Responding to Petition for Dissolution (Divorce), Cases with no Children
Instructions for Packet 1E

Notice about these instructions and forms.

These instructions are not a complete statement of the law. They cover basic procedure for uncomplicated divorce cases. For legal information, please talk to a lawyer, visit your local law library and/or refer to the "Additional Resources" section on the last page of these instructions.

The instructions may refer to some forms not included in this packet. If you have a question about a form you cannot locate, you should consult your local court which may have the form available.

Each court has local rules, programs and procedures that may not be explained in these instructions. Please refer to the "Local Family Law Practices and Programs" form for your court, attached to these instructions. If it is not attached, consult your local court directly. Information about how to contact your local court may be found at the Oregon Judicial Department website: http://www.courts.oregon.gov.

This set of forms and instructions explain how to file a response to a petition for dissolution of marriage (divorce). When filling out the forms, follow these directions:

- The case heading is the same as listed on the petition you were served.
- Some forms have to be notarized or signed in the presence of a court clerk. You will need your picture ID for this. Many banks provide notary services.
- Some forms say on the bottom, "I certify that this is a true copy," and provide a place to sign. Don't sign this line on the original form or on your own copy. You only need to sign this line only on the copies for your spouse.
- Make yourself a copy of any document you are filing with the court. File the original with the court clerk.
- Keep the court informed of your current address so you get notice of all court dates. **You are not required to use your residential address on any court form.** You may use a contact address where you regularly check in. If you use a contact address, the court will assume that you will receive all notices sent to that address.

STEP 1: FILING YOUR RESPONSE

You have 30 days following the date you were served with the petition to file a written response with the court clerk and pay the filing fee. If you feel you can't afford to pay the fee, you may ask the clerk for a Motion and Affidavit for Waiver or Deferral of Filing Fee or use Packet #10. You may fill out this form and file it with the court requesting that your filing fee be waived or deferred. If the fee is waived, you don't have to pay the fee. If the fee is deferred, most courts will require that you pay the fee at a later date.

In the response, space is provided for you to state that you disagree with certain items asked for in the petition. You may also write in items that you would like the court to order that were not included in the petition. These are called "counterclaims." If you agree with everything asked for in the petition, you are not required to file a response. The court will enter judgment based on what was asked for in the petition.

Legal Issues to Consider.

Before you fill out your response, you should review what your spouse asked for in the petition, and think about how you want to handle these issues.

Also, if you weren't served with the Petition in Oregon, or if you haven't lived in Oregon for a long period of time, you may not be required to file a response. You should talk to an attorney about whether you should file a response.

Spousal Support. Oregon law provides for three different categories of spousal support: transitional, compensatory and spousal maintenance. Transitional support may be ordered for a spouse to get work related education and training. Compensatory spousal support may be ordered if one party has significantly contributed to the education, training, vocational skills, career or earning capacity of the other spouse. Spousal maintenance may be ordered for the support of one spouse. The judge will consider a number of factors when making the award. For more information on what the judge will consider, please refer to ORS 107.105 (to view, visit your local law library or: *www.leg.state.or.us/ors*).

Property and Debts – Statutory Restraining Order. Oregon law requires both Petitioner and Respondent to obey a restraining order preventing *either party* from dissipating (selling, destroying, removing, disposing of) real or personal property, making unilateral (without the agreement of the other party) changes to insurance policies, and making extraordinary expenditures. Expenditures that are necessary for the safety or welfare of the children or the parties are not prohibited. The order is effective on both you and the petitioner once you have been served with the "*Notice of Statutory Restraining Order Preventing the Dissipation of Assets in Domestic Relations Actions*." You may request a hearing if you object to the terms of the Statutory Restraining Order (see Packet 1BC for a Request for Hearing Form). If you violate the order, you may be subject to sanctions.

For information about these issues, talk to a lawyer and/or go to the Oregon State Bar's web site *(www.osbar.org)*, "Legal Links" and read under "Oregon's Laws" the sections on "Bankruptcy and Credit," "Real Estate," and "Taxes." If either spouse has a retirement plan, you should talk to an attorney before filling out the response. The attorney can advise you if this packet will work for your situation. If the parties own real estate located in Oregon, a "lis pendens" notice (notice of pending suit) may be filed with the county clerk as provided in ORS 93.740 (to view, visit your local law library or *www.leg.state.or.us/ors/*).

Social Security numbers and other confidential personal information.

There is certain personal information that can only be listed in a Confidential Information Form (CIF) and may not be listed in any of the other papers you file with the court. See the CIF information sheet that is part of this packet.

Have your documents reviewed.

You may have your documents reviewed by a lawyer or a courthouse facilitator (if your court has one) before you file. For information about how to find a lawyer, call the Oregon State Bar Lawyer Referral Service. If you are low income, you may get your documents reviewed for a smaller fee through the Oregon State Bar's Modest Means program, or you may call your local Legal Aid office. Contact numbers are listed in the additional resources section at the end of these instructions, and in the "Local Family Law Practices and Procedures" for your court attached to these instructions.

Filing the Response.

