



The Uncontested Divorce Project (“UDP”) at Sanctuary for Families (“SFF” or “Sanctuary”) assists survivors of domestic violence and other gender-based violence in severing their legal ties to their spouses—often the abusers. Your assignment of handling an uncontested divorce generally consists of the following steps:

First, you must learn about the client’s specific circumstances and personal details to determine what the issues in the case are; whether any unforeseen change in circumstances has occurred that may result in the divorce being contested; and how to address the client’s safety concerns and other needs throughout the case.

Second, with help from the client and your Supervising Attorney at Sanctuary, you will prepare the initial papers and the Supervising Attorney will electronically file (E-File) the documents to commence the divorce action

Next, you must help the client (who will be the Plaintiff in the action) to properly notify the spouse (the Defendant) and provide the Defendant with an opportunity to respond. This is “service of process.” Without effectuating service, the divorce action cannot move forward.

Then, assuming the Defendant is not contesting the divorce, which means the Defendant consents or defaults, you may prepare the final papers and the Supervising Attorney will E-File them. This allows the court to examine the case and enter a final judgment. Once informed by the Supervising Attorney that the final papers are E-Filed, turn in your timesheet, and complete a survey, your UDP assignment is completed.

Finally, after the court enters a Judgment of Divorce, the Supervising Attorney will wrap up the case by serving the Defendant with a Notice of Entry of the Judgment of Divorce and filing the Notice of Entry along with proof of service with the court. After that is completed, the Supervising Attorney will mail a certified copy of the Judgment of Divorce to the client, along with a cover letter and a stamped copy of the Notice of Entry and proof of service. The Supervising Attorney will notify you of the good news!

I. UNCONTESTED DIVORCE OVERVIEW

A divorce is uncontested when: (1) both parties agree to being divorced and they do not have any issue other than “getting divorced” (*i.e.* the grounds for the divorce is the only issue); (2) when both parties agree on all the issues or have resolved all the issues by family court orders; or (3) when the defendant fails to respond after being served and defaults in the divorce.

New York State Supreme Court has jurisdiction over New York matrimonial actions, which are largely governed by New York’s Domestic Relations Law (“DRL”). In order to commence a divorce action in New York State, one must establish **residency** pursuant to DRL § 230 and have **grounds for a divorce** pursuant to DRL § 170.

A. RESIDENCY

The New York State Supreme Court has jurisdiction over the divorce if one of the following residency requirements is met:

- 1) The marriage ceremony was performed in New York State and either spouse is a resident of the state at the time of the commencement of the action for divorce and resided in the state for a continuous period of one (1) year immediately before the action began; or
- 2) The couple lived as husband and wife in New York State and either spouse is a resident of the state at the time of the commencement of the action for divorce and resided in this state for a continuous period of one (1) year immediately before the action began; or

- 3) The grounds for divorce occurred in New York State and either spouse is a resident of the state at the time of the commencement of the action for divorce and resided in this state for a continuous period of one (1) year immediately before the action began; or
- 4) The grounds for divorce occurred in New York State and both spouses are New York residents at the time the action is commenced; or
- 5) If the couple were married outside of New York State and never lived together as husband and wife in this state and the grounds did not occur in this state then either the husband or the wife must presently be a resident of New York State and have resided continuously in the state for at least two (2) years prior to bringing the action for divorce.

B. GROUNDS FOR DIVORCE

The client must have a ground (legally acceptable reason) to be granted a divorce by the New York State courts as described in DRL § 170. The permissible grounds are:

- 1) Cruel and inhuman treatment;
- 2) Abandonment;
- 3) Imprisonment for three (3) consecutive years during the marriage;
- 4) Adultery;
- 5) Living separate and apart pursuant to a separation judgment or decree;
- 6) Living separate and apart pursuant to a separation agreement;
- 7) The irretrievable breakdown in the marital relationship (“no fault”).

For the purpose of the UDP, **we recommend that the client proceed under the “no-fault” ground pursuant to DRL § 170(7)**. This can secure a divorce once the defendant is served, and it decreases the likelihood that the defendant contests the divorce on the basis of the grounds chosen.

If the client wishes to proceed on a ground other than no fault, you must make sure to obtain sufficient factual details to support the grounds for divorce, and the client must be prepared to litigate the issue of grounds in court if the spouse doesn’t consent to it. Therefore, please consult with the Supervising Attorney before you start drafting the documents.

C. ANCILLARY ISSUES

Even if the client is able to establish grounds for a divorce, the court will not grant a Judgment of Divorce unless all **ancillary issues** in the marriage are resolved. These ancillary issues usually determine whether a divorce case is contested or uncontested.

A divorce is uncontested when: (1) both parties agree to being divorced and they do not have any issues other than “getting divorced” (*i.e.* the grounds for the divorce is the only issue); (2) when both parties agree on all the issues or have resolved all the issues by having obtained family court orders; or (3) when the defendant fails to respond after being served and defaults in the divorce.

