

Family Law Information Center

Important Information for Divorce and Legitimation Cases

- The civil filing fee is \$207.50 (cash or money order).
- The Sheriff's service fee is \$50.00 (if needed).
- FLIC assistance is **by appointment only (walk-in assistance is no longer available)**.

What to Expect

1. You may need 2 or more FLIC appointments to complete the review process.
2. You may wait 4 or more weeks for each appointment.
3. You will receive free assistance reviewing your paperwork.
4. You may request and qualify for a free attorney consultation (subject to conflict check and financial qualification).

Your Responsibilities

1. Read the packet instructions thoroughly.
2. Complete the packet documents to the best of your ability (signatures not required before review) before your appointment.
3. Arrive promptly and come prepared for your FLIC appointment.
4. Bring photo identification for notary services.
5. Notify the FLIC office in advance if you are unable to keep your appointment.

FLIC Contact Information

- Phone: (770) 531-2463
- Fax (for *Appointment Request Forms*): (770) 536-7924
- Email (for requesting appointments only): nejcflic@hallcounty.org
- Website (for printing legal forms and *Appointment Request Forms*):
www.hallcounty.org/judicial/jud_FLIC_Forms.asp
- Location of appointments with FLIC Review Staff: Room 467
- Location of appointments with FLIC Attorney: Room 461
- Complete *Appointment Request Forms* in person and find other resource information available: Room 459

Attention: The cost for filing for divorce is now \$207.50, and \$50.00 for the Sheriff to serve papers, if needed.

Atención: El costo para la tramitación de divorcio ahora es \$207.50 y, si es necesario, \$50.00 por la entrega de documentos a través del Sherif.

DIVORCE WITHOUT MINOR CHILDREN

Please read this entire packet before visiting the Family Law Information Center (FLIC).

- You must visit FLIC on the fourth floor before getting a Court date, but **READ THESE INSTRUCTIONS CAREFULLY AND FILL OUT THE FORMS BEFORE GOING TO THE FOURTH FLOOR.** It can take several hours to read the instructions and complete the forms.
- FLIC (Room 459 on the Fourth Floor of the Hall County Courthouse) is open to walk-ins on a first come, first serve, basis from **10:00 a.m. to 2:00 p.m., Monday through Thursday.**
- Appointments are available at other times for persons unable to visit FLIC during regular walk-in hours.
- One time legal consultations are also available for individuals who have general legal questions about divorce. All appointments with the FLIC attorney are subject to a conflict check and financial qualification. Call (770) 531-2463 or stop in for more information or to schedule an appointment.
- At FLIC, your forms will be checked for completeness and notarized free of charge. You will also receive a folder, instructions for filing and obtaining a Court date, and a procedural checklist.
- FLIC on the web: www.hallcounty.org/judicial/jud_FLIC&GAL.asp

NO AUTHORITY TO GIVE LEGAL ADVICE

State law, O.C.G.A. § 15-19-51, prohibits court personnel (including staff attorneys or law clerks, calendar clerks, clerk's office staff, and sheriff's department staff) from giving legal advice or answering legal questions. This rule also applies to staff persons in the Northeastern Judicial Circuit Family Law Information Center (FLIC), except for the FLIC attorney who can answer general legal questions pertaining to divorce (by appointment only), during one-time consultations provided free of charge to Hall County residents or individuals filing in Hall County (subject to conflict check and income qualification).

USE THESE FORMS AT YOUR OWN RISK

In no event will the Court Administrator, Clerk of Court or anyone contributing to the development of these forms or instructions be liable for any damages resulting from the use of this packet. These forms may not be appropriate for your particular case. In addition, due to the changing nature of the law, the information in these instructions and forms may be or become outdated. You should review any statutes (laws) mentioned in this packet to make sure the forms are current. **It is strongly recommended that you obtain the services of an attorney.**

INSTRUCTIONS FOR FILING A PETITION FOR DIVORCE WITHOUT MINOR CHILDREN

This is the form packet for people who want to file their own divorce in **Hall County**, and who do not have minor children together with their spouse, but do have marital property and joint debt. If you and your spouse have minor children together, you should not use this form packet. Instead, use the *Petition for Divorce with Minor Children*, available in the Clerk’s office. If you have no children or property or debt to divide, and you are sure your spouse will sign divorce papers, you may use *Simple Divorce* packet. It is the shortest and simplest packet available in the Clerk’s office.

Please read these instructions and each form very carefully. Missing or misreading a word could cause you to make serious errors in your case, placing your rights and the direction of your divorce case in jeopardy. **Please also note that this packet does not cover every legal issue that may come up in a divorce and there may be better ways to address certain issues than they are addressed in these forms.** **Whether your case is contested or uncontested, to protect your legal rights, it is always recommended that you speak with an attorney experienced in domestic relations (family law) before signing or filing any documents. You may especially need to hire an attorney to represent you if:**

- The case is contested OR an attorney represents your spouse.
- You are a victim of family violence against you by your spouse.
- You are unable to locate your spouse to have him/her served with this action.
- You and your spouse have a house, pension, or large amount of property or income to be divided.
- You think you may have difficulty getting financial information from your spouse.

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I. INTRODUCTION

In the State of Georgia, if you want to end your marriage, you must file a petition for divorce in the Superior Court. There are two options available to you for filing a divorce case: (1) you can hire a lawyer who will prepare your paperwork and represent you in court; or (2) you can use the forms included in this packet and represent yourself in court. After a court grants your divorce and issues a final judgment and decree of divorce, you will be legally able to remarry.

It is advisable to speak with a lawyer before filing any action with the court. This divorce is no exception to that rule. There are often more issues involved in a divorce than you might realize if you fail to get legal advice. However, you may want to review the forms and instructions in this packet before you talk to a lawyer, so that you will be able to make the best use of your time with the lawyer.

Dissolution of a marriage can be a very complicated process. If documents are not completed, signed, notarized and filed in compliance with the law, then a judge cannot grant your request for divorce and may dismiss your case.

If you want a court to grant your divorce, you must follow the law and you must complete each and every paragraph that applies to your case (but not any paragraphs that do not apply to your case).

Finding basic legal information:

“O.C.G.A.,” followed by a symbol (“§”) and number, refers to a specific section (“§”) in the Official Code of Georgia Annotated (O.C.G.A.). You can find the annotated Georgia Code in print at some libraries (including the Hall County Law Library at 117 Bradford St., SE, Gainesville, GA). The unannotated Georgia Code is available on the Georgia General Assembly’s website at: www.legis.state.ga.us.

“USCR,” followed by a number, refers to a specific rule in the Uniform Superior Court Rules (USCR). USCR 24.1 through 24.9 include several rules that apply in domestic relations cases (a divorce is considered a domestic relations case). The Uniform Superior Court Rules are available on the Georgia Judicial Branch website at www.georgiacourts.org (under “Courts” and then under “Court Rules”). A hard copy of the rules is also available in FLIC.

