

## PRO SE FORMS - DIVORCE WITH CHILDREN

### THIS PACKET CONTAINS:

1. **Instructions** [Rules 4A-100; 4A-200; 4A-300] (DO NOT COPY - NOT REQUIRED FOR FILING)
2. **Domestic Relations Information Sheet** (DO NOT COPY - NOT REQUIRED FOR FILING)
3. **Petition for Dissolution of Marriage**
4. **Response**
5. **Summons** *Use this form if a sheriff or third party serves the Petition on Respondent.*
6. **Temporary Domestic Order**  
*This is a court order, which is issued to help the parties while the case is being resolved. The Temporary Domestic Order [or "TDO"] makes provision for keeping the peace, keeping the bills up. The TDO must be promptly served upon the other party.*
7. **Order for Shared Parenting Education**
8. **Marital Settlement Agreement**
9. **Custody Plan and Order**
10. **Child Support Obligation and Order**  
*It is recommended that self-represented parties use the interactive Child Support Worksheet form that is available on the Internet at [www.nmcourts.gov](http://www.nmcourts.gov), click on "Self-Help" and scroll down to "Child Support Worksheet". This form automatically determines the monthly child support obligation.*
11. **Final Decree of Dissolution of Marriage**

### OTHER PACKETS YOU MAY NEED:

**FREE PROCESS PACKET** *Use if you cannot afford to pay the \$137 filing fee.*

**DEFAULT PACKET** *Use if Respondent does not file a Response to your Petition within 30 days of service of the Summons.*

**PUBLICATION PACKET** *Use if you do not know the whereabouts of Respondent.*

**REQUEST FOR HEARING** *Use to request a setting from the Court if Respondent files an answer and parties do not agree.*



### PLEASE READ

- **REMEMBER - As a self-represented litigant, you are responsible for your case.** The District Court Clerk's Office will not provide any information as to how you should proceed with your case nor can they fill in any blanks on forms on your behalf.
- **You must fill out the paperwork correctly, request and attend hearings, check whether the respondent is filing paperwork, keep track of deadlines, etc.**
- **Type or print your forms.**
- **Make sure the pleadings are signed.**
- **File the forms with the court.**
- **Required number of copies:** An original and two (2) copies of each form must be filed.
- **Pay the filing fee:** \$137 - cash, cashier's check or money order, unless free process is approved.

**4A-100. Domestic relations forms; instructions and cautions regarding use of forms.**

A. **Short title.** These forms, compiled as Forms 4A-100 through 4A-403 NMRA, shall be known as the Domestic Relations Forms and shall be cited by their New Mexico Rules Annotated set and form number, as in “Form 4A-\_\_\_\_ NMRA.”

B. **Mandatory acceptance of forms by district court.** The New Mexico Supreme Court has approved these Domestic Relations Forms for use in domestic relations actions by self-represented litigants and attorneys appearing in the district courts. As provided by Rule 1-120 NMRA, these forms supersede conflicting local district court domestic relations forms and shall be accepted by the district courts.

C. **Responsibility of self-represented parties.** A self-represented person shall abide by the same rules of procedure and rules of evidence as lawyers. It is the responsibility of a self-represented person to determine what needs to be done and to take the necessary action. A self-represented person involved in a divorce proceeding may need the advice of an attorney or other appropriate professional during the process and is responsible for finding an attorney or other appropriate professional for advice or representation.

(1) All notices from the court will be mailed to you at the last address on file with the court. If you move, you must file a Notice of Change of Address so that you receive your mail from the court.

(2) Rule 1-005 NMRA requires that you provide a copy of anything you file in court to the other party on the same day you file it. This is what the Certificate of Service confirms.

D. **Definitions.** The following definitions apply to the terms used in the Domestic Relations Forms:

(1) “contested divorce proceeding” means a divorce proceeding in which the parties cannot reach an agreement on one or more decisions that must be made to finalize a divorce, including but not limited to the division of property, debts, spousal support, child custody, time sharing, visitation, or child support, and therefore are unable to file all of the required forms at the same time;

(2) “creditor” means a person, agency, bank, or business to whom a debt is owed;

(3) “custody plan” means Form 4A-302 NMRA, which sets forth the type of legal custody and includes a parenting plan, when required by law;

(4) “debt” means separate or community debt as defined in Section 40-3-9 NMSA 1978. Debt is an amount of money owed to a creditor that may include, but is not limited to: loans (signature, car, school, payday), mortgages, credit card balances, balances owed on bills (utilities, phone, cell phone, cable television), and federal and state tax bills. The party whose name is on the debt may not be the only party responsible for payment of the debt;

(5) “default” means the process to get relief from the court in the form of an order when a party fails to respond or defend a case (either party is subject to a default judgment for failure to respond). *See* Rule 1-055 NMRA for more information;

(6) “dissolution of marriage” means a divorce;

(7) “divorce proceeding” means the judicial process used to get a divorce;

(8) “minor child” means a child who is under eighteen (18) years of age and who is the child of both parties to a divorce. For the purposes of support only, a child who is under the age of nineteen (19) and attending high school full time may be considered a minor child;

(9) “parenting plan” means a plan as defined by Section 40-4-9.1 NMSA 1978, setting forth the responsibilities of each parent individually and the parents jointly in a joint custody arrangement. For an example of a parenting plan, *see* Form 4A-302(II)(B) NMRA;

(10) “party” means a spouse named in a divorce proceeding;

(11) “petition for dissolution of marriage” means the document that requests a divorce;

(12) “petitioner” means the first party named on a petition for dissolution of marriage. This person is referred to as a “petitioner” solely for purposes of identifying the parties in the court system;

