Supreme Court of Florida

Office of the Clerk
500 South Duval Street
Tallahassee, Florida 32399-1927

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July 25, 2017

The Florida Bar News Editor
The Florida Bar
651 East Jefferson Street
Tallahassee, Florida 32399-2300

In Re: Amendments to the Florida Family Law Rules of Procedure - Form 12.901(a), Case No. SC17-1226

Dear Editor:

I have provided you with a copy of the proposed Rules in the above case. Please publish said Rules in the August 15, 2017, Bar News. Please publish a statement that the Court has placed the proposed Rules on the Internet at location: **http://jweb.flcourts.org/pls/docket/ds_docket_search**.

Any comments should be filed with the Supreme Court on or before September 14, 2017. If filed by an attorney in good standing with The Florida Bar, the comment must be electronically filed via the Florida Courts E-Filing Portal (Portal) in accordance with In re Electronic Filing in the Supreme Court of Florida via the Florida Courts E-Filing Portal, Fla. Admin. Order No. AOSC13-7 (Feb. 18, 2013). If filed by a nonlawyer or a lawyer not licensed to practice in Florida, the comment may be, but is not required to be, filed via the Portal. Comments filed via the Portal must be submitted in Microsoft Word 97 or higher. See In re Electronic Filing in the Florida Supreme Court, Fla. Admin. Order No. AOSC17-

27 (May 9, 2017). Any person unable to submit a comment electronically must mail or hand-deliver the originally signed comment to the Florida Supreme Court, Office of the Clerk, 500 South Duval Street, Tallahassee, Florida 32399-1927; no additional copies are required or will be accepted.

Thank you for your cooperation in this matter.

Most cordially,

John A. Tomasino

JAT/sh
Enclosure
cc: Robert Joseph Merlin, Chair, Family Law Rules Committee
Honorable Laurel Moore Lee, Immediate Past Chair, Family Law Rules Committee
Honorable Barbara J. Pariente, Supreme Court Justice Liaison
Honorable Michael J. Higer, President, The Florida Bar
Honorable Michelle R. Suskauer, President-elect, The Florida Bar
John F. Harkness, Jr., Executive Director, The Florida Bar
Mikalla Davis, Bar Staff Liaison
Chief Judges of the District Courts of Appeal
Clerks of the District Courts of Appeal
Chief Judges of the Judicial Circuits
Clerks of the Judicial Circuits
Deborah J. Meyer, Central Staff Director

The Florida Bar's Family Law Rules Committee (Committee) has submitted to the Florida Supreme Court an out-of-cycle report proposing amendments to Family Law Rule of Procedure Form 12.901(a) (Petition for Simplified Dissolution of Marriage). The proposed amendments would remove the requirement that this form be notarized and add a new affirmation statement.

The Court invites all interested persons to comment on the proposed amendments, which are reproduced in full below, as well as online at http://www.floridasupremecourt.org/decisions/proposed.shtml. All comments must be filed with the Court on or before September 14, 2017, with a certificate of service verifying that a copy has been served on the Committee Chair, Robert Joseph Merlin, 95 Merrick Way, Ste. 420, Coral Gables, FL 33134-5310, rmerlin@merlinlaw.com, and on the Bar Staff Liaison to the Committee, Mikalla Andies Davis, 651 E. Jefferson Street, Tallahassee, Florida 32399-2300, mdavis@floridabar.org, as well as a separate request for oral argument if the person filing the comment wishes to participate in oral argument, which may be scheduled in this case. The Committee Chair has until October 5, 2017, to file a response to any comments filed with the Court. If filed by an attorney in good standing with The Florida Bar, the comment must be electronically filed via the Florida Courts E-Filing Portal (Portal) in accordance with In re Electronic Filing in the Supreme Court of Florida via the Florida Courts E-Filing Portal, Fla. Admin. Order No. AOSC13-7 (Feb. 18, 2013). If filed by a nonlawyer or a lawyer not licensed to practice in Florida, the comment may be, but is not required to be, filed via the Portal. Comments filed via the Portal must be submitted in Microsoft Word 97 or higher. See In re Electronic Filing in the Florida Supreme Court, Fla. Admin. Order No. AOSC17-27 (May 9, 2017). Any person unable to submit a comment electronically must mail or hand-deliver the originally signed comment to the Florida Supreme Court, Office of the Clerk, 500 South Duval Street, Tallahassee, Florida 32399-1927; no additional copies are required or will be accepted.