The ancillary issues that we must examine and address are:

- 1) **Custody and Visitation:** If the parties have any children under 18, the issues of custody and visitation must be resolved by prior family court orders, by the defendant’s consent or by default; and
- 2) **Child Support:** If the parties have any children under 21, the issues of child support must be resolved by prior family court orders that are less than three years old, by a stipulation entered by the parties, or by a child support worksheet.

- 3) **Maintenance:** If one or both parties is seeking maintenance, formerly known as “alimony” under the DRL, certain discovery followed by negotiation and/or litigation is inevitable, which will then make this a contested divorce.
- 4) **Equitable Distribution:** If the parties have marital assets and/or debts, the issues regarding equitable distribution of same, must be dealt with, which will then make this a contested divorce.
- 5) **Other:** if other ancillary issues, including but not limited to counsel fees, expert costs, and expenses, are unresolved or not waived, this divorce action is likely to be contested.

II. YOUR INITIAL INTERVIEW WITH THE CLIENT

Preparation

Reach out to client within 7 days of the case assignment.

- Schedule the initial interview date/time. This can be done via Zoom, telephone, or in person.
- Prepare for the initial interview: review manual and samples posted on the UDP webpage.

If the client has trouble with technology, please contact the Supervising Attorney or Project Assistant to discuss options about in-person meetings (if COVID-19 protocols allow).

Initial Interview

To be completed within 2 weeks after Orientation.

- Gather and review information and documents for the case.
- Have client sign the retainer. **This MUST be done – the client can send a photo of it, or mail it to our offices.**
- Complete the UDP Client Initial Interview Questionnaire.

Check In

To be completed within 2 days of the initial interview.

- Email completed Questionnaire and any scanned documents, including retainer, to the Supervising Attorney.
- Confirm with the Supervising Attorney which initial papers you are drafting.
- Alert both the Supervising Attorney and the Project Assistant to any of the client's other legal & non-legal needs.

A. BEFORE THE INTERVIEW

Schedule a virtual meeting (Zoom/telephone) with your client as soon as possible. Your interview will allow you to gather all necessary information and documents that you need to determine how to proceed with the case and to prepare the initial papers and final papers. If COVID-19 protocols allow, this meeting may be conducted in person if the client prefers.

- 1) **Review** the entire manual, all samples on the UDP webpage, the client’s intake, and any additional documents provided to you.
- 2) **Reach out** to the client and introduce yourself within seven (7) days of being assigned the case. Send a contact attempt letter, and notify the Supervising Attorney if the client does not respond to your phone calls and voice messages after a week.
- 3) **Read** the article **“Interviewing and Assisting Domestic Violence Survivors”** by B.J. Cling & Dorchen A. Leidholdt, which is available on the UDP webpage.
- 4) **Provide** the client a copy of the **UDP Retainer & Client’s Rights and Responsibilities** by either emailing or mailing it to them (if meeting is to be held virtually).
- 5) **Remind** the client to email, text or scan all necessary information and documents that **weren’t already provided to you**, including:
 - i. Regardless of the client’s income, the client should provide proof of both parties’ income, such as pay stubs or tax returns, if possible.
 - ii. If the client is on public assistance, the client should send a breakdown of their monthly income (SNAP/Cash Assistance/Housing Assistance).

- iii. The following vital documents/information for the client, all the children, and if possible, the spouse:
 - a. Medical insurance plan and ID numbers for the client and any children;
- iv. One or two recent pictures of the spouse to assist in personal service on the spouse if the client needs to use a sheriff or private process server rather than someone who knows their spouse;
- v. Any police reports (Domestic Incident Reports) if the client is seeking an address confidentiality order;
- vi. If you do not already have them, the client **must** provide copies of the Orders of Family or Criminal Court, including Orders of Protection, and Family Court Orders of custody/ visitation, child/spousal support, and, if available, have petitions available during the meeting if the client is seeking an address confidentiality order.
 - a. If the client does not have a copy of any existing orders, the client should contact via email or telephone the records room at the family court where the order was issued and obtain a copy at the record room, alternatively you can obtain an authorization form, available on the UDP webpage, and have it signed by the client, allowing you to obtain said records;
 - b. If the client is on public assistance, the Commissioner of Social Services may have commenced a child support case on behalf of the client against the non-custodial parent. These kinds of cases are only filed in Manhattan Family Court located at 60 Lafayette Street, New York, NY. The client may not know for sure whether there has been a child support order entered on the client's behalf. Please provide the client contact information for the Manhattan Family Court Record Room to inquire and obtain a copy of the Child Support Order, if available.