(13) “property” means the types of property the parties to a divorce may own, including community, separate, or quasi-community as defined in Section 40-3-8 NMSA 1978. Property includes, but is not limited to: homes, land, livestock, cars/vehicles, furniture, savings and checking accounts, retirement accounts, jewelry, inheritances, tools, and art. The name of the party on the title to the property may not be the sole owner of the property. Questions about whether property is separate or community should be referred to a private attorney or the court, as appropriate;

(14) “respondent” means the second party named on a petition in a domestic relations proceeding;

(15) “service” or “service of process” means having a person eighteen (18) years or older, who is not a party to the action, give papers to a named party in a case by personally handing the paperwork to the person, or having the papers delivered to a named party in a case by some other way as described in Rule 1-004 NMRA;

(16) “summons” means a notice to the respondent that a lawsuit has started. The summons notifies the respondent to respond to the divorce petition within the specified deadline.

The summons is a two-part form. On the first part, the summons has information about the court, names and addresses of the parties, the deadline for a response, and notice that a default may happen for failure to respond. The second part of the summons is the return. The summons is served on the respondent. Once the respondent is served, the return must be filled out by the person who did the service of process and signed by that person with a notarized signature. When the original summons, including the return, is completely filled out and signed, the petitioner is responsible for filing it with the district court. The summons form is Form 4-206 NMRA. Filing the completed summons and return lets the court know that the respondent has been served;

(17) “summons packet” means a copy of the summons (Form 4-206 NMRA), petition for dissolution of marriage (Form 4A-102 or 4A-103 NMRA), temporary domestic order (Form 4A-201 NMRA), and a blank copy of the Domestic Relations Information Sheet (Form 4A-101 NMRA). *See* Paragraph E below for more information. The summons packet is served on the respondent;

(18) “temporary domestic order” means an order issued by the court when a divorce proceeding is filed that instructs the parties on how to conduct themselves regarding interactions with each other, finances, children, and property until the divorce is final. The temporary domestic order is Form 4A-201 NMRA;

(19) “time sharing and order for support and care of children” means one or more orders of the court to include a parenting plan as defined in Paragraph L of Section 40-4-9.1 NMSA 1978 containing the duties of the parents of minor children relating to child custody, time sharing, visitation, and support, including support of a child under nineteen (19) years of age who is attending high school;

(20) “uncontested divorce proceeding” means a divorce proceeding in which the parties are in complete agreement as to all the decisions that must be made to finalize a divorce, including but not limited to decisions regarding the division of property, debts, spousal support, child custody, timesharing, visitation, and child support, and present the following required forms, completed and signed by both parties, for filing at the same time:

(a) *Without children.* If the parties do not have minor children, the following forms must be filed in an uncontested divorce proceeding:

- (i) Domestic relations information sheet, Form 4A-101 NMRA
- (ii) Petition for dissolution of marriage (without minor children), Form 4A-102 NMRA;
- (iii) Marital settlement agreement, Form 4A-301 NMRA; and
- (iv) Final decree of dissolution of marriage (without minor children), Form 4A-305 NMRA.

(b) *With children.* If the parties have minor children, the following forms must be filed in an uncontested divorce proceeding:

- (i) Domestic relations information sheet, Form 4A-101 NMRA;
- (ii) Petition for dissolution of marriage (with minor children), Form 4A-103 NMRA;
- (iii) Marital settlement agreement, Form 4A-301 NMRA;
- (iv) Custody plan and order, Form 4A-302 NMRA;
- (v) Child support obligation and order, Form 4A-303 NMRA, with attached child support worksheet as described in Section 40-4-11.1 NMSA 1978; and
- (vi) Final decree of dissolution of marriage (with minor children), Form 4A-306 NMRA; and

(21) “wage withholding order” means an order that requires child support to be withheld from the wages of the named parent.

E. **STARTING THE DIVORCE PROCESS; CONTESTED.** These are the first forms that must be filed with the court. When starting this process, each spouse must be named as a party on the forms. One spouse is the petitioner and the other is the respondent. The spouse starting the lawsuit is the named petitioner. The other spouse is the respondent. The claims or rights of either party are not determined on the basis of being named as the petitioner or respondent. *See* Paragraph F of this rule for instructions on completing forms and next steps after these forms are filled out. In a divorce proceeding, the case is started by filing the following completed forms with the court:

(1) **Domestic Relations Information Sheet.** Form 4A-101 NMRA shall be submitted to the court in all cases. This form is used to provide the court with essential information about the parties to the divorce proceeding, such as addresses, social security numbers, dates of birth, and the names and ages of the children of the parties. Although this form is required to be turned into the court, it is not a public record and is not part of the court file; and

(2) **Divorce Petition (Petition for Dissolution of Marriage).** Depending on whether there are minor children of both parties, one of the following two forms are used to request a divorce:

(a) Form 4A-102 NMRA is used if the parties do not have any minor children together; or

(b) Form 4A-103 NMRA is used if the parties have minor children together.

(3) **Summons.** The Summons Form is Form 4-206 NMRA. The petitioner must complete this form. When the petitioner completes the contact information, the court will fill in additional information to complete the summons and return the original summons to the petitioner. A copy of the summons shall be served on the respondent as part of the Summons Packet. See Paragraph J of this rule for serving the Summons Packet. It is the responsibility of the petitioner to file the original summons with a completed return with the court.