IN THE SUPREME COURT OF FLORIDA

IN RE: AMENDMENTS TO THE FLORIDA FAMILY LAW RULES OF PROCEDURE – FORM 12.901(a), CASE NO. SC17-1226

INSTRUCTIONS FOR FLORIDA FAMILY LAW RULES OF PROCEDURE FORM 12.901(a), PETITION FOR SIMPLIFIED DISSOLUTION OF MARRIAGE ~~(01/15)~~ ~~(--/--)~~

When should this form be used?

This form should be used when a husband and wife are filing for a simplified **dissolution of marriage**. You and/or your **spouse** must have lived in Florida for at least 6 months before filing for a dissolution in Florida. You may file a simplified dissolution of marriage in Florida if **all** of the following are true:

- You and your spouse agree that the marriage cannot be saved.
- You and your spouse have no minor or dependent child(ren) together, the wife does not have any minor or dependent children born during the marriage, and the wife is not now pregnant.
- You and your spouse have worked out how the two of you will divide the things that you both own (your **assets**) and who will pay what part of the money you both owe (your **liabilities**), and you are both satisfied with this division.
- You are not seeking support (**alimony**) from your spouse, and vice versa.
- You are willing to give up your right to **trial** and **appeal**.
- You and your spouse are both willing to go into the clerk's office to sign the petition (not necessarily together).
- You and your spouse are both willing to go to the **final hearing** (at the same time).

If you do not meet the criteria above, you must file a regular **petition** for dissolution of marriage.

This petition should be typed or printed in black ink. Each of you must sign the petition ~~in the presence of a deputy clerk (in the clerk's office), although you do not have to go into the clerk's office at the same time. You will need to provide picture identification (valid driver's license or official identification card) for the clerk to witness your signatures~~.

What should I do next?

1. After completing this form, you should **file** ~~the original~~ it with the **clerk of the circuit court** in the county where you live and keep a copy for your records.

   You may document your agreement by signing a **Marital Settlement Agreement,** Florida Family Law Rules of Procedure Form 12.902(f)(3) and filing it with the **clerk of the circuit court** or you may agree that all of your assets (what you own) and liabilities (what you owe) have been disposed of by oral agreement.

2. You must prove to the court that the husband **and/or** wife has (have) lived in Florida for more than 6 months before filing the petition for dissolution of marriage. Residence can be proved by:

   - a valid Florida driver's license, Florida identification card, or voter registration card issued to one of you at least 6 months prior to filing for dissolution of marriage; or
   - the testimony of another person who knows that either you or your spouse has resided in Florida for more than 6 months and is available to testify in court; or
   - an **affidavit**. To prove residence by affidavit, use an **Affidavit of Corroborating Witness**, Florida Supreme Court Approved Family Law Form 12.902(i). This form must be signed by a person who knows that either you or your spouse has lived in Florida for more than 6 months before the date that you filed the petition for dissolution of marriage. This affidavit may be signed in the presence of the clerk of the court or in the presence of a **notary public**, who must affix his or her seal at the proper place on the affidavit.

3. You must pay the appropriate **filing fees** to the clerk of the circuit court. If you and your spouse cannot afford to pay the filing fees, you may fill out an **Application for Determination of Civil Indigent Status**, and file it with your petition for dissolution of marriage. You may obtain this form from the clerk and he or she will determine whether you are eligible to have filing fees waived.

4. ~~Either you or the clerk of court~~You will need to complete a **Family Court Cover Sheet**, Florida Family Law Rules of Procedure Form 12.928. The clerk's office can provide this form.

5. ~~You must~~Depending on your jurisdiction, you may either obtain a date and time for a court appearance from the clerk of court, or a date and time will be provided to you by the court. On that date, **you and your spouse must appear together before a judge**. ~~You should~~ Depending on your jurisdiction, you will either complete a **Final Judgment of Simplified Dissolution of Marriage**, Florida Family Law Rules of Procedure Form 12.990(a), and bring it with you to the hearing, or the judge will prepare it at the hearing. At that time, if all of the papers are in order, the judge may grant a final judgment dissolving your marriage under simplified dissolution of marriage procedures by signing the final judgment ~~which you have provided~~.

6. **If you fail to complete this procedure, the court may dismiss the case to clear its records.**

Where can I look for more information?

Before proceeding, you should read "General Information for Self-Represented Litigants" found at the beginning of these forms. The words that are in **"bold underline"** in these instructions are defined there. For further information, see chapter 61, Florida Statutes, and Rule 12.105, Florida Family Law Rules of Procedure.