B. DURING THE INTERVIEW

The initial interview takes approximately 1 to 1.5 hours to complete, sometimes longer. **During the interview**, you should:

- 1) Review the **UDP Retainer & Client's Rights and Responsibilities**, signed by the Supervising Attorney, to the client. The document should be self-explanatory. If the client has additional questions, please consult with the Supervising Attorney. If the client does not have any questions, please ask the client to sign the document. If the meeting is virtual, you should ask the client to either scan you a copy of the signed Retainer or mail the retainer to the Sanctuary office, where we will make a copy and give the original back to the client.
- 2) Complete the **UDP Client Initial Interview Questionnaire**.
 - i. The client's initial intake was done a while ago. Some information may need to be updated and some information may be missing.
 - ii. The answers gathered here will be essential for both initial papers and final papers. **Do not skip any questions unless they are not applicable.**
- 3) The Supervising Attorney should have already made a preliminary determination on whether the client is eligible for a "Poor Person Certificate", which waives the filing fee for income-eligible clients. If the client's income has changed substantially since the intake, please alert the Supervising Attorney. **The filing fee for initial papers is \$210 and for final papers is \$125** (the \$125 payment is actually to file the Note of Issue, which is among the final papers submitted to the court). In general, if the client is on public assistance, they qualify for a fee waiver. A client not on public assistance may also be eligible for a fee waiver depending on their income and the size of their household.
- 4) Verify the client's need for a **Motion to Maintain Address Confidential**. The Supervising Attorney

may have already noted whether a motion is needed on the intake but the client's situation may have changed. Please discuss this with the Supervising Attorney during the post- interview check-in. Remember, if the Defendant knows the client's address, this Motion may not be available to the client.

- i. The Motion is fact-based and the client must provide details regarding incidents of domestic violence (first incident, last incident, worst incident) and supporting documents such as an order of protection, police report, etc., if available. Be sensitive when asking your client to recount these difficult experiences, and refer to the training for advice if needed.
 - ii. The client should state when they moved into a separate address from the defendant and what, if any, measures they have taken in the past to ensure that the defendant does not find out their current address (e.g., prior confidential address order in family court, entering DV shelter, obtaining emergency transfer from housing).
- 5) Make copies of any of the client's documents gathered at your initial interview, and:
- i. Keep the hard copies in your case file – keep this file in a **safe and private** location;
 - ii. **Within 2 days**, email the completed **UDP Client Initial Interview Questionnaire** and any documents the client provided to the Supervising Attorney for review.

C. AFTER THE INTERVIEW

After the Interview, you should:

- 1) Check in with the Supervising Attorney within two (2) days by emailing your completed questionnaire and scanned documents, including the signed retainer.
- 2) Alert the Supervising Attorney if:
 - i. The client or the spouse has commenced a new family court case and the case is still ongoing;
 - ii. The client needs legal advice about this divorce or any other legal matters; and/or
 - iii. The client has other non-legal needs such as counseling, support group, public assistance, housing, shelter, clothes and/or food etc.
- 3) Email the Supervising Attorney a list of the initial papers you are drafting. If there is something missing from your list or you are drafting papers that are not necessary, the Supervising Attorney will advise you. If the client's financial situation has changed substantially since the intake, the Supervising Attorney will also confirm the client's eligibility for a fee waiver.
- 4) Follow up with the client:
 - i. Gather any additional information per the Supervising Attorney's instructions if necessary.
 - ii. If the client is not eligible for a fee waiver, ask the client if they are comfortable providing their credit or debit card information via phone for e-filing purposes. If not, let the Supervising Attorney know.

III. COMMENCEMENT OF AN ACTION FOR DIVORCE

Drafting Initial Papers To be completed within 1 week of check-in

- Email the Supervising Attorney your drafts and 3 potential dates for the initial papers meeting (if a meeting is necessary), after consulting with the client and your partner. The Supervising Attorney will send edits and comments back to you, and confirm the meeting date within 3 days.
- Email revised drafts to the Supervising Attorney at least 3 days before the first meeting.

First Meeting (Virtual)

To be scheduled among students, client and the Attorney.

- The Supervising Attorney will review all of the documents to finalize.
- The Attorney will address any questions that you and the client may have.
- The Attorney will explain the electronic filing procedure with you and the client.
- Tip: a meeting may not be necessary. If the client is able to review their paperwork online, and do not require any signing, then the meeting may be able to be done via email.
- This meeting can be done in-person if the client is not technologically able to do an e-meeting. Email the Supervising Attorney to discuss options of meeting in person (Sanctuary office, Law School, Coffee Shop)*

Filing Initial Papers

To be completed ASAP after the meeting

- The Supervising Attorney will E-File the initial papers via NYSCEF (New York State Court Electronic Filing).
- NYSCEF will notify the Supervising Attorney when an index number has been assigned, and if there is a Confidentiality Motion, when it has been signed by a judge.

A. DRAFTING THE INITIAL PAPERS

Based on the information and documents provided to you and gathered during your **initial interview** with the client, you will draft the initial papers and email them to the Supervising Attorney **within one (1) week** of your check in.

When you email the drafts, please include three (3) proposed meeting dates that work for you, your partner, and the client, in the body of your email, if you deem a meeting to be necessary. If the client needs to sign documents, or if they cannot adequately review paperwork via email, a meeting may be required. The Supervising Attorney will confirm the meeting date with you. Ideally, you should pick dates at least one (1) week from the date of your email in order to allow the Supervising Attorney to review your drafts and give yourself enough time to revise the papers according to their edits where necessary.

