following page---



VIRGINIA: IN THE CIRCUIT COURT FOR THE CITY OF PORTSMOUTH

_____ (full name))

Plaintiff)

)

v.)

)

)

_____ (full name))

Defendant)

CL No. _____

(this # is assigned
after you file your
petition)

Serve: _____ (full name of Defendant/Spouse)

_____ (complete address of Defendant/Spouse)

COMPLAINT

Comes now your Plaintiff, _____ (Plaintiff's/your full name) and states:

1. The parties were lawfully married on the _____ day of _____ (month),
_____ (year) in the City/County of _____, State of _____;

2. Plaintiff/Defendant (pick only one) is and has been an actual bona fide resident and domiciliary of the Commonwealth of Virginia for at least six months immediately before filing this suit;

3. The parties last cohabited in the City/County of _____, State of _____, the Defendant currently resides in the City/County of _____, State of _____ and the Plaintiff currently resides in the City/County of _____, State of _____;

4(a). There is/are _____ (number) child[ren] under the age of 18 born or adopted of the marriage, namely: _____; (list all children's names and their date of birth).

4(b). There are no children born or adopted of this marriage that are under the age of 18 years;
(Choose either (a) OR (b) – NOT BOTH. Renumber as #4)

5. The parties have lived separate and apart without cohabitation and without interruption for more than one year/more than six months (Choose one based on when you separated. If you conceived or adopted minor children with your spouse you must have lived apart for at least one year); to wit: since _____ (month), _____ (day, if you do not remember the exact day, use the last day of the month you just listed), _____ (year);

6. At the time of separation, it was the intent of at least one of the parties that the separation be permanent, and this intent continues to the present.

7. Both parties are of sound mind, over the age of 18 years, and neither is

incarcerated, nor has been, an active duty member of the military service of the United States since the filing of the Complaint in this case;

(if any of these do not apply to you or your spouse you must state this separately. For instance if the Defendant is incarcerated you should write:

“7. Both parties are of sound mind, over the age of 18 years, and neither is an active duty member of the military service of the United States since the filing of the Complaint in this case.

7(a). The Plaintiff is not incarcerated.

7(b). The Defendant is incarcerated.”

If the Defendant is in the military he/she must sign a Service Member’s Civil Relief Act Waiver.)

8. The parties have entered into a Separation Agreement dated _____ (day) _____ (month), _____ (year);
(If you do not have a Separation Agreement, delete this paragraph)

9. There is no hope or possibility of reconciliation between the parties; and

WHEREFORE, Plaintiff prays as follows:

That the he/she is hereby granted a divorce, a *vinculo matrimonii* from the Defendant on the grounds that the parties have lived separate and apart without any cohabitation and without interruption for more than one year/six months *(choose the same response as paragraph 7)*, to wit: since _____ (month) _____ (day, if you do not remember the exact day, use the last day of the month you listed-this is the same as paragraph 7), _____ (year); and

That the Separation Agreement dated _____ (month) _____ (day), _____ (year), be affirmed, ratified and incorporated, but not merged into the Final Order of Divorce;
(If you do not have a Separation Agreement, delete this paragraph)

That the Plaintiff’s name be restored to _____. *(If you wish to change your name due to the divorce you must list your new name here, prepare and submit a separate name change order, and pay the filling fee to the clerk’s office. --- ONLY the party whose name would be changed may request a name change, the Plaintiff cannot ask to change the Defendant’s name. --- If no party wishes to change their name then delete this paragraph.)*

I ASK FOR THIS:

_____ *(Plaintiff’s/your signature)*

Plaintiff, *pro se*

_____ *(Type your name)*

_____ *(Type your address)*

_____ *(Type your phone number)*

SAMPLE DIVORCE DECREE

Use this sample when you have all of the following:

1. **Separation - 1 year or 6 months**
2. **Uncontested, No Fault Divorce**
3. **No Spousal Support**
4. **No Child Support/Custody Issues**

Instructions:

- **THIS IS A SAMPLE ONLY – DO NOT FILL IN THE BLANKS.**
- **You must retype this form.**
- **Do not retype the language in the parenthesis ().**
- **The information in each paragraph needs to be changed as necessary for your particular case (*this is not a form it is a sample guide*).**
- **Pay attention to what is in bold, italics, and normal typeface. If it is in bold or italics in this sample it must be in bold or italics in your Final Divorce Decree.**
- **Please read this entire sample. If it is submitted incorrectly, it will be returned to you for corrections and you divorce will be delayed.**
- **This sample is NOT intended to be legal advice and should NOT be relied upon as such. You are encouraged to consult an attorney.**

---Sample begins on following page---



6. The Plaintiff/Defendant (choose one based on the allegations in the complaint and evidence produced) formed the intent to remain permanently separate and apart on _____ (day) _____ (month), _____ (year);

7. Both parties are of sound mind, over the age of 18 years, and neither is incarcerated, nor has been, an active duty member of the military service of the United States since the filing of the Complaint in this case;

(if any of these do not apply to you or your spouse you must state this separately. For instance if the Defendant is incarcerated you should write:

“7. Both parties are of sound mind, over the age of 18 years, and neither is an active duty member of the military service of the United States since the filing of the Complaint in this case.

7(a). The Plaintiff is not incarcerated.

7(b). The Defendant is incarcerated.”)

8. The Plaintiff’s and Defendant’s social security numbers are listed on the Private Addendum; (See Private Addendum - please place social security numbers in the Separate Addendum. DO NOT PLACE ANY PARTY’S FULL SOCIAL SECURITY NUMBER ON THIS ORDER OR IT WILL NOT BE ENTERED.)

9. The parties have entered into a Separation Agreement dated _____ (day) _____ (month), _____ (year);

(If you do not have a Separation Agreement, delete this paragraph)

10. There is no hope or possibility of reconciliation between the parties; and

11. This Court has jurisdiction to hear and determine the issues in this suit; it is therefore,

ADJUDGED, ORDERED, AND DECREED that the Plaintiff is hereby granted a divorce, a *vinculo matrimonii* from the Defendant on the grounds that the parties have lived separate and apart without any cohabitation and without interruption for more than one year/six months (choose the same response as paragraph 7), to wit: since _____ (month) _____ (day, if you do not remember the exact day, use the last day of the month you listed-this is the same as paragraph 7), _____ (year); and it is further

ADJUDGED, ORDERED AND DECREED that the Separation Agreement dated _____ (month) _____ (day), _____ (year), be and the same is hereby affirmed, ratified and incorporated, but not merged herein;

(If you do not have a Separation Agreement, delete this paragraph)

ADJUDGED, ORDERED AND DECREED that (a) jurisdiction of child support and child custody issues are remanded to the _____ (City/County that heard the child support/custody issues) Juvenile and Domestic Relations District Court (b) jurisdiction of child support and child custody issues are reserved for a court of competent jurisdiction;

(If there are minor children born of the marriage, including adopted children, choose provision (a) or (b)

above. Choose provision (a) if a Juvenile and Domestic Relations District Court previously heard your child support and child custody issues. Choose provision (b) if no court has previously heard child support and child custody issues. Retype the paragraph so only the provision that you chose is included. --- If there are no minor children born or adopted of the marriage delete this paragraph.)

ADJUDGED, ORDERED AND DECREED that the Plaintiff's/Defendant's name is changed and shall be _____. (If you wish to change your name due to the divorce you must list your new name here, prepare and submit a separate name change order, and pay the filing fee to the clerk's office. --- If no party wishes to change their name then delete this paragraph.)

Notice of Revocation of Death Benefits: Beneficiary designations for any death benefit, as defined in subsection B of § 20-111.1 of the Code of Virginia, made payable to a former spouse may or may not be automatically revoked by operation of law upon the entry of a final decree of annulment or divorce. If a party intends to revoke any beneficiary designation made payable to a former spouse following the annulment or divorce, the party is responsible for following any and all instructions to change such beneficiary designation given by the provider of the death benefit. Otherwise, existing beneficiary designations may remain in full force and effect after the entry of a final decree of annulment or divorce.