Special notes…

Remember, a person who is NOT an attorney is called a nonlawyer. If a nonlawyer helps you fill out these forms, that person must give you a copy of a **Disclosure from Nonlawyer**, Florida Family Law Rules of Procedure Form 12.900(a), before he or she helps you. A nonlawyer helping you fill out these forms also **must** put his or her name, address, and telephone number on the bottom of the last page of every form he or she helps you complete.

IN THE CIRCUIT COURT OF THE _____ JUDICIAL CIRCUIT,
IN AND FOR _____ COUNTY, FLORIDA

Case No.: _____
Division: _____

In re the Marriage of:

_____,
Husband,
and
_____,
Wife.

PETITION FOR SIMPLIFIED DISSOLUTION OF MARRIAGE

We, *{full legal name}*_____, Husband,

and *{full legal name}* _____, Wife, being sworn, certify that the following information is true:
[fill in **all** blanks]

1. We are both asking the Court for a dissolution of our marriage.
2. Husband lives in *{name}* _____ County, *{state}* _____, and has lived there since *{date}* _____. Wife lives in *{name}* _____ County, *{state}* _____, and has lived there since *{date}* _____.
3. We were married to each other on *{date}*_____ in the city of *{city}* _____ in state of *{state}* _____, or country of *{country}* _____.
4. Our marriage is irretrievably broken.
5. We do not have any minor or dependent children together, the wife does not have any minor or dependent children born during the marriage, and the wife is not pregnant.
6. We have divided our assets (what we own) and our liabilities (what we owe) by agreement. We are satisfied with this agreement.

   *{Check **one** only}*

   ( ) Our marital settlement agreement, Florida Family Law Rules of Procedure Form 12.902(f)(3), is attached. This agreement was signed freely and voluntarily by each of us and we intend to be bound by it.

( ) Our marital settlement agreement is not in writing. We prefer to keep our financial agreements private.

7. *{Check **one** only}* ( ) yes ( ) no Wife wants to be known by her former name, which was *{full legal name}*_____.
8. We each certify that we have not been threatened or pressured into signing this petition. We each understand that the result of signing this petition may be a final judgment ending our marriage and allowing no further relief.
9. We each understand that **we both must come to the hearing** to testify about the things we are asking for in this petition.
10. We understand that we each may have legal rights as a result of our marriage and that by signing this petition we may be giving up those rights.
11. We ask the Court to end our marriage and approve our marital settlement agreement.

~~**I understand that I am swearing or affirming under oath to the truthfulness of the claims made in this petition and that the punishment for knowingly making a false statement includes fines and/or imprisonment.**~~

Under penalties of perjury, which can include fines and/or imprisonment, I declare that I have read this document and that the facts stated in it are true.

Dated: _____

_____
Signature of HUSBAND
Printed Name: _____
Address: _____
City, State, Zip: _____
Telephone Number: _____
Fax Number: _____
E-mail Address(es):_____

~~STATE OF FLORIDA~~
~~COUNTY OF _____~~

~~Sworn to or affirmed and signed before me on _____by _____.~~

_____
_____
~~NOTARY PUBLIC or DEPUTY CLERK~~

~~[*Print, type, or stamp commissioned name of notary or deputy clerk.*]~~

~~____ Personally known~~
~~____ Produced identification~~
~~Type of identification produced~~

~~**I understand that I am swearing or affirming under oath to the truthfulness of the claims made in this petition and that the punishment for knowingly making a false statement includes fines and/or imprisonment.**~~

Under penalties of perjury, which can include fines and/or imprisonment, I declare that I have read this document and that the facts stated in it are true.

Dated: _____

_____
Signature of WIFE
Printed Name: _____
Address: _____
City, State, Zip: _____
Telephone Number: _____
Fax Number: _____
E-mail Address(es):_____

~~STATE OF FLORIDA~~
~~COUNTY OF~~

~~Sworn to or affirmed and signed before me on _____by _____.~~

_____
_____
~~NOTARY PUBLIC or DEPUTY CLERK~~
_____

~~*[Print, type, or stamp commissioned name of notary or deputy clerk.]*~~

~~____ Personally known~~
~~____ Produced identification~~
~~Type of identification produced~~

IF A NONLAWYER HELPED YOU FILL OUT THIS FORM, HE/SHE MUST FILL IN THE BLANKS BELOW: [fill in **all** blanks]

This form was prepared for: [choose ~~only~~**one or both**] ( ) Husband ( ) Wife

This form was completed with the assistance of:

{name of individual} _____

{name of business} _____

{address} _____

{city} _____, *{state}*_____, *{telephone number}*_____.