(4) **Temporary Domestic Order (TDO).** The TDO is Form 4A-201 NMRA. Each judicial district has different procedures about who provides the standard form and how a TDO is issued. Some courts provide the form when the lawsuit is filed and others require the party starting the lawsuit to complete the form. Check with the court where you are filing your lawsuit to find out if you need to bring a TDO form with you. The contents of the TDO form shall not be changed by any person. The form requires only the completion of the court caption on the first page. If the court where you are filing your lawsuit does not issue its own TDO, bring additional copies of the TDO with you when filing your lawsuit.

F. **Completion of forms.** When filling out any forms, please do the following:

(1) **Type or print.** You must type or print all of the information required to be completed on forms filed with the court. If there is not enough room on the form to provide all of the information required, add a separate page for the information and include the page with the rest of the form before making copies and filing the form with the court. Your handwriting should be clear and easy to read.

(2) **Signing the forms and other papers.** Your signature on a form or other paper filed with the court means the following:

(a) you have read and understand the form or paperwork;

(b) the information provided by you on the form is factually correct to the best of your knowledge; and

(c) the information in the paperwork is accurate and true. Some forms may need to be signed in front of a notary public and notarized.

G. **Required number of copies to file with the court.** After completing and signing any required forms, take the original and two copies of each form to the court clerk for filing. The clerk will file the originals and return stamped copies to you. One copy is for you, and you must provide the other copy to the other party.

H. **Pay the filing fee.** A filing fee must be paid to the court clerk in cash or money order at the time the divorce case is opened. A divorce case is opened by filing a domestic relations information sheet, divorce petition, and summons. If you cannot afford to pay the filing fee, you may ask the court to allow you to file for free or a reduced rate by filing an application for free process. The application for free process is Form 4-222 NMRA.

I. **Filing the first forms with the court.** After completing the Summons Packet, take the original and two (2) copies of each completed form to file in the district court. The court clerk will sign and stamp the original summons and give the original and two (2) copies of it back to you with a copy of your filed divorce petition so that a copy of the summons can be served on the respondent. The clerk may also give you two (2) copies of the TDO or will endorse (stamp) copies of a TDO provided by you. One copy of the temporary domestic order must be served on your spouse as part of the summons packet.

J. **Serving the summons packet.**

(1) After a divorce petition and summons and TDO are filed with the court, copies of all papers must be served on the respondent. This is known as service of process.

(2) The summons packet and any other documents the clerk instructs you to serve may be served on the respondent by hand-delivery by a person who is over the age of eighteen (18) and is not a party to the divorce proceeding. The petitioner cannot be the person who serves the respondent. Have someone deliver the summons packet to the respondent as required by Rule 1-004(F) NMRA. It is the sole responsibility of the petitioner to have the summons packet served on the respondent and to provide proof that the service was completed. The court is not responsible for serving documents on any party.

(a) If you and respondent are not living together and you know the respondent's current mailing address, the summons packet may also be served by certified mail, return receipt requested. If served by certified mail, the respondent must sign a receipt indicating that he or she received the summons packet for service to be completed. The return receipt from the certified mailing must be filed with the district court.

(b) There are other ways of serving the summons packet on the respondent. Read Rule 1-004 NMRA to learn more about those methods.

(c) Service of process may be done by a private process server, law enforcement, or any other person who is over eighteen (18) and not a party to the lawsuit. You may have to pay a fee to someone to do the service of process for you. Check with your local law enforcement or look in the phone book for resources for service of process.

(3) If you cannot find the respondent after reasonable attempts to find him or her to serve the summons packet, you may file a motion with the court asking permission to serve the summons packet by publication in a newspaper. If you need to serve the summons packet by publication in a newspaper, use Forms 4-209 and 4-209A NMRA.

(4) After successful service on the respondent, the petitioner is responsible for making sure that the original summons with the completed return is filed with the court to prove that the respondent was served.

K. **Responding to the petition.** In a contested divorce proceeding, the respondent must file a written response to the divorce petition. Form 4A-104 NMRA may be used to respond to the divorce petition. The response must be filed with the court and a copy mailed to the petitioner within thirty (30) days after the summons packet was served on the respondent. Failure to file a response to the divorce petition within the thirty (30) days can result in serious consequences, including entry of a default judgment against the respondent.

L. **Issues not addressed by the forms.** The Domestic Relations Forms may not address all domestic relations issues relevant to you. The forms address only the most common divorce issues. If there are issues that are not addressed in the forms, you are responsible for bringing those issues to the attention of the court or you should seek the assistance of an attorney. You may need to get other forms that are not provided in these rules to finish the transfer of property, businesses, etc. For example, the forms **do not** include the following:

- (1) federal and state tax treatment of income, expenses, and deductions both before and after a divorce, or as a result of a child support order, for claiming children as dependents, or for paying or receiving alimony;
- (2) how to transfer title to property or assets;
- (3) how to divide a business or retirement income;
- (4) how to divide or transfer other complicated assets; or
- (5) how to divide or transfer debts.

M. **Keeping Records.** Any party to an action should make copies of all documents, paperwork, or forms filed with the court for his or her own records.

N. **Paying Creditors.** These forms, including the final decree of dissolution of marriage, do not change the legal responsibility of the parties to pay their creditors.

O. **Role of judge, clerk, and court.** Court clerks can only help you with filing forms with the court; they cannot help you complete them. The judge makes decisions in your case, but neither the judge nor the judge's staff can give advice to either party, including how to fill out the forms. If you need assistance or have questions about how to complete the forms, you may seek help from an attorney. The court clerks may give you information about resources for legal assistance. *See* Rule 23-113 NMRA, which provides more guidance on what information and assistance court staff may give to self-represented litigants. You may also want to use your local library to get information about the forms or legal citations in these rules, which may include internet searches of New Mexico court websites ([www.nmcourts.gov](http://www.nmcourts.gov)) and the New Mexico compilation commission ([www.nmcompcomm.us](http://www.nmcompcomm.us)).