The Internal Operating Procedures for Domestic Relations Cases also has local procedures that apply to divorce cases in Hall County. A copy of these procedures is available online at www.hallcounty.org/judicial/jud_superiorcourt.asp.

Some other helpful websites are www.legalaid-ga.org or www.findlaw.com.

IMPORTANT NOTE ABOUT THE DOMESTIC RELATIONS ACTION STANDING ORDER: As of April 16, 2008, you must include a copy of this Order with your paperwork when you file and provide the Respondent with a copy. It is included with this packet.

II. BASIC STEPS FOR OBTAINING A DIVORCE IN HALL COUNTY

Your case may require different or additional steps, so please read through the entire instructions carefully.

1. **Carefully read all of these instructions at least once before filling out the forms.**
2. **Complete the forms in this packet, using these instructions to guide you.** NOTE: it is not necessary to notarize your forms before visiting FLIC. You can have them notarized at FLIC free of charge.
3. **Visit FLIC on the 4th floor of the Hall County Courthouse (Room 459).** It is a requirement that you visit FLIC before obtaining a court date from any of the Superior Court Judges in this Circuit (therefore, consider visiting FLIC before you file any documents). A FLIC staff person will review your documents for completeness, notarize any necessary documents, and give you a folder and procedural checklist for obtaining your divorce. FLIC is open to walk-ins from 10:00 a.m. to 2:00 p.m., Monday through Thursday. Persons who are unable to come during those hours may contact (770) 531-2463 to inquire about setting up an appointment.
4. **Make two sets of copies of all of your paperwork.**
5. **File your divorce papers with the Clerk of Courts and arrange for the Respondent to be served** (if the Respondent has not acknowledged service in writing – see **Step 1**, Paragraph 3 on p. 7).
6. **Using a *Rule Nisi*, obtain a Court date for your hearing from the assigned Judge’s office** (bring one set of copies of your divorce papers with you to the Judge’s office).
7. **Make copies of your *Rule Nisi*, file the original with the Clerk of Courts, and make sure the Respondent is served with a copy.**
8. **If mediation has been ordered in your case** (required by this Circuit when you do not have a written *Settlement Agreement*, signed by and notarized for both parties), **contact the mediation office to schedule your mediation and attend mediation** (see p. 18). Mediation must be completed at least 15 days prior to your final hearing date or your hearing will be postponed.
9. **Make sure your spouse was actually served with the divorce papers.** Have your case number ready and check with the Hall County Clerk of Courts at (770) 531-7025 to see that a return of service has been filed.
10. **Go to your hearing on the scheduled Court date and time.**
11. **Take your Final Judgment and Decree of Divorce (given to you by the Judge) and *Domestic Relations Case Final Disposition Information Form* to the Clerk of Courts for filing after your hearing.**

III. FORMS YOU WILL NEED TO START YOUR DIVORCE

You will need to file the following documents with the *Petition for Divorce without Minor Children*. All of these forms are included in this packet or are available from FLIC, but you can also get the *Sheriff's Entry of Service* form and *Summons* form from the Superior Court Clerk's office on the ground floor of the Hall County Courthouse (where you will be filing your case).

- Petition for Divorce without Minor Children*
- Verification* form
- Domestic Relations Financial Affidavit*
- Domestic Relations Action Standing Order and Certificate of Service*
- Domestic Relations Case Filing Information Form*
- State of Georgia Report of Divorce, Annulment or Dissolution of Marriage*

AND, depending on your method of service (one of the 4 options below), you will also need:

If you are having your spouse served by the Hall County Sheriff's Office:

- Complete copy of all of your divorce papers (the "service copy")
- Sheriff's Entry of Service* (3-page carbon copy form)
- Summons* (2-page carbon copy form)
- \$25.00 money order

If you are having your spouse served by another county's sheriff's department:

- Complete copy of all of your divorce papers (the "service copy")
- Sheriff's Entry of Service* (3-page carbon copy form)
- Summons* (2-page carbon copy form)
- Letter for Service by Second Original*
- Money order payable to appropriate county sheriff's department (confirm amount, name to use on money order, and sheriff's office address)
- Anything else the specific sheriff's office requires (it is your responsibility to contact the specific county's sheriff's office to find out what they require – see FLIC for a list of questions to ask when you call)

If your spouse has acknowledged service in writing (signed and notarized):

- Acknowledgment of Service* (complete top portion of a two-part form included in this packet)

If you are serving your spouse by publication:

- Affidavit of Diligent Search*
- Order of Publication*
- Notice of Publication*
- \$80.00 money order payable to *The Times*

Other forms/fees, depending on your case:

- Settlement Agreement* (if you and your spouse can reach a written agreement, and do not wish to be ordered to go to mediation)
- Notice of Lis Pendens* and \$5.00 (if applicable - see notes for **Step 1**, Paragraph 10, on page 11)
- Affidavit of Poverty and Order on Affidavit of Poverty* (only if you are indigent and cannot afford to pay the filing & service fees – see **Step 8** on page 16)

IV. DETAILED INSTRUCTIONS FOR COMPLETING THE FORMS AND FILING THEM

On the following pages are DETAILED instructions for how to complete and file the *Petition for Divorce* and some of the related documents. **Read these instructions carefully, and more than once, if necessary.**

Step 1: Completing the *Petition for Divorce*

➤ Caption (Heading)

Fill in your full name as the Petitioner, and your spouse’s full name as the Respondent. Do not fill in the “Civil Action File No.” The clerk will assign a number to your case when you file your *Petition* in the Clerk’s office. After completing the heading, write your full name again in the space provided just before Paragraph 1.

➤ Paragraph 1: Subject Matter Jurisdiction

CHECK ONLY ONE BOX

Check box “(a)” if you have been a resident of the State of Georgia for at least six (6) months immediately before filing your *Petition*. (It is not good enough if you used to live in Georgia in the past, moved away, and have returned more recently than six months ago.)

Check box “(b)” if you are not a resident of the State of Georgia, but your spouse has been living in Georgia for at least the past six (6) months. (It is not good enough if your spouse used to live in Georgia in the past, moved away, and has returned more recently than six months ago.)

Note: If you live in Georgia, but have not lived here for a full six months, but your spouse has been living here for at least the past six months, you may still use the *Petition for Divorce* and file in Georgia. Just check box “(b)” and cross out the first eleven words (“I am not a resident of the State of Georgia, but”), so that the sentence is accurate.

➤ Paragraph 2: Venue

Note: The issue of venue in a divorce action is very complicated, and can result in your case being defective if it is not addressed properly. **Read these instructions very carefully.** If your situation does not seem to fit any of the choices exactly, you should talk to a lawyer. You may not be able to file your case in Hall County, or you may need to make very specific changes to this form. You should also talk to a lawyer if the Respondent is currently incarcerated (where a person is currently *living* does not always mean he/she *resides* there under the law).