After you have filled out the Response, make two copies. One copy is for your records, and the second copy is for your spouse. If your spouse does not have an attorney, mail your spouse's copy to your spouse's address and fill out the Certificate of Mailing form, and file it with the court. If your spouse is represented by an attorney, you must instead mail the copy to your spouse's attorney and provide the attorney's address in the Certificate of Mailing form.

File the original Response, Certificate of Mailing and Acknowledgment about Dissolution form with the court clerk along with the required filing fee (unless your fee was waived or deferred by a judge).

STEP 2: WAITING 90 DAYS – APPLIES ONLY TO CASES FILED BEFORE JANUARY 1, 2012

Oregon law requires a 90 day waiting period for dissolution cases filed before January 1, 2012. The waiting period extends from the time you are served and the time the court can hold a final hearing or sign the judgment. If your case was filed before January 1, 2012, and 90 days have not passed since you were served, you, or your spouse, may ask the court to waive this period if the situation involves an emergency or necessity. The court must find that immediate action is needed to protect your rights or interests, or those of your spouse, or of a person who might be affected by the terms of the judgment. The court can also waive the period if you and your spouse have agreed to the terms of your divorce, and have filled out a "stipulated" (agreed to) judgment completely. ***Note: If you do not respond to the petition served upon you (i.e., if you "default"), your spouse may ask the court to waive this period without further notice to you or the serving of additional documents upon you.***

To ask the court to waive the 90 day period, you may use Packet 1F, Request for Waiver of 90 Day Waiting Period.

STEP 3: BEFORE YOUR DIVORCE IS FINALIZED

Temporary Orders.

You may ask the court to make temporary orders. Temporary orders are in effect once signed by the judge and last until changed or until the judgment is signed by a judge or the case is dismissed. For example, either spouse may request an order for spousal support, an order preventing one or both spouses from getting rid of property owned by both spouses, or an order requiring one spouse to move out of the family home. To make any of these requests, you will need to file a "motion" asking the court to do what you want. You may need the assistance of an attorney to file these requests.

All courts have restraining order forms for cases involving domestic violence. A restraining order can usually be obtained within a day or two of filing if there has been abuse in the last 180 days, and if there is further danger of abuse. Check with your local court about forms and filing instructions.

Conferences with the Judge.

Many courts will schedule a "status", "pretrial", or "settlement" conference if a response has been filed. These meetings usually take place with a judge with both spouses present, along with their attorneys if they are represented. You must go to any conferences that are scheduled unless you have received permission from the judge not to attend.

At the conference, the judge will probably talk to you about how the case is going to be resolved, may consider requests for temporary orders and will probably set future court dates.

Working Toward Agreement.

The court wants to help you resolve the issues about which you and your spouse disagree. You may discuss these issues with your spouse directly if it is safe for you to do so and if no court order prohibits this contact. You may also discuss them with your spouse's attorney. If you filed a response, and later decide that what your spouse asked for in the petition is okay with you, you may fill out and file a Waiver of Further Appearance and Consent to Entry of Judgment form (see Form #6J). The court will then enter judgment based on what was requested in the petition. Ask your local courthouse facilitator for help with this step. If you can't resolve the issues on your own, the court may provide a number of options to help you.

Mediation. A mediator is a person trained to help people resolve disagreements. You may meet with a mediator to resolve the financial issues in your case. Many courts have a list of mediators qualified to mediate these cases. Check with your local court clerk to see whether or not there is a fee for this service.

Arbitration. Some courts refer spouses who disagree on how to divide their property to an arbitrator. The court may also ask the arbitrator to resolve spousal support issues. An arbitrator is a lawyer appointed by the court who meets with both spouses and their lawyers, if they are represented, and makes a decision about how the property should be divided. Both spouses are required to pay for this service unless the court has specifically waived or deferred the arbitrator's fee. If either spouse disagrees with the arbitrator's decision, he or she can ask the court for a trial. If a trial is not requested, the arbitrator's decision is final unless both spouses agree on another resolution.

STEP 4: FINALIZING YOUR DIVORCE

A divorce is "final" the date the judgment of dissolution is signed by a judge. The judgment contains all of the issues decided in mediation, arbitration, hearing or through your agreement. If both spouses agree on all issues, it may be prepared by either spouse as long as it is reviewed and signed by both spouses. If there are still items that you don't agree on, the court will probably set a date for a "final hearing" or trial. The judge may direct one spouse to prepare the judgment after the hearing. Some judges may want you to attend a "settlement conference" (a meeting between the parties to discuss settlement, usually led by a different judge than your trial judge) to help you come to agreement.

If you are responsible for filling out the judgment, make a copy for yourself and one for your spouse, and file the original with the court. If your case involves spousal support, file an extra copy of the proposed judgment with the court.

You may also have to file the forms listed below, depending on your circumstances.

Uniform Support Declaration. This form is required if spousal support is an issue in the case, unless both parties have agreed on the amount of support.

Waiver of Personal Service. After the final judgment is signed, if one spouse doesn't follow its provisions, the other spouse may ask the judge to enforce the judgment. The spouse asking for enforcement is required to personally serve the other spouse with notice of this request. If you would like to waive the requirement of personal service, you may use Form #6D – Waiver of Personal Service or a form required by your court, if different. You are responsible for making sure you get all papers delivered to the address that you list.