For an uncontested divorce, **you must draft the following papers:**

- 1) Summons with Notice:** The Summons with Notice must be accompanied by the Notice regarding Health Insurance, the Notice of Automatic Orders and the Notice of Guideline Maintenance:
 - I. This contains basic information about the parties, relief requested, and mandatory notices to the defendant.
 - II. The Summons must be signed by the Supervising Attorney.
 - III. We file our UDP cases in the County the client resides in, unless they have a Confidential Address. The basis of venue is
 - i. one of the parties' residence being the county they reside in, or
 - ii. **CPLR §509**, if neither party lives in Manhattan, and the Plaintiff (client) designates New York County as the place of trial.
 - IV. Regardless what basis of venue you use, you must provide the client's address on the Summons, **unless a Motion for an Order to Maintain Plaintiff's Address Confidential is to be filed**. In that case, you will use Sanctuary's mailing address as the Plaintiff's address.
- 2) Affidavit of Defendant and a cover letter to the Defendant**
- 3) A cover letter to the person who will serve process.** You can find sample cover letters to a Sheriff, to a professional process server, or to a layperson, on our web page. **You will not need to draft a cover letter if you are using the NYC Sheriff for service.**
- 4) Affidavit of Service** to be completed by the person who serves process **or**
- 5) NYC Sheriff Service Intake form** if the client has nobody who can serve process. This form is required by the NYC Sheriff. You do not need to draft an Affidavit of Service if you are using the NYC Sheriff because they have their own Certificate of Service. If you are using the NYC Sheriff, go to our web page

and download and complete the “NYC Sheriff Service Intake” form. We have an excellent relationship with the NYC Sheriff’s office and they normally waive the \$52 service fee for our clients when we send the request via email.

The following documents apply to some (but not all) cases. Only draft them if they are applicable. If you have any questions regarding a document’s necessity, consult with your Supervising Attorney:

1. **Sworn Statement of Removal of Barriers to Remarriage** if married in a religious ceremony.
2. **Poor Person Certificate** to waive the filing fees if the client is eligible.
3. **Motion for an Order to Maintain Plaintiff’s Address Confidential** if the client wishes to keep their address (and/or SSN) confidential *and*
4. **Request for Judicial Intervention (RJI)** if you are filing a Confidentiality Motion, *with* a **RJI addendum** if the parties have any children under 18 *and*
5. **Child Support Standard Chart** needs to be served on the Defendant if the parties have any children under 21. This is a standard document that you will print and do not need to draft.

The Supervising Attorney will review the drafts and get back to you with comments and edits, and confirm the meeting virtual meeting within three (3) days.

B. FIRST VIRTUAL MEETING WITH THE CLIENT AND THE ATTORNEY

******If an in-person meeting at the office is necessary please inform the Supervising Attorney or Project Assistant******

This meeting will serve as a way to review the initial papers, verify all information included is correct, and make necessary changes. At the end of the meeting, after we have finalized the initial papers together, the Supervising Attorney will E-File the initial papers.

This meeting usually takes one (1) hour, sometimes slightly longer if the client has limited English proficiency and interpreting is needed. Some students may be asked to serve as ad-hoc interpreters during the meeting. Please refer to the tip-sheet on working with clients with limited English proficiency as an ad-hoc interpreter.

These are the following documents we will review:

- 1) **Summons with Notice**
- 2) **Sworn Statement of Removal of Barriers to Remarriage** (if applicable)
- 3) If a Confidentiality Motion is being filed:
 - **Motion for an Order to Maintain Plaintiff’s Address Confidential;**
 - **RJI and RJI addendum** (if applicable);
- 4) **Poor Person Certificate** (if client is eligible).

C. FILING THE INITIAL PAPERS

All filings are now done electronically via NYSCEF by the Supervising Attorney.

D. ORGANIZING THE PAPERS IN PREPARATION FOR SERVICE

After you complete the initial filing in court, do the following:

- Write the complete **index number (this includes the year)** in **black ink**, on the following documents in your possession:
 - All date-stamped copies of **the Summons with Notice;**
 - **Sworn Statement of Removal of Barriers to Remarriage** (if applicable);

- **Affidavit of Service;**
- **Affidavit of Defendant;**
- **Signed Confidentiality Order**
- Scan and email the date-stamped **Summons with Notice**, and signed **Confidentiality Order** (if applicable) to the Project Assistant.

At this point, you should organize all the papers you have in your file in the following manner:

- 1) Documents to be provided to the person who will serve process (these are not applicable if you are using the NYC Sheriff):
 - A Cover Letter to the server;
 - Affidavit of Service for the server to complete;
 - A self-addressed, pre-stamped envelope for the server to return the Affidavit of Service;
 - The documents to be served upon the Defendant:
 - 1 date-stamped copy of the Summons with Notice (to be placed on the top of all documents to be served);
 - 1 copy of the Sworn Statement of Removal of Barriers to Remarriage (if applicable);
 - 1 copy of signed Confidentiality Order (if applicable);
 - 1 copy of Child Support Standards Chart (if applicable);
 - The Cover Letter to the Defendant;
 - The Affidavit of Defendant;
 - A self-addressed, pre-stamped envelope for the Defendant (unless you are using the NYC Sheriff).