[Approved by Supreme Court Order No. 13-8300-010, effective for all pleadings and papers filed on or after May 31, 2013, in all cases pending or filed on or after May 31, 2013; as amended by Supreme Court Order No.14-8300-011, effective for all pleadings and papers filed on or after December 31, 2014, in all cases filed or pending on or after December 31, 2014.]

#### **4A-200. Domestic relations forms; instructions for stage two (2) forms.**

A. **Temporary orders.** After your petition for dissolution of marriage has been filed but before the court issues a final decree, you may request assistance on a temporary basis using Form 4A-202 NMRA. The court may provide such assistance by issuing one of the following temporary orders:

(1) **Temporary domestic order.** See Subparagraphs (D)(18) and (E)(4) of Form 4A-100 NMRA for an explanation of when to request a temporary domestic order from the court. For the temporary domestic order, see Form 4A-201 NMRA;

(2) **Temporary division of property.** You may request this relief when you need assistance from the court with access to property such as a home (e.g., a house, apartment) or a vehicle;

(3) **Temporary division of income and debts.** You may request this relief when you cannot agree about how bills will be paid, or you are having trouble paying the bills with only your income. This relief will include child support if you and your spouse have minor children together;

(4) **Temporary custody of minor children.** You may request this relief when you cannot agree on important decisions about the children, including decisions about medical treatment and where the children will go to school. For more information about child custody, see Section 40-4-9.1 NMSA 1978;

(5) **Temporary order establishing timesharing or visitation schedule.** You may request this relief when you cannot agree on a schedule of how much time each parent will spend with the child and when the child will be with each parent;

(6) **Temporary child support and request for wage withholding.** If you have not already requested a temporary division of property and debts as provided in Paragraph (A)(3) of this rule, you may request this relief when you cannot agree on the amount of money that one party should pay the other party to help support the children. If the court grants a temporary child support order, the child support payment may be taken from the paying party's paycheck pursuant to a wage withholding order. For more information about a wage withholding order, see Form 4A-300(D)(2)(b) NMRA. For the wage withholding order, see Form 4A-304 NMRA; and

(7) **Temporary allocation of community resources to permit both parties to hire an attorney.** You may request this relief when you need money to hire an attorney and there is money or credit available from either or both of the parties.

B. **Motion to modify temporary order.** You may file this motion (Form 4A-203 NMRA) if you have a temporary order and you want to change it. In your motion, you must state specific reasons why the temporary order should be changed.

C. **Motion for referral to mediation (child custody, timesharing, or visitation).** You may file this motion (Form 4A-204 NMRA) when you believe that there is a reasonable likelihood that you will be able to reach an agreement about child custody or visitation with the assistance of a mediator. Requesting a referral for mediation on child custody does not require the issue of child support to be resolved at the same time. To mediate child support, the parties must have exchanged all documentation required by Rule 1-123 NMRA, as provided by Paragraph D of this rule.

D. **Motion for referral to mediation (child support or other financial issues).**



You may file this motion (Form 4A-205 NMRA) only if each of the following circumstances has been met:

- (1) the parties have exchanged all documentation required by Rule 1-123 NMRA (see the appendix to this Rule for more information);
- (2) you believe that there is a reasonable likelihood that you can reach a final agreement on some or all of the matters in your divorce other than child custody or visitation, such as child support, division of income and debt, or division of a retirement account. *See* Form 4A-202 NMRA (Motion for temporary order) for other matters that may be mediated; and
- (3) the judicial district that you are filing in has a mediation program for this purpose, or the parties have funds available to pay for a private mediator.

**E. General instructions for filing motions.**

(1) Either party may file a motion seeking help from the court. When you file a motion, it must be filed with the Court Clerk's Office. You must fill out and bring a Request for Hearing (Form 4A-206 NMRA) to the court to be filed at the same time as your motion. You may be required to bring an original, completed Notice of Hearing (Form 4A-207 NMRA) with self-addressed stamped envelopes for both parties. The court will send each party a Notice of Hearing that will include your assigned hearing date and time in the self-addressed stamped envelopes you provided. **WARNING:** Generally, this rule must be followed when filing a motion; however, many courts have special rules when the parties need a hearing. You should inquire at the Court Clerk's Office to determine if special rules apply when you request a hearing.

(2) If the motion relates to money (*see* Subparagraphs (1), (2), (3), (6) and (7) of Paragraph A, above), you must take the steps required by Rule 1-123 NMRA and file a Notice of Compliance with Rule 1-123 NMRA (Form 4A-208 NMRA), with the Court Clerk's Office. For further information on Rule 1-123 NMRA, please refer to the appendix to this rule.

(3) There may be other motions that you want to file. You should follow these general instructions with all motions. Any response to a motion should be served on the other party as set forth in Form 4A-100(J) NMRA.

(4) **WARNING:** All forms include a verification of service which tells the court that you gave a copy of your motion to the other party. Your motion cannot be heard by the court unless you have properly served a copy on the other party.

**F. Special instructions; verified motion for order to show cause.** You may file a verified motion for order to show cause (Form 4A-209 NMRA) when you want to ask the court for help because you believe the other party is not following a court order. You should be very specific when completing the motion; tell the court what the court order says and what the other person is doing or not doing that is violating the order. State only serious violations and be as complete as possible. Attach a copy of the order you believe the other person is not following. Together with the Verified Motion for an Order To Show Cause, you must submit a proposed Order To Appear and Show Cause (Form 4A-210 NMRA) at the same time.