*(The paragraph above must be in **Bold** type.)*

And nothing further remaining to be done herein, it is **ORDERED** that this cause is stricken from the docket and the papers placed among the ended cases.

ENTERED this _____ day of _____, 20_____

Judge, Portsmouth Circuit Court

I ASK FOR THIS:

(your signature)

Plaintiff, *pro se*

(Type your name)

(Type your address)

(Type your phone number)

(Defendant's signature)

Defendant, *pro se*

(The Defendant's signature is not required if (a) he/she signed a Waiver or Acceptance of Service and has not filed an Answer, (b) he/she was served by publication and has not entered an appearance, or (c) the Defendant has executed and filed a Waiver of Notice. If none of these apply and the Defendant does not sign the Final Divorce Decree, call the Docket Clerk to put the case on a Motion's Day docket for entry of the Final Divorce Decree. You must then serve a notice on the Defendant of the date and time of the presentation of the proposed Final Divorce Decree along with a copy of the proposed decree.)

RECORD OF TESTIMONY BY DEPOSITION/AFFIDAVIT

Use this document only when you:

Plan to attain your divorce by deposition/affidavit.

Instructions:

- You **MAY** fill in the blanks by hand on this form.
- Above “Plaintiff” write the Plaintiff’s full name legibly.
- Above “Defendant” write the Defendant’s full name legibly.
- Enter the case number assigned by the Clerk’s Office next to, “CL No:”
- The Plaintiff and Corroborating Witness must date and sign (before a notary) below their respective responses. Both signature pages must be notarized.
- Complete and submit this form with your other divorce documents.

---Document begins on following page---



VIRGINIA: IN THE CIRCUIT COURT FOR THE CITY OF PORTSMOUTH

_____)	
Plaintiff)	
)	
v.)	
)	CL No. _____
)	
_____)	
Defendant)	

RECORD OF TESTIMONY BY DEPOSITION/AFFIDAVIT
(Virginia Code § 20-106)

This day the following party and a corroborating witness, each being sworn, did testify as follows:

TESTIMONY OF THE COMPLAINANT/PLAINTIFF:

1. What is your full name? _____
2. What is your address? _____
3. Are you married to the other party? _____
4. When and where were you married? _____
5. What is your spouse's present address? _____

6. Have there been any children born or adopted by you and your spouse? _____
If so, what are their names and dates of birth:
 - a. _____
 - b. _____
 - c. _____
 - d. _____
7. Were you domiciled in Virginia and a bona fide resident of Virginia on the date of the filing of this suit and for at least six (6) months preceding? _____
8. How long have you lived continuously in Virginia? _____
9. Are both you and your spouse 18 years of age or older? _____
10. Are both you and your spouse of sound mind and capable of understanding this proceeding? _____

11. Has either of you been in a mental or penal institution since this suit was filed?

12. Is your spouse on active duty in the military service of the United States?

13. When did you separate? _____
14. Was the separation intended by at least one of you to end the marriage? _____
15. Since that time, has the separation been continuous, without interruption, and without cohabitation? _____
16. Have you and your spouse signed a Separation Agreement? _____
17. Are you asking for an award of spousal support? _____
18. Are you asking for an Order of equitable distribution of marital assets? _____
19. Do you understand that, if you give up these rights now, you will be forever barred from claiming them? _____

I hereby affirm the above testimony is true and correct.

Date: _____
_____ Signature

County/City of _____ Commonwealth/State of _____

The foregoing instrument was acknowledged before me this ____ day of _____,
20____ by _____.
(Print Affiant's Name)

Notary Public My Commission expires: _____

TESTIMONY OF CORROBORATING WITNESS:

1. What is your name? _____
2. What is your relationship to these parties? _____
3. Was either of the parties living in Virginia on the date that this suit was filed?

4. Was he/she domiciled in and a bona fide resident of Virginia for the six months before this suit was filed? _____
5. Are both parties over the age of 18 years? _____
6. Are both parties of sound mind and capable of understanding this proceeding?