On the first line, write your spouse’s name and address in the space provided. *CHECK ONLY ONE BOX*

Check box “(a)” if the Respondent currently resides in Hall County.

Check box “(b)” only if **all** of the following are true:

- the Respondent is not a resident of Hall County but resides in Georgia;
- the two of you lived together in Hall County at the time you separated;
- you still live in Hall County; and
- the Respondent has moved out of Hall County only within the past six (6) months prior to you filing this *Petition for Divorce*.

Check box “(c)” if the Respondent is not a resident of Hall County but resides in Georgia and has acknowledged service of process and consented to the jurisdiction and venue of this Court, by completing both parts of the form that contains the *Acknowledgment of Service* and *Consent to Personal Jurisdiction and Venue*. (You must file the original signed and notarized form with the *Petition for Divorce*.) You must currently live in Hall County to check this box.

Check box “(d)” if you live in Hall County and the Respondent is not a resident of the State of Georgia. Then, check option “(i),” “(ii)” or “(iii)” in section (d). Check only one of these options. (If both (i) and (iii) or (ii) and (iii) apply, check only “(iii)”.)

Check box “(i)” if the Respondent was a resident of Hall County but currently resides in another state (enter the name of the state in the space provided), and the Respondent is subject to the personal jurisdiction of the Court under Georgia’s Long Arm Statute. (See O.C.G.A. § 9-10-91(5)). Generally this box is checked if the Respondent maintains a matrimonial domicile in Georgia at the time of the commencement of this divorce action or if he/she resided in Georgia preceding the commencement of this divorce action, whether cohabiting during that time or not.

Check box “(ii)” if the Respondent has never resided in the State of Georgia and currently resides in another state. Add the name of the state in the space provided. NOTE: if this option applies, you may not be able to get certain kinds of relief as part of your divorce, such as alimony.

Check box “(iii)” if the Respondent does not live in Georgia, but has acknowledged service of process and has consented to the jurisdiction of the Court, by completing both parts of the form that contains the *Acknowledgment of Service* and *Consent to Personal Jurisdiction and Venue*. (You must file the original signed and notarized form with the *Petition for Divorce*.)

Check box “(e)” if you reside in Hall County, but you do not know where the Respondent lives. In this situation, you will have to serve the Respondent by publication (in *The Times*). Serving by publication means you will not be able to get certain kinds of relief as part of the divorce, such as child support and alimony. and you must prove to the Court that you have tried to locate the Respondent and cannot find him or her.

Note: To obtain an order from the Judge permitting you to serve the Respondent by publication, the Judge will need to review a completed *Affidavit of Diligent Search*. Instructions for submitting the affidavit to the Judge and the *Order of Publication* and *Notice of Publication* forms are available from FLIC. (See Paragraph 3 below.)

➤ **Paragraph 3: Service of Process**

IMPORTANT: Before completing Paragraph 3, carefully read the notes in the box below.

Choosing a Method of Service: Service is the required formal process of notifying the Respondent that the divorce action has been filed. There are basically three ways for service to be completed: (1) the Respondent signs the *Acknowledgment of Service*, (2) service is completed by the sheriff’s department or other approved process server, or (3) service is completed by publication (publishing a notice in *The Times*).

(1) Acknowledgment of Service

This method is the easiest and least expensive method of service, but only if the Respondent is cooperative and willing to sign an acknowledgement form in front of a notary public. You cannot sign the form for the Respondent and you cannot sign as the notary witnessing the Respondent’s signature. Also, it is not good

enough for the Respondent to sign it without the signature being witnessed by a notary public. There is a two-part form in this packet that contains an *Acknowledgment of Service and Consent to Personal Jurisdiction and Venue*. The top portion of the form (the *Acknowledgment of Service*) allows the Respondent to acknowledge service by selecting one of three options. The bottom portion of the form (the *Consent to Personal Jurisdiction and Venue*) allows the Respondent to consent to personal jurisdiction and venue in Hall County Superior Court (if he/she resides in another county or state).

To use this method of service, you need to complete the caption (heading) on the form and have the Respondent complete and sign it in front of a notary public. Then, you file it with you *Petition for Divorce*.

(2) Service by the Sheriff (“Personal Service”)

This method is the usual way for service to be completed. It is sometimes called “Personal Service,” which means that the deputy sheriff or other court-approved process server hands the papers to the Respondent in person. If the Respondent will not sign an acknowledgment form, and you know an address where the Respondent can be served in Hall County, then you can make arrangements for the Hall County Sheriff’s Office to serve the papers by providing the required forms to the Clerk’s office when you file. The forms provided by the Hall Family Law Information Center do not include the special motion and order required to have a special process server appointed.

If the Respondent can be served by the Hall County Sheriff’s Office, you will need the forms entitled *Sheriff’s Entry of Service* (3-page carbon form) and *Summons* (2-page carbon form) to include with the “service copy” of your divorce papers. These forms are available from FLIC. After you complete the forms and are ready to file, you may pay the service fee at the Clerk’s office when you file the case, and leave the “service copy” of the papers with the clerk. The clerk will forward your payment and legal documents to the Sheriff’s Office for service. If you prefer, you may take the fee and service copy directly to the Sheriff’s Office yourself (after you filed the original papers). The Civil Process Division of the Sheriff’s Office is located on the ground floor of the Hall County Courthouse.

After the Sheriff’s Office completes service, they will send the white and yellow copies of the *Sheriff’s Entry of Service* to the Clerk’s office. You will need to follow up with the Clerk’s office to make sure the Respondent was actually served. Have your case number ready and check with the Hall County Clerk of Courts at (770) 531-7025 to see that a return of service has been filed.

If the Respondent must be served in another county or state, then the Hall County Sheriff’s Office cannot serve the papers. You should contact the sheriff’s department in the proper county to find out what forms they require, how many copies of your papers, and the fee. Depending on the county, you may need a *Sheriff’s Entry of Service* (3-page carbon form), *Summons* (2-page carbon form), and a *Letter for Service by Second Original* (all forms available from FLIC). Some counties have additional requirements. **When you file your papers, you will need to inform the Clerk’s office that the other party must be served by “second original.”** Give the clerk your “service copy,” any forms that are required, and the fee.

(3) Service by Publication (putting a notice in the newspaper)

This method is the method of last resort. If you *can* find the Respondent, you must use one of the other two methods of service. But, this method is your only choice if you do not know where the Respondent lives or works, and you cannot find out that information. You must prove to the Court that you have tried to locate the Respondent and cannot find him or her.