Take the original signed motion and at least two copies to the court for filing. If the case has been closed, a filing fee may be required to reopen, unless the order being violated is an order for child support. The clerk will file the original motion and give you at least one endorsed copy back for your records. You will also submit the Order To Appear and Show Cause to the clerk after the Verified Motion for Order To Show Cause is filed.

If the court grants the motion, you will receive a copy of an Order To Appear and Show

Cause. Alternatively, you may receive a notice of hearing on the Verified Motion for Order To Show Cause. The order or notice will contain the date, time, and place of your hearing. You should ask the clerk when you file your motion if the papers will be mailed to you or if you will need to pick them up from the court.

**WARNING:** The Verified Motion for Order To Show Cause and the Order To Appear and Show Cause must be personally served on the other party at least five (5) days prior to the hearing. Refer to Form 4A-100(J) NMRA for instructions about service of process. After the motion and order to show cause are served on the other party, the person who served these documents must fill out an affidavit of service. You must file the original affidavit of service with the court. Keep at least one copy of the original affidavit of service.

You must appear at any hearing that you request. Be prepared to show the court how the other party is not following the court order by bringing all evidence with you, such as papers, pictures, or witnesses.

G. **Hearings.** You will receive a notice of hearing from the court mailed to you in the self-addressed stamped envelope that you or your spouse provided to the court when filing the motion. See the appendix to this rule for instructions about how to prepare for the hearing. If someone you need to be your witness does not want to go to the hearing, you will need to request a subpoena from the court before the hearing. If a subpoena is issued by the court, the person will be ordered to appear at the court at the date, time, and place of your hearing. You are responsible for getting the subpoena served on the witness and for filing the return of service with the Clerk of the Court. For further information about subpoenas, *see* Rule 1-045 NMRA.

H. **Hearing officers.** From time to time, the judge may appoint a hearing officer to preside over your hearing. The hearing officer is required to prepare a Hearing Officer Report within thirty (30) days after your hearing, which contains findings of fact and recommendations to the judge on how the court should rule. The court will mail each party a copy of the Hearing Officer Report and a Notice of Filing. If you do not agree with the hearing officer's recommendations, you must complete and file written objections within ten (10) days after service of the recommendations using Form 4A-211 NMRA. You must send a copy of the written objections to the other party. If no written objections are received by the district court, then the recommendations of the hearing officer may be adopted by the court without further notice to you. If the court receives written objections to the recommendations, the court will decide whether to set a hearing or to enter its own order. The court will notify you of the action it has taken. For further information about hearing officers in domestic relations actions, *see* Rule 1-053.2 NMRA.

[Approved by Supreme Court Order No. 13-8300-010, effective for all pleadings and papers filed on or after May 31, 2013, in all cases pending or filed on or after May 31, 2013; as amended by Supreme Court Order No. 14-8300-011, effective for all pleadings and papers filed on or after December 31, 2014, in all cases filed or pending on or after December 31, 2014.]

#### **4A-300. Domestic relations forms; instructions for stage three (3) forms.**

A. **Stage three (3) forms; scope.** The stage three (3) forms are the last forms that you must complete to dissolve your marriage (i.e., get a “divorce”). Once approved by the Court, the agreements and promises that you have made in these forms will settle financial matters between you and the other party, and will control your rights as a parent. When both parties sign the Marital Settlement Agreement (Form 4A-301 NMRA), the Custody Plan and Order (Form 4A-302 NMRA), and the Child Support Obligation and Order (Form 4A-303 NMRA), they may be enforced by either party as contracts. When the Court signs a Final Decree of Dissolution of Marriage (Form 4A-305 or 4A-306 NMRA), you will be divorced, and the Marital Settlement Agreement, the Custody Plan and Order, and the Child Support Obligation and Order will become legally binding on both of you. Any important changes to these agreements should be in writing and signed by both parties. These changes should be filed with the Court. You should be careful when filling out these forms, and be as complete as possible. It is highly recommended that you consult with an attorney.

B. **Marital Settlement Agreement.** A Marital Settlement Agreement (“MSA”) must be completed, signed by both parties, and filed with the Court in every dissolution of marriage case. (Use Form 4A-301 NMRA.) Although the MSA is called an “Agreement,” if the parties do not agree on its terms, the Court may use the terms of either party’s proposed MSA in its final order after a hearing. The MSA describes how you and the other party will divide your property and debts, and how you will settle any other financial matters, including whether one party will pay spousal support or make a cash payment to the other. When the parties sign the MSA or the Court signs and files a Final Decree of Dissolution of Marriage, the MSA is legally binding on both parties. *See* Paragraph A, above.

If you and the other party cannot agree on some or all of the terms of the MSA, you may request the assistance of a mediator, if available, by completing and filing a Motion for Referral to Mediation (child support or other financial issues) (Form 4A-205 NMRA) with the Court. If you do not believe a mediator will be helpful, you may complete and file a Request for Hearing (Form 4A-206 NMRA), and the Court will make a decision for you. For more information about how to request a hearing, *see* Subparagraph (1) of Paragraph E of Form 4A-200 NMRA.