V. SERVICE OF PROCESS

You should assist the client in arranging service of process upon the defendant as soon as possible after the initial filing. The defendant must be **personally** served with the initial papers **within 120 days** of the index number being issued.

E. WHO CAN SERVE

Any layperson who:

1. is not a party to this action,
2. is a resident of the State of New York, and
3. is over the age of 18,

can serve process in New York State. The client cannot serve process because they are a party to the action.

If the client does not have a family member or friend who can serve process, you can consider hiring a **professional process server** or requesting **the sheriff** to serve process, both of which will charge you a fee for service. We recommend that the client consider using the Sheriff first, as some sheriffs may waive their fees. **Instructions for Arranging Sheriff Service** are available on the UDP webpage. If you will be using the NYC Sheriff, please also refer to the instructions available on the UDP webpage.

If the defendant is incarcerated, you must locate the defendant through the city/state/federal prison system. Generally, you will need to contact the facility to inquire about how to arrange service of process and to confirm their mailing address. Usually you need to mail the documents to be served, along with a cover letter, to the prison, though please ask if the documents can be emailed instead. Detailed **Instructions on Locating an Inmate and Arranging Service in the Prison** are available on the UDP webpage.

If the defendant resides in another state, only a lawyer, a sheriff, or a professional process server can serve process in that state. If the client has family members or friends who live in the same state as the defendant and are willing to serve the defendant, please contact the Supervising Attorney before proceeding, to obtain a legal determination on whether that person is authorized to serve process under the laws of that state.

F. WHEN TO SERVE

Personal service upon the defendant must be done **within 120 days** of filing the initial papers, or the index number will expire. Additionally, remind the person who will serve process that service should not take place on a Sunday, or on a Saturday if the client knows that the defendant observes Saturday as a holy day. Pursuant to **General Business Law § 11**, service of process in a divorce case, among others, cannot be effectuated on a Sunday, and under **General Business Law § 13**, it is a **misdemeanor** to "...maliciously procure any process in a civil action to be served on Saturday, upon any person who keeps Saturday as holy time and does not labor that day...".

G. HOW TO SERVE

When serving the defendant, the document entitled "Summons with Notice: Action for a Divorce" should be on top of the other documents, clearly visible to the defendant. Ideally, the papers should be handed directly to the defendant. However, if this is not possible, it is sufficient to **touch any part of the defendant's body with the papers before dropping them at the defendant's feet**. Do not throw the papers at the defendant. The server should inquire whether the defendant is currently in military service. This is necessary because special rights apply to active military members pursuant to the Service members Civil Relief Act and the Court must confirm whether it is applicable in each case.

The server should remember the **date and time** when service occurs, and the **address where service takes place**. The server should **immediately** complete every section of the Affidavit of Service to provide the following information to the court:

- The server's personal information
- The occurrence (date, time, place) of service of process
- How the server identified the defendant
- A detailed description of the defendant's physical appearance, including skin color and/or other features.

The server should sign the completed Affidavit of Service **before a notary public**. The signed and notarized Affidavit of Service should be returned to the Supervising Attorney as soon as possible.

H. CHALLENGES AND SOLUTIONS

If personal service is impractical or fails, there are other avenues to serve process, but they can only be accomplished by making a **motion to obtain a court order permitting alternate service**. The Supervising Attorney will need to make a motion to obtain a court order permitting **service by alternate method pursuant to CPLR § 380**, such as nail and mail, service by Facebook, service by email, or service by publication. Please consult with the Supervising Attorney to discuss how to proceed.

If service cannot be effectuated within 120 days of the filing of the initial papers after attempts of service have been made, the Supervising Attorney can make an **Ex Parte Motion to extend time for service** and request another 120 days. This motion, similar to the Motion for an Order to Maintain Plaintiff's Address Confidential, needs to be filed at the Ex Parte Motions Office located in Room 315. Please consult with the Supervising Attorney to discuss how to proceed.

IV. THE FINAL PAPERS

Defendant's Response Confirm with the Supervising Attorney 5 days after the date of default

- Follow up with the client and/or the server to confirm the date of service.
- Determine the date of default, which is 20 or 30 days after service.
- Check in with your respective Supervising Attorney to see if the Affidavit of Defendant has been received.

Draft Final Papers To be completed 1 week before the final papers meeting

- Draft the final papers immediately after service has been effectuated.
- Schedule the final papers meeting for approximately 40 days after the date of service. Consult with the client and your partner to determine a date.
- Students are responsible for emailing the Supervising Attorney all drafts 1 week before the meeting. If you need an extension, please ask the Supervising Attorney in advance.
- Confirm the meeting with the client 1 week prior.

