Supreme Court of Florida

No. SC17-1226

IN RE: AMENDMENTS TO THE FLORIDA FAMILY LAW RULES OF PROCEDURE - FORM 12.901(a).

[February 1, 2018]

PER CURIAM.

This matter is before the Court for consideration of proposed amendments to the Florida Family Law Rules of Procedure. We have jurisdiction. See art. V, § 2(a), Fla. Const.

The Family Law Rules Committee (Committee) has filed an out-of-cycle report under Florida Rule of Judicial Administration 2.140(f), proposing amendments to Florida Family Law Rules of Procedure Form 12.901(a) (Petition for Simplified Dissolution of Marriage). The proposed amendments to form 12.901(a) were approved by the full Committee by a vote of 19-1-0, and were unanimously approved by the Executive Committee of the Board of Governors of The Florida Bar. Prior to submission to the Court, the Committee did not publish the proposals for comment. After submission to the Court, the proposals were

published. Two comments were filed with the Court—one from the Florida Commission on Access to Civil Justice and one by Robert T. Koehler on behalf of the Florida Notary Academy. Upon consideration of the Committee's report and the comments filed, we adopt the amendments to form 12.901(a) as proposed by the Committee.

Form 12.901(a) is amended to eliminate the requirement that the form be notarized and instead require the parties to execute a "written declaration" pursuant to section 92.525, Florida Statutes (2017). The declaration added to the form states: "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." The elimination of the notarization requirement is meant to facilitate the electronic filing of the form by pro se litigants. The form is also amended to add "In re the Marriage of" to the caption and to clarify the process of obtaining a court date and filing the family law cover sheet.

The amended form is adopted as set forth in the appendix to this opinion, fully engrossed, and effective for immediate use. The form may also be accessed and downloaded from the Florida State Court's website at http://www.flcourts.org/resources-and-services/court-improvement/problem-solving-courts/family-courts/family-law-forms.stml. By adoption of the amended form, we express no opinion as to its correctness or applicability.

It is so ordered.

LABARGA, C.J., and PARIENTE, LEWIS, QUINCE, CANADY, POLSTON, and LAWSON, JJ., concur.

THE FILING OF A MOTION FOR REHEARING SHALL NOT ALTER THE EFFECTIVE DATE OF THESE AMENDMENTS.

Original Proceeding – Florida Family Law Rules of Procedure

Robert Joseph Merlin, Chair, Family Law Rules Committee, Coral Gables, Florida, Honorable Laurel Moore Lee, Past Chair, Family Law Rules Committee, Tampa, Florida; and Joshua E. Doyle, Executive Director, and Mikalla Andies Davis, Staff Liaison, The Florida Bar, Tallahassee, Florida,

for Petitioner

Gregory W. Coleman, Vice Chair, Florida Commission on Access to Civil Justice, West Palm Beach, Florida, and Robert T. Koehler, Florida Notary Academy, Tampa, Florida,

Responding with comments

APPENDIX

INSTRUCTIONS FOR FLORIDA FAMILY LAW RULES OF PROCEDURE FORM 12.901(a) PETITION FOR SIMPLIFIED DISSOLUTION OF MARRIAGE (02/18)

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.

What should I do next?

1. After completing this form, you should **file** 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. 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. 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**. 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.

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

In re the Marriage of:

Case No.: _____
Division: _____

_____,
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.

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):_____

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):_____

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 **one or both***] ( ) Husband ( ) Wife

This form was completed with the assistance of:

{name of individual} _____

{name of business} _____

{address} _____

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