If you have to serve the Respondent by publication, there are special limitations on your divorce case, because the Court will not have “personal jurisdiction” over the Respondent. You will not be able to get certain kinds of relief as part of the divorce, such as child support and alimony. However, if the Respondent later acknowledges service, gets served by the sheriff, or files an *Answer* to the divorce, then your case will not be limited by the restrictions that apply to publications cases.

To serve by publication, you must prepare and file an *Affidavit of Diligent Search* (included with this

packet), a *Notice of Publication* and an *Order of Publication*, signed by a judge. In the *Affidavit of Due Diligence*, you will explain to the Court the steps you took to try to find the Respondent. You must make reasonable efforts to find the Respondent before you fill out the affidavit form. Blank *Notices of Publication* and *Orders of Publication* and instructions for submitting the affidavit to the Judge for his/her review are available from FLIC. If the Court grants permission, the Judge will sign the *Order of Publication*.

If you know you must use service by publication when you prepare your *Petition for Divorce*, then you should prepare the *Affidavit of Diligent Search* at that time. However, if you have already filed your divorce case, and have tried to complete service by a different method, you can still request the Court's permission to serve by publication. See FLIC if those circumstances apply in your case.

If the Court signs the *Order of Publication*, you must pay the cost of publication (\$80.00 money order payable to *The Times*). You may pay the fee in the Clerk of Courts office when you file your divorce papers. Then, the *Notice of Publication* will be published in the county's official legal newspaper (*The Times*) four times (usually four weeks in a row). The Notice gives the Respondent 60 days to file an Answer, if she or he wants to contest the case.

Meanwhile, the Court Clerk will mail a copy of the *Notice of Publication* and "service copy" to the Respondent's last known address (which you have provided in the *Affidavit of Diligent Search*). To be on the safe side, you should also mail a set of all the papers to the last known address. Make sure you put enough postage on it, and make sure you list a return address, so the post office can return it to you if they are not able to deliver it.

You should keep clippings of the notices in the newspaper (all four publications) or obtain an Affidavit of Publication from the newspaper, stating that publication is complete. Bring these items with you to your hearing, to prove that service by publication has been completed.

You may later find out where the Respondent lives or works (before the case is over). If this circumstance applies in your case, then you should arrange for the Sheriff's Office to serve the Respondent, or for the Respondent to acknowledge service.

CHECK ONLY ONE BOX

Check box "(a)" if you expect that the Respondent will acknowledge service by signing (in front of a notary public) the *Acknowledgment of Service* portion of the two-part form included with this packet. If you check box "(a)" and your spouse completes the *Acknowledgment of Service*, you must include the signed and notarized original form with the *Petition for Divorce* when you file.

Check box "(b)" if the Hall County Sheriff's Office can serve the Respondent with the *Petition for Divorce* and the other court papers. Complete "(b)" by filling in the address where the Respondent should be served, and write whether it is a residence or work address in the space provided.

Check box "(c)" if the Respondent lives or works outside of Hall County and another sheriff's department can serve him or her. Write in the name of the county and state, and fill in the Respondent's address, indicating whether it is a work or residence address.

Check box "(d)" if you do not know where the Respondent lives and you are planning to serve him or her by publication. Write the Respondent's last known address on the lines provided. You must also file the original signed and notarized *Affidavit of Diligent Search* with the *Petition*.

➤ **Paragraph 4: Date of Marriage**

CHECK ONLY ONE BOX

Check box “(a)” if you and the Respondent were married with a license and a ceremony, such as one by a clergyman or by a judge at the courthouse. Write the date of the marriage in the space provided.

Check box “(b)” if you and the Respondent did not have a marriage license and a ceremony, but you believe you have established a common law marriage. Under Georgia law, this generally means that you and the Respondent lived together and held yourselves out as husband and wife before January 1, 1997. Write the date you began your common law marriage on the space provided.

➤ **Paragraph 5: Date of Separation**

In the space provided, write the last date that you and the Respondent separated and remained separated up to the present time. Provide only one date. If you and the Respondent have separated, gotten back together, and then separated again, use the date of the most recent separation.

➤ **Paragraph 6: Minor Child(ren)**

Review the paragraph and make sure it is an accurate statement that you and the Respondent have no minor children together (including unborn children). **If you have minor children with your spouse, STOP! You should use a different packet, available in the Clerk’s office.**

➤ **Paragraph 7: Other Child(ren)**

<p><i>Notes for this paragraph:</i> Under Georgia law, there is a presumption that children born in wedlock or within the usual period of gestation thereafter are legitimate, making the husband the “legal” father (unless otherwise disproved). If this situation applies to you, it is strongly recommended that you consult with an attorney to discuss the legal implications of addressing or <i>not</i> addressing this issue.</p>
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This paragraph is optional: Check and complete the box if the **wife** in this case is pregnant with a child (or children) and/or has had children during the marriage who are not the husband’s biological or adoptive children and you have decided you want the Court to acknowledge that they are not the husband’s biological or “legal” children and that he should have no legal relationship or potential rights or obligations arising from that relationship, to the children. Write facts that you believe support the Court determining that the husband is not the father (examples: the parties were separated for several years prior to the child’s birth and did not see each other at any point during that time; or the husband was incarcerated for the years immediately prior to the child’s birth).

You may also select the optional box (i) if you are the wife in this case and are pregnant. You may be required to list your husband as the father on the birth records even if he is not the biological father and you are divorced by the time of birth. By asking the Court to enter an order that directs the persons to not list your current husband as the father, you *might* be able to avoid this scenario.

➤ **Paragraph 8: Settlement Agreement**

Optional: check this box ONLY if you and the Respondent have already COMPLETED the written *Settlement Agreement* included with this pro se packet. The parties must agree voluntarily and this document must be signed by both parties in front of a notary public. See important notes about settlement agreements in **Step 5** below.

If you have already executed the *Settlement Agreement*, you make strike through paragraphs 9-13 of the *Petition* and skip to Paragraph 14 of these Instructions.

➤ **Paragraph 9: Alimony**

Note: If you want alimony, but do not have proof of the Respondent’s income, you should see a lawyer. There are procedures called “discovery” that may be used to try to find out about the income. The income of the two parties is a key issue in deciding alimony.

CHECK ONLY ONE BOX

Check box “(a)” if you are financially dependent on the Respondent and want the Court to order the Respondent to pay alimony for your support.

Check box “(b)” if: (1) there is a protective order in effect that applies to the parties in this case; (2) you have been awarded spousal support/alimony (not the same thing as child support) in that protective order for a certain amount of time; AND (3) you do not want the Final Judgment and Decree of Divorce to have any impact on your receiving that support. You will need to attach a copy of the protective order to your *Petition*. Label it Exhibit “___” at the bottom of the first page, and write the same letter in the space provided in Paragraph 9(b). Then write the date it expires on the line provided.

Check box “(c)” if you are not asking the Court to order alimony payments for your support.

Check box “(d)” if this divorce action involves service by publication.