7. Has either party been in a mental or penal institution since this suit was filed?

8. Is the other party on active duty in the military service of the United States?

9. When did the parties separate? _____
10. If the parties had resumed living together would you know about it? _____
11. Has the separation of these parties been continuous, uninterrupted, and without cohabitation? _____

I hereby affirm the above testimony is true and correct.

Date: _____

Signature

County/City of _____ Commonwealth/State of _____

The foregoing instrument was acknowledged before me this ____ day of _____,

20____ by _____.

(Print Affiant's Name)

My Commission expires: _____

Notary Public

RECORD OF ORE TENUS TESTIMONY BEFORE THE COURT

Use this document only when you:

Plan to have an *ore tenus* hearing on your divorce.

Instructions:

- **You MAY fill in the blanks by hand on this form.**
- **Above “Plaintiff” write the Plaintiff’s full name legibly.**
- **Above “Defendant” write the Defendant’s full name legibly.**
- **Enter the case number assigned by the Clerk’s Office next to, “CL No:”**
- **The Plaintiff and Corroborating Witness must date and sign below their respective responses.**
- **Do not write anything below “CERTIFICATE OF PRESIDING JUDGE PURSUANT TO § 20-106”**
- **Complete and submit this document no later than the date of your hearing.**

---Document begins on following page---

VIRGINIA: IN THE CIRCUIT COURT FOR THE CITY OF PORTSMOUTH

_____)	
Plaintiff)	
)	
v.)	
)	CL No. _____
)	
_____)	
Defendant)	

RECORD OF ORE TENUS TESTIMONY BEFORE THE COURT
(Virginia Code § 20-106)

This day the following party and a corroborating witness, each being sworn, did testify as follows:

TESTIMONY OF THE COMPLAINANT/PLAINTIFF:

20. What is your full name? _____

21. What is your address? _____

22. Are you married to the other party? _____

23. When and where were you married? _____

24. What is your spouse's present address? _____

25. Have there been any children born or adopted by you and your spouse? _____

If so, what are their names and dates of birth:

a. _____

b. _____

c. _____

d. _____

26. Were you domiciled in Virginia and a bona fide resident of Virginia on the date of the filing of this suit and for at least six (6) months preceding? _____

27. How long have you lived continuously in Virginia? _____

28. Are both you and your spouse 18 years of age or older? _____

29. Are both you and your spouse of sound mind and capable of understanding this proceeding? _____

30. Has either of you been in a mental or penal institution since this suit was filed?

31. Is your spouse on active duty in the military service of the United States?

32. When did you separate? _____
33. Was the separation intended by at least one of you to end the marriage? _____
34. Since that time, has the separation been continuous, without interruption, and without cohabitation? _____
35. Have you and your spouse signed a Separation Agreement? _____
36. Are you asking for an award of spousal support? _____
37. Are you asking for an Order of equitable distribution of marital assets? _____
38. Do you understand that, if you give up these rights now, you will be forever barred from claiming them? _____

I hereby affirm the above testimony is true and correct.

Date: _____
_____ Signature

TESTIMONY OF CORROBORATING WITNESS:

12. What is your name? _____
13. What is your relationship to these parties? _____
14. Was either of the parties living in Virginia on the date that this suit was filed?

15. Was he/she domiciled in and a bona fide resident of Virginia for the six months before this suit was filed? _____
16. Are both parties over the age of 18 years? _____

17. Are both parties of sound mind and capable of understanding this proceeding?

18. Has either party been in a mental or penal institution since this suit was filed?

19. Is the other party on active duty in the military service of the United States?

20. When did the parties separate? _____

21. If the parties had resumed living together would you know about it? _____

22. Has the separation of these parties been continuous, uninterrupted, and without cohabitation? _____

I hereby affirm the above testimony is true and correct.

Date: _____
_____ Signature

CERTIFICATE OF PRESIDING JUDGE PURSUANT TO § 20-106

I certify that the above testimony was presented to me in open Court under oath.

Date: _____
_____ JUDGE