Meeting and Filing To be completed within 2 weeks after emailing drafts to Attorney

- *This meeting may be done virtually unless COVID-19 protocols allow in person meetings.*
- Meet with the Supervising Attorney and the client to finalize the final papers.
- Supervising Attorney will E-File final papers.

A. POSSIBLE RESPONSES BY THE DEFENDANT

You should follow up with the client and/or the server to confirm that service of process was completed. Check in with the Project Assistant if the service request was sent to the NYC Sheriff. Once confirmed, make sure you get the date of service so we can determine the date by which the defendant needs to respond. The defendant's response to the Summons with Notice determines how you proceed with the case, and how you prepare the final papers. The defendant has twenty (20) days to respond after service if personally served within the State of New York, or thirty (30) days to respond if served in any other way. There are three (3) possible scenarios that you can expect:

1) Defendant appears and waives the answer

If the defendant returns the completed and notarized **Affidavit of Defendant** in a timely manner, it means the defendant has appeared, but **waived** his/her right to answer. The divorce is therefore uncontested. As the defendant also waives the forty (40) days waiting period, the final papers can be filed immediately.

2) Defendant does not respond after twenty (20) or thirty (30) days of service

Defendant has **defaulted** in the appearance. The divorce is, therefore, uncontested. You can prepare the final papers based on the defendant's default, but you must wait forty (40) days after the date of service before you can file the final papers.

3) Defendant and/or Defendant's attorney serves a Notice of Appearance and a Demand for Complaint

The defendant has appeared and **contested** certain issues. The client must serve a Verified Complaint within twenty (20) days if personally served on Sanctuary for Families, and twenty five (25) days if mailed to Sanctuary for Families. If this happens, please consult with the Supervising Attorney on how to proceed. The unresolved issues could be settled through negotiation, after which the case can continue as an uncontested divorce. If there is no resolution through negotiation, the case needs to be litigated as a contested divorce.

As we expect the Affidavit of Service and/or Affidavit of Defendant to be returned to the Supervising Attorney at Sanctuary, you should confirm whether the Supervising Attorney ever received the Affidavit of Defendant approximately five (5) days after the date of default. Once we confirm whether the defendant has defaulted or waived his/her answer, you can amend the final papers accordingly.

B. DRAFT THE FINAL PAPERS

The following final papers need to be drafted and emailed to the Supervising Attorney 1 week prior to your scheduled meeting:

- 1) **Note of Issue;**
- 2) **RJI and RJI addendum** if applicable;
- 3) **Part 130 certification** by an attorney;
- 4) **Verified Complaint;**
- 5) **Affirmation of Regularity;**
- 6) **Plaintiff's Affidavit;**
- 7) **Child Support Work Sheet**, if there are any children under 21 *and* there is no prior Child Support Order or a Child Support Stipulation;
- 8) **Proposed Findings of Fact and Conclusions of Law;**
- 9) **Proposed Judgment of Divorce;**
- 10) **Certificate of Dissolution of Marriage** (Form DOH-2168);
- 11) **Support Collection Unit Information Sheet** if there are any children under 21;
- 12) **Child Support Summary Form** (Form UCS-111) if there are any children under 21;
- 13) **An affidavit by Plaintiff to explain why Defendant's SSN is unknown or there is any irregular issue;**

When you email the drafts, please confirm the scheduled final meeting date.

If the client is not eligible for a fee waiver, there is a \$125 filing fee for filing of the Note of Issue when you file the final papers. Please remind the client that this fee will be due at the second meeting.

C. SECOND VIRTUAL MEETING WITH THE CLIENT AND SUPERVISING ATTORNEY AT SANCTUARY

This meeting will serve as a way to review the final papers, verify all information included is correct, and make necessary changes. At the end of the meeting, after we have finalized the final papers together, the Supervising Attorney will E-File the initial papers.

If the client is paying **the filing fee**, the client should be prepared to provide credit card information to the Supervising Attorney so they can pay \$125 when e-filing.

This second meeting takes about one hour, sometimes longer if any interpreting is needed. **The same check-in procedure detailed previously will still apply for this meeting.**

The Uncontested Divorce Review Checklist;

- 1) **Attorney's Authorization** to file the final papers;
- 2) **A Poor Person Certificate** or a **money order** of \$125 for the filing fee;
- 3) 3 originals of the **Note of Issue;**
- 4) **RJI and RJI addendum;**
- 5) **Part 130 certification** by an attorney;
- 6) **Summons with Notice** (the date-stamped copy you have kept in your file);
- 7) **Verified Complaint;**
- 8) **Affidavit of Service** or **Affidavit of Defendant;**
- 9) **Affirmation of Regularity;**
- 10) **Plaintiff's Affidavit** and **any additional Affidavit** to explain irregular issues, *e.g.* lack of SSN;