➤ **Paragraph 10: Marital Property**

Notes about Marital Property:

(1) Generally, property that was acquired by either party during the marriage is considered marital property (no matter whose name is on the title). There are exceptions, however (examples: gifts and inherited property).

(2) If the marital home or other real estate is titled in the Respondent’s name alone (or you are not sure whose name is on the property deed), you must file a separate document called a *Notice of Lis Pendens* (available from FLIC). If you do not file a *Notice of Lis Pendens*, and the property is sold before the divorce becomes final, you will not be able to get the home (or a share of it) as part of the divorce, because it will be gone. See a lawyer if this may apply to your case. If you choose to complete a *Notice of Lis Pendens*, you must bring it to the Clerk’s attention when you file. You will also be charged a \$5.00 fee. (See Step 8 below.)

(3) If the marital home belonged to one of the parties before the marriage, it still may be claimed as marital property if its value has increased (or the mortgage has decreased) during the marriage. See a lawyer if this scenario may apply to your case.

(4) If you or the Respondent have rights to a pension(s) that have built up during the marriage, the pension(s) may be considered marital property. Figuring out the value of a pension(s) (and writing the proper QDRO Order (“Qualified Domestic Relations Order”) if it is distributed in the divorce) is very complicated. See a lawyer if this scenario may apply to your case.

(5) If you think the Respondent may have acquired assets during the marriage that are unknown to you, the law has procedures to use (called “discovery”) to try to find out about them. If it is important to you to try to learn more about the Respondent’s assets, you should see a lawyer.

CHECK AND COMPLETE ONLY ONE OPTION

Check box “(a)” if you and the Respondent have already divided your marital property and you are both satisfied with the division.

Check box “(b)” if you and the Respondent did not acquire any property during your marriage to each other (or if the property is already all gone).

Check box “(c)” if you and the Respondent have acquired property during your marriage to each other and you are asking for a fair division of that property. If you check box “(c),” you must provide the Court with information about the property that you and the Respondent have acquired at any time during the marriage. Use the spaces provided under box “(c)” to describe the property and check each box that applies. If necessary, attach lists of property to this *Petition for Divorce*, labeling each list as a specific exhibit and assigning a letter (“A,” “B,” “C,” etc.) to each exhibit. Fill in the corresponding letter in each space provided in Paragraph 9. Carefully read the *Notes about Marital Property* at the beginning of these instructions for Paragraph 9.

Check box “(d)” if this case involves service by publication and none of the marital property is located in Georgia.

➤ **Paragraph 11: Separate Property**

CHECK ONLY ONE BOX

Check box “(a)” if you have, in your possession, all items which you believe are your “separate property” (in other words, not marital property – see notes for Paragraph 9 above).

Check box “(b)” if you do not yet have all of your separate property in your possession and you want the Court to enter an Order requiring the Respondent to deliver the items to you or to allow you to retrieve them. Use the spaces provided under box “(b)” to describe the property. Use additional paper if necessary and attach the paper to the *Petition for Divorce*, labeling the paper as Exhibit “___” (select a letter). Write the same letter in space provided in option “(b).”

➤ **Paragraph 12: Joint or Marital Debts**

<p><i>Note:</i> The creditors are not parties in your divorce case. Therefore, the Court cannot take away the creditors’ rights in the divorce. It means the Court cannot prevent creditors from trying to collect from any person who is liable on a particular debt. However, the Court can enter an order that says one of the parties must pay a particular marital debt. If the responsible party does not pay as ordered, she or he may be held in contempt.</p>
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CHECK ONLY ONE BOX

Check box “(a)” if you and the Respondent have already divided your joint or marital debts and you are both satisfied with the division.

Check box “(b)” if you and the Respondent do not have any outstanding joint or marital debts.

Check box “(c)” if you and the Respondent have joint or marital debts and you want the Court to make a fair division of these debts. In the spaces provided, list each creditor (for example, Visa, MasterCard, mortgagor, etc.) and the balance owed. Use additional paper if necessary, and attach it to the *Petition for Divorce*, labeling the paper as Exhibit “___” (select a letter) and writing the same letter in space provided in option “(b).”

Check box “(d)” if this case involves service by publication.

➤ **Paragraph 13: Restraining Order Where Violence Has Occurred**

Optional: Check this box only if there has been a history of violence by the Respondent towards you, and you are afraid that the Respondent will continue the violent acts or harassment against you. Do not check this box if there has not been any history of violent acts against you by the Respondent.

Note: If there has been recent violence (or past violence plus a recent threat to renew the violence), you should consider filing for a Temporary Protective Order (TPO) immediately. A TPO provides much stronger and faster protection than a restraining order in a divorce. There is no charge for filing a TPO Petition, and free help is available for filing one. Contact the Legal Advocates' Office at (770) 531-7153 to get more information about filing for a TPO. The restraining order in a divorce is not enforceable by warrantless arrest. It is only enforceable by filing a motion for contempt. So, it can provide useful protection, but it is much more limited than a TPO.

➤ **Paragraph 14: Restore Former Name**

Optional: Check this box only if you want the Court to restore your former or maiden name. On the space provided, write the name you want to have restored. This case is not a name change action and cannot be used for anyone except the wife or husband in this divorce action. If your spouse wishes to have his/her former name restored, he/she will need to file an affidavit in this case asking the Court to restore his/her name or appear at the final hearing. You cannot request your spouse's name be restored.

➤ **Paragraph 15: Grounds for Divorce**

Check only the boxes that you can prove in court if your case goes to trial.

Check box “(a)” if there is no hope that you and the Respondent can save this marriage. This option is the language for grounds in most cases, and may be the only grounds you choose. It is the basis for granting a divorce when fault is not proven. It can and should also be used as a “back-up,” if you check other grounds based on some kind of fault.

Check box “(b)” if you can prove and want to state other grounds for divorce. You must research the law at O.C.G.A. § 19-5-3, and tell the Court what other grounds for divorce you are asserting. Use the space provided or use and attach additional paper.

➤ **Final Paragraph: Request for Relief**

Strike through any provisions that do not apply to your situation.

➤ **To finish filling out this *Petition for Divorce***, sign your name in the space provided on the last page, write your address and a daytime telephone number where the Court staff could reach you if necessary. However, if you are living in a shelter for victims of family violence, **DO NOT LIST THE ADDRESS OF THE SHELTER**. To do so would violate O.C.G.A. § 19-13-23. Instead, on the space for the address, list only the name of the shelter and the state where it is located. Also, if the Respondent does not know your address or phone number and it should be kept confidential because of family violence, do not write that address or phone number here. Instead, you should write another address here, where you can be sure that you will receive any information that is mailed to you by the Court or the Respondent.