The MSA includes the following sections:

(1) ***Property we are dividing.*** This is where you describe how you will divide your property, including personal property, real property, bank and investment accounts, retirement plans, vehicles, and any other property. Examples of each type of property are included on the form. Complete the Personal Property List (Attachment A) to identify any personal property you own that is valuable to you and to show how you will divide it. If you have real property other than the home you lived in while you were married, complete the Real Property List (Attachment B) to identify the property and to show how you will divide it;

(2) ***Debts we are dividing.*** This is where you describe how you will divide your debts (e.g., credit cards, loans, etc.), cancel joint credit cards, file your taxes, and handle any issues that may come up with tax returns that were filed while you were married. Complete the Debt List (Attachment C) to identify each of your debts and to show how you will divide them;

(3) ***Cash payment.*** This is where you show any dollar amount that you have agreed one party should pay the other to settle the division of your property and debts. This amount will be included in the Final Decree of Dissolution of Marriage as a judgment in favor of

the party who is to receive the cash payment. This judgment may be enforced as provided by law;

(4) **Spousal support.** This is where you show any dollar amount that you have agreed one party should pay the other as monthly spousal support. *If* the Court approves this section, the amount and timing of spousal support can be modified only by a court order. For more information on spousal support, *see* Section 40-4-7 NMSA 1978;

(5) **Other statements by parties.** This is where you promise to do what is necessary to carry out your agreements in the MSA and how you will resolve any arguments you may have about the MSA in the future; and

(6) **Verification.** This is where you affirm the truth of the statements in the MSA and sign it under penalty of perjury.

C. **Custody plan and order.** A Custody Plan and Order must be completed and filed with the Court in every dissolution of marriage case when the parties are the parents of one or more children under eighteen (18) years of age or under the age of nineteen (19) and attending high school. (Use Form 4A-302 NMRA.) This document describes decisions that have been made, and how decisions will be made in the future, about the children. When the Court signs and files a Final Decree of Dissolution of Marriage, the Custody Plan and Order is legally binding on both parties. *See* Paragraph A, above.

If you and the other party cannot agree on the terms of a Custody Plan and Order, you may request the assistance of a mediator by completing and filing a Motion for Referral to Mediation (child custody, timesharing, or visitation) (Form 4A-204 NMRA) with the Court. If you do not believe that a mediator will be helpful, you may complete and file a Request for Hearing (Form 4A-206 NMRA), and the Court will make a decision for you. For more information about how to request a hearing, *see* Form 4A-200(E)(1) NMRA. Some courts will not set a hearing on custody matters until the parties have tried mediation but failed to reach an agreement. Check with the Court before you request a hearing to find out if mediation is required.

The Custody Plan and Order includes the following sections:

(1) **Identification and contact information.** This is where you list the names and contact information of the parties and the children who are covered by the form;

(2) **Custody of the children.** This is where you describe the agreement you have reached about how you will make decisions and who will have custody of your children. If you choose sole legal custody, you must provide the specific reason why sole legal custody is in the best interests of the children. Also describe how often, when, and where the non-custodial parent will be allowed to visit the children, if at all. If you choose joint legal custody, you must complete the parenting plan in Subparagraphs one (1) through five (5) of Paragraph B to describe how you will share the custody of your children; and

(3) **Verification.** This is where you affirm the truth of the statements in the Custody Plan and Order and sign it under penalty of perjury.

D. **Child support obligation and Order.** A Child Support Obligation and Order must be completed and filed with the Court in every dissolution of marriage case when the parties are the parents of one or more children under eighteen (18) years of age or under the age of nineteen (19) and attending high school. (Use Form 4A-303 NMRA.) This document describes how you will divide the expenses of raising the children, including child support and health insurance, and tax issues relating to the children. When the Court signs and files a Final

Decree of Dissolution of Marriage, the Child Support Obligation and Order will become legally binding on both parties. *See* Paragraph A, above.

If you and the other party cannot agree on the terms of the Child Support Obligation and Order, you may request the assistance of a mediator by completing and filing a Motion for Referral to Mediation (child support or other financial issues) (Form 4A-205 NMRA) with the Court. If you do not believe that a mediator will be helpful, you may complete and file a Request for Hearing (Form 4A-206 NMRA), and the Court will make a decision for you. For more information about how to request a hearing, *see* Form 4A-200(E)(1) NMRA.

The Child Support Obligation and Order includes the following sections:

- (1) ***Identification and contact information.*** This is where you list the names and contact information of the parties and the children who are covered by the form;
  - (2) ***Child support.*** This is where you describe how you will share the expenses of raising your children. This portion of the form refers to these additional documents:
    - (a) ***Child support worksheet.*** To complete Paragraph A of this section, you must complete and attach a child support worksheet to your Child Support Obligation and Order. The worksheet will help you figure out the amount of child support required by law. The worksheet is available at Section 40-4-11.1 NMSA 1978, or you can find an interactive version at [www.nmcourts.com](http://www.nmcourts.com) by clicking on the “Family Law Forms” link and selecting “Child Support Worksheet.” The interactive worksheet will automatically calculate the monthly child support obligation. The amount shown on the child support worksheet will be awarded by the Court. If the parties need to deviate from the amount shown on the child support worksheet, they must request a different amount, explain why that amount is necessary, and the deviation must be approved by the Court; and
    - (b) ***Wage withholding order.*** Under Paragraph D of this section, you must tell the Court how you will begin wage withholding for child support. Payment of child support by wage withholding is mandatory unless otherwise agreed by the parties or ordered by the Court. Wage withholding will not take effect until the parties complete a Wage Withholding Order (Form 4A-304 NMRA) and submit it to the Court for filing, or until the Court signs and files the Child Support Obligation and Order and the parties open a case with the New Mexico Human Services Department, Child Support Enforcement Division (“CSED”). CSED can issue a notice of wage withholding for the parties on full service cases. You may request the Court to order wage withholding by attaching a completed Wage Withholding Order to the Child Support Obligation and Order; and
  - (3) ***Verification.*** This is where you affirm the truth of the statements in the Child Support Obligation and Order and sign it under penalty of perjury.
- E. **Final decree of dissolution of marriage.** When the Court signs and files a Final