- 11) **Final Orders of Custody/Visitation**, if there is/are any children under 18 *and* if applicable;
- 12) **Final Order of Child Support** from the family court, or a **Stipulation**, or a **Child Support Worksheet** if there hasn't been any child support order entered, and there is/are any children under 21;
- 13) **Order(s) of Protection**;
- 14) **Sworn Statement of Removal of Barriers to Remarriage (original copy kept by Supervising Attorney)** ;
- 15) **Proposed Findings of Fact and Conclusions of Law**;
- 16) **Proposed Judgment of Divorce**;
- 17) **Certificate of Dissolution of Marriage** (Form DOH-2168);
- 18) **Support Collection Unit Information Sheet** if there is/are any children under 21;
- 19) **Child Support Summary Form** (Form UCS-111) if there is/are any children under 21;
- 20) **Order to Maintain Plaintiff's Address Confidential**;

D. FILING THE FINAL PAPERS IN COURT

All filings are now done electronically via NYSCEF by the Supervising Attorney.

V. WRAP UP

Final Tasks

To be completed within 2 weeks of filing

- Turn in your timesheet by email.
- Complete the UDP Survey.

Casework Continued

To be completed by the Supervising Attorney

- Supervising Attorney will remedy any defective final papers.
- Supervising Attorney will continue case management for client.

Judgment of Divorce

Once the Judgment is signed

- The Supervising Attorney will notify you and the client; the Supervising Attorney will access the signed Judgment from NYSCEF.
- The Supervising Attorney will serve a Notice of Entry on the Defendant, and will file the Notice of Entry and proof of service with the Court.
- The Supervising Attorney will mail the Judgment of Divorce, a closing letter, and a copy of the filed Notice of Entry with proof of service to the client.

A. STUDENTS' FINAL TASKS

If you have any original documents from the client, please return to the Supervising Attorney.

It is highly likely that you will want the Supervising Attorney to provide an affidavit or a verification for your bar-admission application or employment. Your timesheet is essential for us to be able to assist you with that. Please turn in your timesheet by email within two (2) weeks of the final papers filing. We recommend that you document the hours you spend on the UDP assignment as you go along. The UDP staff will not keep track of your hours.

We also ask you to complete an anonymous UDP survey so that we have your feedback to help us improve this project. It takes about five (5) minutes to complete. The Project Assistant will email you the survey link.

B. ONGOING CASEWORK FOR SANCTUARY

In the event that Sanctuary receives a notice from the court indicating that the final papers filed are

defective, the Supervising Attorney will work with the client to remedy any defects. On very rare occasions, when there is a minor child in the case, the Court may notify the parties to appear in court for a brief inquest for the purposes of a registry check of Orders of Protection, Child Abuse/Neglect Proceedings and appearance on the Sex Offender Registry. The Supervising Attorney will prepare the client and appear in court with the client. We will continue case management to support the client's ongoing needs.

C. ENTRY OF JUDGMENT OF DIVORCE

If filed in New York Supreme, it generally take eight (8) to twelve (12) months, sometimes longer, for the New York County Supreme Court to review the final papers in an uncontested divorce case. If filed in Bronx County, Kings County, Richmond County or Queens County the wait will likely take less than eight (8) months. Once a Judge or a Referee signs the Judgment of Divorce, it will be sent to the County Clerk's Office for scanning and entry. From the date of signing to the date of entry can take one (1) to five (5) weeks or more.

When the Judgment of Divorce is entered and becomes available, the Supervising Attorney will receive an email notification from the court, indicating that the Judgment of Divorce and can be downloaded. The Project Assistant will notify you and the client of the good news!

After we download a copy of the Judgment of Divorce from the Court, the Supervising Attorney will serve a Notice of Entry upon the defendant by mail. The Notice of Entry and proof of service must then be e-filed with the court, which marks the finalization of the case.

The Supervising Attorney will provide a certified copy of the Judgment of Divorce, a stamped copy of the Notice of Entry and proof of service, and a closing letter to the client.

VI. MISCELLANEOUS

A. CLIENT COMMUNICATION

It is imperative that you find a workable method of communication between you and the client. You should make initial contact by phone and explore additional ways of communication like email or text with the client. Introduce yourself in a professional manner and emphasize that you are not an attorney, but you are working with and closely supervised by the Sanctuary Attorney the client has met, and that the case has been assigned to you. Here are a few tips:

- 1) **Telephone:** We suggest that you utilize Google Voice, which allows Google/Gmail account holders to obtain a US number free of charge. With this app, you can call your client and the client can call you back and leave voicemail. You can also send text messages back and forth with the client, and the texting history will be saved in your Gmail account. Please avoid discussing sensitive matters via text. It should only be used for scheduling or obtaining information that is not sensitive. See the following link: <http://www.google.com/googlevoice/about.html#tab=overview>
- 2) **Email:** If it is more convenient for you and the client, you can use email. Please advise the client that email may not be always secure and private. Avoid discussing sensitive matters via email. It should only be used for scheduling or obtaining information that is not sensitive. Ask the client to update their password periodically. Send a test email to the client to verify the address first before you start the communication. Emails to the client should be written in a professional manner at all times.
- 3) **Written Letters:** In the event that you cannot reach the client by phone or email, you should notify the Supervising Attorney and draft an outreach letter to the client's address that is identified as safe to use.