Step 2: Completing the *Verification Form*

The *Verification* form must be filed with the *Petition for Divorce*. In the caption (heading), insert your name as the Petitioner and your spouse’s name as the Respondent. Do not fill in the Civil Action Case Number. The clerk will assign a number to your case when you file your case in the Clerk’s office. Insert your name in the space underneath the word “Verification,” which is the title of this document. In the next space, insert the title of the document you are verifying as true, which is “Petition for Divorce without Minor Children.”

Before you sign this *Verification*, remember that you will be swearing under oath that the information you have provided in the *Petition for Divorce* is true and correct to the best of your knowledge and belief. Therefore, you should re-read your *Petition for Divorce* one more time, from start to finish, to make sure it is all true. When your forms are ready, sign your name on the *Verification* in front of the notary public in the space provided, and check the box to indicate that you are the Petitioner. The notary must complete the rest of the *Verification* form after you sign it under oath. The staff persons at the Family Law Information Center can notarize this document free of charge, but you must have proper photo identification.

Step 3: *Domestic Relations Financial Affidavit (DRFA)*

The *Domestic Relations Financial Affidavit (DRFA)* must be filed with the *Petition for Divorce*. This document specifies your financial circumstances. You are the “Affiant.” It is important, as with all of your documents, that you be truthful about the information you are providing. Complete every space on the financial affidavit unless it is specified as optional. If a question is not applicable to your situation, put “N/A” on the line. If the amount is zero, put “0” on the line.

Step 4: *Domestic Relations Action Standing Order (DRASO) and Certificate of Service*

Complete only the header on the first page of this Order (your name as Plaintiff and your spouse’s name as Defendant). You, as the Plaintiff/Petitioner, do not complete the exhibits that are attached to the DRASO. You are required to serve a copy of the Order with its blank exhibits on the Defendant/Respondent and file proof of service with the Clerk. You may use the *Certificate of Service* following the DRASO in your packet for this purpose.

Step 5: *Settlement Agreement and two-part Acknowledgment of Service and Consent to Personal Jurisdiction and Venue form*

You are not required to complete this step before filing your divorce papers, but if you do not have a complete, written agreement when you file, you will be ordered to go to mediation as explained below in **Section V** (page 18).

If you and your spouse have reached or can reach an agreement about **all** questions of alimony, division of property, debts and all other rights and obligations arising out of the marital relationship, you may use the *Settlement Agreement* with this packet to formalize your agreement in writing.

Important notes about settlement agreements: Generally, if two parties execute an agreement because they want to settle all of the issues in their divorce, and it is not executed under fraud, duress, accident, or mistake, the agreement is a contract which is binding on both parties. If the agreement is considered by the Court to be a valid agreement, it may be incorporated into the Final Judgment and Decree of Divorce. The Court is not bound to accept your agreement (particularly when it comes to terms that deal with the children – child support and child custody and visitation), but if the judge is satisfied with your agreement, he or she will likely incorporate it into the final decree, binding both of you to the agreement. Therefore, once you and your spouse have executed the agreement, if you want to make any changes to it, you will both have to agree to those changes in writing, unless

you can prove it is not a valid agreement.

In short, **DO NOT** execute the *Settlement Agreement* with this packet if it is incomplete, or you and your spouse have agreed to something orally that is not included in the agreement. **DO** contact an attorney if you have any questions at all about an agreement proposed to you by your spouse or if you are unclear about any of the terms included in it. It is **STRONGLY** recommended that you talk with an attorney before signing any agreement.

Additionally, the *Settlement Agreement* included with this packet is just one sample of an agreement you might reach with your spouse. It does not cover every possible scenario that might come up in the future between you and your spouse, particularly with respect to children. If you can hire an attorney to represent you, he or she will be able to help craft an agreement that is tailored to your precise needs.

If you execute an agreement with your spouse, and later believe the agreement is not valid, you will need to contact an attorney to find out what options might be available to you.

The two-part *Acknowledgment of Service and Consent to Personal Jurisdiction and Venue* form is an optional form your spouse may complete and sign in front of a notary (and return to you for filing with the Court). If your spouse is not in Hall County or in the State of Georgia and he or she completes both parts of the form and signs it in front of a notary and returns it to you, the Court will have the power to award you relief it may not otherwise have the power to award you. It also means that you will not have to pay the service fee (see below).

*****DO NOT use the *Acknowledgment of Service* until you are sure you have every document required for filing completed and copied for your spouse.**

Step 6: Completing the other forms with your packet

- *Affidavit of Diligent Search* – You do not need this form unless you are asking the Court to allow you to serve the Respondent by publication. Fill in your complete name as the Petitioner and your spouse’s name as the Respondent. Put the last address you have for the Respondent in the space provided. Then, write all of your efforts to locate the Respondent (e.g., looking online at www.whitepages.com or other web-based search tools, talking with relatives and friends of Respondent, talking to Respondent’s last known employer, etc.). As with any other document, you must be truthful about the information you are providing to the Court and you must be diligent in your efforts to locate the Respondent. You will also need to obtain a form *Notice of Publication* and form *Order of Publication* from FLIC (see instructions for **Paragraph 3** of the *Petition* above).
- *Domestic Relations Case Filing Information* Form – Fill in your complete name as the Petitioner (including your maiden name, if applicable) and your spouse’s complete name as the Respondent. Check the box for “Pro se.” Check the box for “Divorce.” Do not complete the Family Violence portion even if your Petition for Divorce includes a request for a restraining order. This section only applies if you had checked the box for a “Family Violence Act Petition” rather than the box for “Divorce.” Leave the rest of the form blank.
- *STATE OF GEORGIA Report of Divorce, Annulment or Dissolution of Marriage* – Complete items 4 through 15. On item 14, you will need to write the grounds for your divorce. If you are filing because the marriage is “irretrievably broken,” then write it in the space provided. If you have alleged other grounds for divorce in your *Petition*, you will need to list those grounds as well.
- *Pro Se Mediation Referral Form* – If you do not have a *Settlement Agreement* signed and notarized by both parties when you file, and you are not asking for a divorce by publication, you will be ordered to attend mediation as explained below in **Section V**. Complete the form and fax/send it to the mediation office. **You MUST follow up with the mediation office to make sure mediation is**

actually scheduled and occurs.

Note: if you live in a shelter for victims of family violence, contact the Mediation Office directly at (770) 535-6909, rather than completing the *Pro Se Mediation Referral Form*. DO NOT include an address on the mediation referral form that you do not want your spouse to know.

- *Domestic Relations Case Final Disposition Information Form* (included with this packet) – You will not need this form until the day of your final hearing (so keep it with your folder and bring it with you to Court). Fill in the requested information and file the form with your Final Judgment and Decree of Divorce on the day of your divorce.