Decree of Dissolution of Marriage, you and the other party will be divorced. You may request a Final Decree of Dissolution of Marriage as follows:

(1) **Uncontested.** If you and the other party agree on the terms of your MSA (and Custody Plan and Order and Child Support Obligation and Order, if you have children), you may request a Final Decree of Dissolution of Marriage by doing the following:

- (a) filing your completed MSA (and completed Custody Plan and Order and Child Support Obligation and Order, if you have children) with the Court Clerk's Office; and
- (b) submitting a completed Final Decree of Dissolution of Marriage (Form 4A-305 (without children) or 4A-306 (with children) NMRA) to the judge for approval.

The Court may sign the Final Decree of Dissolution of Marriage without further notice, or it may order you and the other party to appear for a hearing. **WARNING:** Once the Court signs and files the Final Decree of Dissolution of Marriage, your divorce will be final, and the terms of the MSA (and the Custody Plan and Order and Child Support Obligation and Order) will be binding as a court order on both parties. *See* Paragraph A, above;

(2) **Contested.** If you and the other party do not agree on the terms of your MSA (and Custody Plan and Order and Child Support Obligation and Order, if you have children) and you cannot submit completed forms to the Court, you should request a trial in your case by submitting a Request for Hearing (Form 4A-206 NMRA). For more information about how to request a hearing, *see* Form 4A-200(E)(1) NMRA.

The Court will set one or more hearings to resolve the remaining disagreements over the terms of the MSA (and the Custody Plan and Order and Child Support Obligation and Order, if you have children). *You must complete your own proposed MSA (and Custody Plan and Order and Child Support Obligation and Order if you have children) and Final Decree of Dissolution of Marriage (Form 4A-305 (without children) or Form 4A-306 (with children) NMRA) and bring them with you to the hearing.* Once the Court has decided the terms of the MSA (and the Custody Plan and Order and Child Support Obligation and Order if you have children), it will sign and file a Final Decree of Dissolution of Marriage, and you will be divorced from the other party; or

(3) **Default.** If more than thirty (30) days have passed since you filed and served the Petition for Dissolution of Marriage and the other party has not filed an answer or otherwise responded to your petition, you may be able to request a Final Decree of Dissolution of Marriage without the other party's participation. This is called a default judgment. *See* Form 4A-310 NMRA for instructions on how to request a default judgment and Final Decree of Dissolution of Marriage.

[Approved by Supreme Court Order No. 13-8300-010, effective for all pleadings and papers filed on or after May 31, 2013, in all cases pending or filed on or after May 31, 2013; as amended by Supreme Court Order No. 14-8300-011, effective for all pleadings and papers filed on or after December 31, 2014, in all cases filed or pending on or after December 31, 2014.]

**4A-101. Domestic relations information sheet.**

**DOMESTIC RELATIONS INFORMATION SHEET<sup>1</sup>**  
**NOTE TO CLERK: DO NOT FILE THE INFORMATION SHEET**  
*Type or print responses. Required in all domestic relations cases.<sup>2</sup>*  
*(Do not use in domestic violence cases.)*

**A. Petitioner's attorney information. (Complete only if Petitioner has an attorney.)**

Petitioner's name: \_\_\_\_\_  
Attorney's name: \_\_\_\_\_  
Attorney's address: \_\_\_\_\_  
City: \_\_\_\_\_  
State: \_\_\_\_\_  
Zip code: \_\_\_\_\_  
Telephone: \_\_\_\_\_

**B. Information regarding petitioner and respondent. (Do not use an attorney's mailing address. Use a separate sheet if necessary.)**

**Petitioner**

Name: \_\_\_\_\_  
(Last name, first, middle)  
Other names (e.g. maiden name): \_\_\_\_\_

Address: \_\_\_\_\_  
City: \_\_\_\_\_  
State: \_\_\_\_\_  
Zip code: \_\_\_\_\_  
Date of birth: \_\_\_\_\_  
Social Security number<sup>3</sup>: \_\_\_\_\_

**Respondent**

Name: \_\_\_\_\_  
(Last name, first, middle)  
Other names (e.g. maiden name): \_\_\_\_\_

Address: \_\_\_\_\_  
City: \_\_\_\_\_  
State: \_\_\_\_\_  
Zip code: \_\_\_\_\_  
Date of birth: \_\_\_\_\_  
Social Security number<sup>3</sup>: \_\_\_\_\_

**C. Parties' minor children. (Provide the date of birth and social security number for each minor child, if any. Use a separate sheet if necessary.)**

Name: \_\_\_\_\_  
(Last name, first, middle)  
Date of birth: \_\_\_\_\_  
Social Security number: \_\_\_\_\_

Name: \_\_\_\_\_  
(Last name, first, middle)  
Date of birth: \_\_\_\_\_  
Social Security number: \_\_\_\_\_

Name: \_\_\_\_\_  
(Last name, first, middle)  
Date of birth: \_\_\_\_\_  
Social Security number: \_\_\_\_\_

Name: \_\_\_\_\_  
(Last name, first, middle)  
Date of birth: \_\_\_\_\_  
Social Security number: \_\_\_\_\_

**D. Request to limit access to information.**

***(Optional - complete only if applicable)***

[ ] The [petitioner] [respondent] has reason to fear domestic violence or child abuse. For this reason, please limit access to information about the [petitioner] [respondent] in the Child Support & Paternity Case Registry to the extent possible.<sup>4</sup> The [petitioner] [respondent] realizes that this request may make it more difficult to assist in collecting child support. The [petitioner] [respondent] understands that the other party and the public might still view information about this case under some circumstances.