B. SAMPLES, INSTRUCTIONS AND MANUAL

The UDP utilizes our own online platform to share documents, samples and additional resources for working with survivors of domestic violence. These materials are accessible via the web at this link: <http://sffmat-ejp.weebly.com>

Through the UDP tab in the upper right corner, you will find a password-protected portal for current UDP participants. Log-in information will be provided before Orientation. If you cannot locate information or a document you need, please do not hesitate to contact the Supervising Attorney or Project Assistant.

C. IN-PERSON MEETINGS WITH THE CLIENT AND/OR THE SUPERVISING ATTORNEY

You and your partner are expected to attend three meetings: (1) with the client for the initial interview; (2) with the Supervising Attorney and the client at Sanctuary for the initial papers; and (3) with the Supervising Attorney and the client at Sanctuary again for the final papers. Meetings may be virtual or in person, dependent upon current COVID-19 protocols. Below is some information for in person meetings.

The initial interview between you and the client can take place in a **private** room at either your law school or at Sanctuary. **If it is convenient for you and the client, we recommend that you utilize an interview room in your law school.** Ask your school coordinator about how you can book an interview room at your school. Sanctuary has a few interview rooms that the Project Assistant can reserve for your initial interview with the client, but our space is limited. If you need to use our copier and scanner or the client needs childcare, a metro card, or food pantry items, however, you should try to arrange your interview at Sanctuary.

Sanctuary's Main Office is located at a confidential location in downtown Manhattan, with a mailing address of 30 Wall Street, 8th Floor, New York, NY 10005. **Please do not go to the mailing address as it is not where our office is located. The Project Assistant will provide Sanctuary's confidential address if you will be having your initial meeting at our office.** You must comply with our **security policy** when you come to our confidential location. Please do not share our address with anyone else. Neither you nor the client are permitted to bring any friends or family members other than the client's minor children. Please relay this information to the client and make sure that the client understands this policy.

To book an interview room for your initial meeting with the client at Sanctuary, please follow these steps:

- 1) Contact the Project Assistant with the date and time of the proposed meeting. Please state whether the client needs **childcare**. Please email all children's names and ages to the Project Assistant in order to arrange child care services for your meeting. Please note that childcare must be arranged **in advance**, and is not always available due to COVID-19 protocols.
- 2) Once a date is confirmed, the Project Assistant will provide the confidential address and information regarding how to check in upon arrival.
- 3) On the date of the meeting, the client and students must ask Sanctuary's receptionist for the Project Assistant upon arrival.
- 4) Once the meeting is over, students must accompany the client to the front door.

D. FILE KEEPING

Sanctuary protects every client's privacy. You are required to sign a confidentiality agreement at orientation before a case can be assigned to you. You will handle personal and confidential information and documents throughout your involvement with the UDP. We expect you to handle the case responsibly and professionally.

You may keep a physical file while you are working on the case. Please keep every case-related document that you have received or have written on in the file. Keep the file in a **safe, private location**. You will be asked to scan the client's documents and save/transmit them as PDF files. Please make sure these documents and

information are saved/transmitted in a secure manner. Use a strong password and update your password periodically.

We ask you to return the physical file to Sanctuary at the end of your assignment. Please make sure you **erase** the client's documents and private information from your computer, Dropbox, email, cellphone, cloud storage, etc. You can keep the redacted samples, but you may not keep drafts that contain the client's personal and confidential information.

E. PERFORMANCE TRACKING

We ask that you track the progress of your case by emailing the Supervising Attorney and Project Assistant once you have completed any vital step. We will keep track of your progress internally. The student coordinator at your school should remind you every few weeks to update the Supervising Attorney and Project Assistant on the case status. We also ask you to provide a timesheet and complete the UDP survey.

F. CLIENT SUPPORT BY SANCTUARY

Sanctuary is dedicated to the safety, healing, and self-determination of victims of domestic violence and related forms of gender violence. Sanctuary provides holistic services to clients. If you notice that a client needs shelter, food, counseling services, economic empowerment services, or other legal assistance, please contact the Project Assistant and Supervising Attorney to arrange referrals within Sanctuary.

G. STUDENT SUPPORT

The Supervising Attorney and the Project Assistant are your go-to people at Sanctuary. The best way to reach them is by email. Their contact information will be provided to you at orientation and posted on the UDP password-protected webpage. Please allow 24 hours for responses during the week. A slower response is expected during the weekend or when staff are away.

You should contact the Project Assistant for logistical matters such as booking a meeting room, arranging childcare for the client during a meeting at Sanctuary, Sanctuary's confidential address, and locating certain samples.

Please contact the Supervising Attorney for legal questions and strategies. When emailing the Attorney please make sure the subject line reads "UDP- [client's last name+ first name initial]-_____ "so they can quickly identify your case and respond to you.

In addition, please contact the UDP student coordinator at your law school for help.