Step 7: Getting your papers together

After you have finished filling out all the papers you need to start your case, you may either sign all of them (in front of a notary public when required) before coming to FLIC, or wait until you meet with a FLIC staff person and have them notarized free of charge. If you decide to have your papers notarized before coming to the Courthouse, you may want to sort the papers and making copies as described in **Step 10** below. Make sure to also fill out the *Pro Se Mediation Referral Form* if you do not have a signed *Settlement Agreement*. You may fax it directly to the mediation office once you have a Court date, or give it to FLIC to fax when you come the Courthouse.

Step 8: Getting your fees ready

The Court filing fee for a divorce action is \$82.50 (cash or money order only). If the Hall County Sheriff's Office is going to serve the papers, there is a service fee of \$25.00. You should bring cash or money orders for these amounts with you when you bring your papers to the Clerk's office to file your case. If have completed a *Notice of Lis Pendens*, you will need an additional \$5.00.

Note: If you have a very low income, and feel that you cannot afford to pay these fees, you can ask the Court to waive the fees. FLIC has *Poverty Affidavits* available and can explain the process for applying.

IMPORTANT: if you live in a shelter for victims of family violence, **DO NOT LIST THE ADDRESS OF THE SHELTER** on the *Poverty Affidavit*. Instead, on the space for the address, list only the name of the shelter and the state where it is located. Do not even fill in the name of the county.

If the Court approves your request, you will file the *Poverty Affidavit* and *Order on Poverty Affidavit* (signed by a judge) with the other papers when you file your divorce action at the Clerk's office. A judge must sign the Order approving your *Poverty Affidavit*, before the filing of your case will be completed by the Clerk's office staff. If the judge signs the order of approval, both the \$82.50 filing fee and the \$25.00 service fee are waived. If the judge does not approve your *Poverty Affidavit*, you must pay the fees before your case will proceed.

If you are serving the Respondent by publication (because you do not know where she or he can be found for service), there is a publication fee charged by the newspaper that publishes the notice. Even if the judge approves your *Poverty Affidavit*, you will have to pay this fee. You will need an \$80.00 money order, payable to *The Times*.

If you are having your spouse served in another county, you will need to find out from that Sheriff's office whether they will accept a *Order on Poverty Affidavit* from a Hall County Superior Court Judge. If not, you will need to pay the service fee required in that county/state or inquire with them how you might get the fee waived. See "Choosing a Method for Service" above in the instructions for Paragraph 3.

Step 9: Visiting FLIC on the fourth floor of the Courthouse in Room 459

Visiting FLIC is a requirement for all people representing themselves in divorce cases in this Circuit. Before you obtain a Court date from any judge’s office, **you must visit FLIC**. The Center is open to walk-ins on a first come, first serve, basis from 10:00 a.m. to 2:00 p.m., Monday through Thursday. Limited appointment times are available if you are unable to visit FLIC during those hours. The FLIC staff person available during these hours will check your forms for completeness, notarize documents free of charge, and provide you with a folder and procedural checklist.

Consultations with the FLIC attorney are available for people who financially qualify and have general legal questions regarding the divorce. Consultations are also subject to a conflict check and income qualification. You may call (770) 531-2463 for more information and to schedule an appointment.

At FLIC, you can pick up the following forms if you are having the Respondent served: *Summons*, *Sheriff’s Entry of Service*, and *Letter for Service by Second Original* (if applicable). If the Respondent has already signed an *Acknowledgment of Service*, but indicated on the form that he/she does not waive further notice, you will need to ask for a *Certificate of Service* from FLIC. After you get your Court date (using the *Rule Nisi*), you will need to complete and copy the *Certificate of Service* form (see **Step 13** below).

Step 10: Making copies

After you visit FLIC (you will now have a folder, procedural checklist, and certain other service forms if you are having the Respondent served), if your forms are complete and signed, sort them into the following order:

- *Poverty Affidavit* and *Order on Poverty Affidavit* (if applicable)
- *Affidavit of Diligent Search*, *Order of Publication*, and *Notice of Publication* (if applicable)
- *Petition for Divorce* (and any exhibits)
- *Verification*
- *Domestic Relations Financial Affidavit*
- Two-part form: *Acknowledgment of Service* and *Consent to Personal Jurisdiction and Venue*
- *Settlement Agreement*
- *Domestic Relations Action Standing Order* and *Certificate of Service*

If you have not already done so, make two complete sets of copies of all the above papers you are going to file (there is a copier in one of the interview rooms on the fourth floor of the Courthouse). Then, separate them into three packets: (1) originals (to be filed) – **do not staple this set together**, (2) one set of copies for your spouse (called the “service copy”), and (3) one set of copies for you to keep for your records. Even if you are serving the Respondent by publication, make a “service copy” for the Clerk’s office to send to the last known address.

Put the following additional forms together for the Clerk of Courts (but you do not have to make copies of these forms) and place them on top of your set of originals:

- *Domestic Case Relations Case Filing Information Form*
- *STATE OF GEORGIA Report of Divorce, Annulment or Dissolution of Marriage*
- *Notice of Lis Pendens* (if applicable)

Any forms that you will be filing or presenting to the Court later (such as the *Domestic Relations Case Final Disposition Information Form*), may be kept in your folder.

Step 11: Filing your divorce in the Clerk’s office

Take all 3 sets of forms (with the originals set on top), along with your cash or money orders, to the Hall County Superior Court Clerk’s office (Civil Division window). It is located on the ground floor of the Hall County Courthouse (225 Green Street, S.E., Gainesville). When it is your turn, give all 3 sets to the clerk, along with any fees. If your paperwork is in order, the clerk will keep the originals for the Court’s file. After the fees have been paid, or the *Poverty Affidavit* has been approved by the judge, the clerk will write your case number (Civil Action File No.) on the top page of both sets of copies, stamp them with the date & time stamp, and return one set of copies to you. He/she will also tell you to which judge your case has been assigned, give you a form entitled *Rule Nisi* and instruct you to go back to the fourth floor to get a Court date from that Judge’s office.

Step 12: Obtaining a Court date

All offices of the Superior Court Judges are located on the fourth floor of the Courthouse. After leaving the Clerk’s office, go back upstairs to the specific Judge’s office and ask the calendar clerk in the office for a final hearing date. He/she will ask to see a paper indicating you have been to FLIC (and potentially ask to see a copy of your file-stamped divorce papers), and then assign you a date (using the *Rule Nisi*).

Step 13: Making copies of the Court date (*Rule Nisi*)

One of the interview rooms on the fourth floor has a copier. You will need to make two copies of your *Rule Nisi* before returning to the Clerk’s office.

In addition, if the Respondent signed the *Acknowledgment of Service* but indicated on the form that he/she does not waive further notice, you will need to complete a *Certificate of Service* form (if you have not already done so), certifying to the Judge that you will immediately serve the Respondent with a copy of the *Rule Nisi* (either in person or by U.S. Mail). Once the *Certificate of Service* is complete, make two copies of it. Place the original signed *Certificate of Service* behind the original *Rule Nisi* (you will file this set in the Clerk’s office). Place one of the copies of the *Certificate of Service* behind the Respondent’s copy of the *Rule Nisi* (you will immediately deliver this set to the Respondent – via mail or by hand). Keep the second copy of the *Certificate of Service* with your copy of the *Rule Nisi* for your records.

