**INSTRUCTIONS FOR PREPARING AFFIRMATION OF DEFENDANT**

* The Affirmation of Defendant is to be served upon Defendant along with Summons with Notice and the other initial papers. If Defendant agrees to the divorce, Defendant will sign and return it by mail to Sanctuary for Families.
* **Only the highlighted sections need to be customized.** Delete the prompt/instructions and remove the highlights before emailing the draft to the Supervising Attorney for review.
* You do not have the index number when you draft this affidavit. However, after you file the Summons with Notice and purchase the index number, please fill in the index number by hand.
* The State and the County are where Defendant signs this Affirmation. Only fill in this information when you are certain of it. Otherwise, please leave it blank.
* If you know Defendant’s address and SSN, please type the address and SSN for Defendant. Otherwise, leave the blank lines for Defendant to fill in for himself/herself.

SUPREME COURT OF THE STATE OF NEW YORK

COUNTY OF NEW YORK

--------------------------------------------------------X Index No. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

PLAINTIFF NAME,

Plaintiff,

**AFFIRMATION OF DEFENDANT**

-against- **IN ACTION FOR DIVORCE**

DEFENDANT NAME,

Defendant.

--------------------------------------------------------X

**TO THE DEFENDANT**: You should read the Defendant's Affirmation Notes on the last page of this Affirmation before completing this form. For instructions on how to fill out this form, see p.21 of the instructions for Uncontested Divorces with Children, which may be found at any Supreme Court Clerk's Office or online at: http://www.nycourts.gov/divorce/pdfs/divorce-packet-instructions.pdf

STATE OF \_\_\_\_\_\_\_\_\_\_\_\_, COUNTY OF \_\_\_\_\_\_\_\_\_\_\_\_, ss.

I, DEFENDANT NAME, do state as follows:

I am the Defendant in this action for divorce, and I am over the age of 18 years. I reside at \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_. My Social Security Number is \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

1. I admit service of the Summons with Notice for divorce on \_\_\_\_\_\_\_\_\_\_\_\_\_, 2024, based upon the following grounds: DRL Section 170 subd. (7) - the relationship between the Plaintiff and Defendant has broken down irretrievably for a period of at least six months. I also admit service of the Notice of Automatic Orders, the Notice of Guideline Maintenance, Notice of Electronic Filing, and the Notice of Continuation of Health Care Coverage, which accompanied the Summons with Notice, the Sworn Statement of Removal of Barriers to Remarriage (if applicable), and the Order to Maintain Plaintiff’s Address Confidential (if applicable).

2. I appear in this action; however, I do not intend to respond to the summons or answer the complaint, and I waive the twenty (20) or thirty (30) day period provided by law to respond to the summons or answer the complaint. I waive the forty (40) day waiting period to place this matter on the calendar, and I hereby consent to this action being placed on the uncontested divorce calendar immediately.

3. I am not a member of the military service of the United States, New York, or any other state or territory.

4. I waive the service of all further papers in this action except for a copy of the final Judgment of Divorce. I specifically waive the service upon me of the Note of Issue, Request For Judicial Intervention, Barriers to Remarriage Affidavit, proposed Findings of Fact and Conclusions of Law, proposed Judgment of Divorce, Notice of Settlement, and any other notices, pleadings, and papers in this action. I, however, specifically reserve the right to receive a copy of any Judgment as ultimately may be granted in this action. I further waive all statutory waiting periods prior to judgment.

5. I am not seeking equitable distribution. I under­stand that I may be prevented from further asserting my right to equitable distribution.

6. I am not seeking maintenance as a payee as described in the Notice of Guideline Maintenance.

7. The relationship of the Plaintiff and Defendant has broken down irretrievably for a period of more than six months. All economic issues of equitable distribution of marital property, the payment or waiver of spousal support, and the payment of counsel and experts' fees and expenses have been resolved by the parties in our Affirmation of Plaintiff and Affirmation of Defendant. Issues of custody/visitation and child support have not been raised because there is no child in this marriage.

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8. (pick one and delete another) The marriage was performed by a clergyman, minister, or leader of the Society for Ethical Culture. I will or have taken all steps solely within my power to remove any barriers to the Plaintiff's remarriage. I waive the requirements of DRL Sec. 253 subdivisions (2), (3) and (4) regarding steps to remove barriers to remarriage. **\*\*\*\*\*\*\*\*\*OR\*\*\*\*\*\*\*\*\*** The marriage was not performed by a clergyman, minister, or leader of the Society for Ethical Culture. There are no steps to be taken to remove any barrier to the Plaintiff’s remarriage.

9. I acknowledge receipt of the Notice of Guideline Maintenance from the Court pursuant to DRL Sec. 236 B(6), Ch. 269 of the Laws of 2015, which was served with the Summons.

10. I have been provided a copy of the Notice Concerning Continuation of Health Care Coverage. I fully understand that upon the entrance of a judgment of divorce, I may no longer be allowed to receive health coverage under my former spouse's health insurance plan. I may be entitled to purchase health insurance on my own through a COBRA option, if available, and otherwise I may be required to secure my own health insurance.

I, DEFENDANT NAME, affirm this \_\_\_ day of \_\_\_\_\_\_\_\_\_\_, 2024, under the penalties of perjury, under the laws of New York, which may include a fine or imprisonment, hat the foregoing is true, and I understand that this document may be filed in an action or proceeding in a court of law.

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

Defendant’s Signature

**Defendant's Affirmation Notes**

If you have been served with a Summons with Notice or a Summons and Complaint in an action for divorce, ask yourself these two questions:

*Do I oppose the divorce itself?*

*Do I oppose anything else my spouse is asking for in the divorce papers?*

You may want to discuss your situation with a lawyer before deciding on your final answers to these questions. If you answered "Yes" to either of the two questions, do not sign this form. If you are opposing the divorce or anything else your spouse is asking for, you should talk with a lawyer immediately, since there are time limits for you to respond to the divorce. The Supreme Court Clerk's Office in the county where you live (if you live in New York State) may be able to help you with information about lawyer referral services, but cannot give you legal advice.

If you have decided to agree to the divorce and to the other things your spouse is asking for, or if you and your spouse have worked out a written settlement agreement about everything involved in the divorce, you can sign the Affirmation of Defendant form and have it notarized before a notary public, and send it back to your spouse or your spouse's attorney.

If DRL Sec. 170(7) is the ground alleged in the summons with notice or complaint, then all economic issues of equitable distribution of marital property, the payment or waiver of spousal support, the payment of child support, the payment of counsel and experts' fees and expenses, as well as the custody and visitation with the minor children of the marriage, must have been resolved by the parties or determined by the court and incorporated into the judgment of divorce. If you have decided to agree to the divorce on the grounds of irretrievable differences alleged by your spouse pursuant to DRL 170(7), and to all the relief requested by your spouse, and if you have no additional relief you wish to request, you should complete this form.