Step 14: Asking FLIC to fax the *Pro Se Mediation Referral Form*

While you are on the fourth floor, if you do not have a signed *Settlement Agreement*, you may complete the *Pro Se Mediation Referral Form* (included with this packet) and leave it with FLIC. FLIC will fax it to the mediation office as a courtesy but you must still follow up with the mediation office to make sure mediation occurs at least 15 days before your final hearing date. The form is not complete until you write your new assigned case number and Court date on it. You may also fax the form to the mediation office yourself.

Step 15: Filing your Court date

Take the original *Rule Nisi* (and original *Certificate of Service*, if applicable) back to the Clerk’s office for filing. If you are having the Respondent served, give one of the copies of the *Rule Nisi* to the Clerk as well.

V. STEPS YOU MUST TAKE BEFORE YOUR FINAL HEARING

- Attend mandatory mediation with your spouse if you do not have a *Settlement Agreement*, signed by and notarized for both parties, and you are not obtaining your divorce by publication (in the newspaper).** Mediation is required under the Internal Operating Procedures for

Domestic Relations Cases (a copy of these procedures is available online at www.hallcounty.org under “Superior Court”).

To schedule mediation, call the 9th Judicial Administrative District Office of Dispute Resolution (“Mediation Office”) at (770) 535-6909, or complete the *Pro Se Mediation Referral Form* (included with this packet and available at FLIC) and drop it at FLIC on the fourth floor of the courthouse. FLIC will fax it to the mediation office as a courtesy, but it is your responsibility pursuant to Court Order to make sure the mediation is scheduled and takes place. Mediation must be completed at least 15 days prior to your final hearing. If you do not think you will be able to pay the required mediation fees (\$150 - \$200 per hour, depending on the mediator), you must complete a *Fee Reduction Request* and submit it to mediation office at least 10 days prior to your scheduled mediation. Contact the Mediation Office for a *Fee Reduction Request* or you may download the form from www.adr9.com.

****If you have been ordered to mediation but later complete the *Settlement Agreement* with your spouse, you should set up an appointment with the FLIC attorney to find out about obtaining an *Order Waiving Mediation*, based on the fact that you have reached an agreement in writing with your spouse. If the Mediation Office has already started the process of setting up a mediation for you and your spouse, you will need to let them know in advance of the mediation that you intend to obtain a waiver. If you do not show up for a scheduled mediation without notifying the mediation office, you will be charged for the mediation.

****If you have obtained a protective or restraining order against your spouse and are fearful that mediating in the same building presents a safety risk for you, you can set up an appointment with the FLIC attorney to find out about obtaining an *Order Waiving Mediation*. You should also consider contacting the Mediation Office to learn more about the mediation process when domestic violence has been an issue between the parties.

At a minimum, you should bring copies of all paperwork filed in your case with you to mediation, particularly the *Domestic Relations Financial Affidavit*.

- Follow up with the Clerk of Courts at (770) 531-7025 to make sure your spouse has actually been served with the divorce papers, and that proof has been received by the Clerk’s office.**

VI. FORMS YOU WILL NEED AT THE FINAL HEARING TO FINISH YOUR DIVORCE

- Domestic Relations Case Final Disposition Information Form* (included with this packet)

VII. GENERAL INFORMATION ABOUT HEARINGS

Temporary Hearing

A temporary hearing is not required. However, if your case will not be ready for a final hearing (because you do not have a signed agreement and do not expect to have one soon), there may be issues that need to be decided on a temporary basis before the final hearing. In that situation, you may ask the Court to schedule a temporary hearing. Temporary issues may include temporary alimony, living arrangements, use of an automobile, and who is responsible for certain payments while the divorce is pending.

To schedule a temporary hearing, you should complete a *Rule Nisi Scheduling Temporary Hearing* form (available in FLIC) and make an extra copy of your *Domestic Relations Financial Affidavit*. If you know

you want a temporary hearing when you file your divorce case, you can bring the *Rule Nisi Scheduling Temporary Hearing* and extra copy of the *Domestic Relations Financial Affidavit* with you to the Judge's office after you file your divorce papers (when you are asking for a final Court date).

As with the *Rule Nisi* used to schedule your final Court date, you will need to make copies of the *Rule Nisi Scheduling Temporary Hearing* and *Domestic Relations Financial Affidavit* and make sure the Respondent receives them. If you are just filing your divorce papers, make copies of these two forms in the copy room (as you are doing with the *Rule Nisi* – explained above in **Step 13**) and bring them to the Clerk to include with the “service copy.” If the Sheriff has already served the Respondent, or the Respondent has acknowledged service, you must mail or personally deliver copies of the forms to the Respondent, using a *Certificate of Service* form (see **Step 13**), showing the Court that the Respondent was properly served.

Under the new Uniform Superior Court Rule, the *Rule Nisi Scheduling Temporary Hearing* (showing when and where the temporary hearing will take place) must be served on the Respondent at least fifteen (15) days before the hearing.

Final Hearing

If you have a signed *Settlement Agreement*, and the Respondent has completed the *Acknowledgement of Service* giving his/her consent to have the case heard at 31 days, then you may ask to have the final hearing take place any time at least 31 days after the Respondent was personally served (or the *Acknowledgement of Service* was filed with the Clerk). Most of the judges and other court personnel call this type of hearing an “uncontested” divorce hearing.

If you do not have a signed *Settlement Agreement* and an *Acknowledgement of Service* giving consent to have the case heard at 31 days, then your final hearing may take place any time at least 46 days after the Respondent was personally served (or the *Acknowledgement of Service* was filed with the Clerk). If service is by publication, the hearing may take place any time after 61 days from the date of the first publication.

Although it is possible to have the final hearing at 31 days or at 46 days, you may not receive a hearing that soon. It will depend, in part, on the particular Judge's schedule.

Preparing for a Hearing

Before the hearing date, whether temporary or final, you must prepare your case to be presented to the Court. You are your main witness. You must also gather your other evidence (such as documents and photographs), and you must arrange for any other witnesses that you want to have testify at the hearing. You must also prepare the proper documents to be provided to the Judge at (or soon after) the hearing.

For a temporary hearing, you may use Affidavits from witnesses, so that they do not have to testify in person. However, there are special procedures for using Affidavits. (See USCR 24.5.) At the final hearing, Affidavits are not proper evidence. Your witnesses (if any) must testify in person at the hearing.

FLIC has some materials you can read that might help you prepare for the hearings. You should also talk to a lawyer about the hearing, to learn more about how to present your case.