I affirm that this request is legitimately made and not designed to harass or intimidate the other party or mislead the court.

---

Signature of Petitioner

**END OF INFORMATION SHEET**

USE NOTE

1. The Domestic Relations Information Sheet is not required in domestic violence, commitment, guardianship, probate, or adoption actions; or if you are filing a pleading that does not change or add to the first pleading.

In uncontested domestic relations matters, the parties may submit one Information Sheet with the initial pleading, and the documents need not be served.

In all other contested domestic relations cases each attorney representing a petitioner, or the petitioner proceeding pro se, in a contested case must submit the Information Sheet and serve a blank copy of the Information Sheet on the respondent. Respondents must submit the completed Information Sheet with their first responsive pleading.

The information submitted on these forms does not replace or supplement the filing and service of pleadings or other papers required by law. These forms, approved by the Supreme Court of New Mexico, are required to initiate domestic relations cases and are used by the courts for case management.

Forms are available from the court clerks and the NMRA. Electronic copies may be obtained from the Supreme Court's internet site ([www.supremecourt.nm.org](http://www.supremecourt.nm.org)) and New Mexico Law on Disc. If re-keying the form it must appear substantially in the same format as the Supreme Court approved form. Type or print only. If using a word processing system, please print your answers in bold.

2. Unless there are more than four children, the Information Sheet is to be submitted on a single page. The clerk will key-enter the information on the Information Sheet. The Information Sheet will not be filed in the court file.

3. If the party has more than one social security number, please include it. Pursuant to Sections 27-1-10 and 27-1-11 NMSA 1978 and federal law, each party must submit the social security number of each party as well as the name, date of birth and social security number for each minor child. This information will be provided to the State Case Registry and, upon request, to child support enforcement agencies. The parties' addresses and social security



numbers are also used to accurately identify and track court users, obtain feedback from court users on a periodic basis and to issue process in contempt proceedings. Addresses provided on this page will not be made a part of the public record unless that party is or becomes self represented.

4. The Child Support & Paternity Case Registry is a required, nationwide database of child support and paternity orders. Access to registry information is strictly limited to court and child support administrative personnel. Requesting that your registry information be “nondisclosed” does not prevent authorized parties from reviewing the information. Rather, it alerts courts and child support administrative personnel to act with caution when viewing your information. However, be aware that requesting “nondisclosure” of registry information does not limit access to your official district court case file which is a public record. If you are concerned about such access, ask your lawyer, or the court clerk if you do not have a lawyer, about ways in which the court may restrict access to your court file.

[Provisionally approved as 4-211 NMRA, effective November 1, 1999 until November 1, 2000; approved, as amended, effective November 1, 2000; as amended by Supreme Court Order No. 13-8300-010, effective for all pleadings and papers filed on or after May 31, 2013, in all cases pending or filed on or after May 31, 2013; as amended by Supreme Court Order No. 14-8300-011, effective for all cases filed on or after December 31, 2014.]

**4A-103. Petition for dissolution of marriage (with children).**

STATE OF NEW MEXICO  
COUNTY OF \_\_\_\_\_  
SIXTH JUDICIAL DISTRICT COURT

\_\_\_\_\_  
Petitioner,

v. No. D-\_\_\_\_\_-DM-\_\_\_\_\_

\_\_\_\_\_  
Respondent.

**PETITION FOR DISSOLUTION OF MARRIAGE  
(WITH CHILDREN)**

Petitioner, \_\_\_\_\_, asks this Court for a *Final Decree of Dissolution of Marriage*, and states:

1. The parties, or at least one party, is a resident of \_\_\_\_\_ County, State of New Mexico.
2. At least one party has resided in the state of New Mexico for at least six (6) months immediately preceding the filing of this Petition and has domicile in New Mexico as defined by Section 40-4-5 NMSA 1978.
3. The parties were married on \_\_\_\_\_ (date) in \_\_\_\_\_ (city), \_\_\_\_\_ (state), and have remained spouses since that date.
4. A state of incompatibility and irreconcilable differences exists and the parties are not likely to reconcile.
5. The parties have \_\_\_\_\_ child/children:
 

Name	Year of Birth	Age
A. _____	_____	_____
B. _____	_____	_____
C. _____	_____	_____
D. _____	_____	_____
6. Choose only one:  
 \_\_\_\_\_ There are no more children expected.  
 \_\_\_\_\_ The parties are expecting another child/children.
7. The minor child/children have been residents of the state of New Mexico for at least the past six (6) months and jurisdiction to determine custody issues is present in the state of New Mexico. New Mexico is the home state of the child/children.

8. Petitioner's current address is: \_\_\_\_\_  
\_\_\_\_\_.

Respondent's current address is: \_\_\_\_\_  
\_\_\_\_\_.

The current address of each child under the age of eighteen (18) is (*list name and address of each child*):

\_\_\_\_\_  
\_\_\_\_\_.

9. For the last five (5) years, list the names of the persons with whom each child under the age of eighteen (18) named in paragraph 6 above has resided, and the dates at each residence for each child:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_.

10. Petitioner has information about custody proceeding(s) involving the minor child/children either pending or in the past in a court in this state or any other state. (*Choose one*)

\_\_\_\_\_ Yes

\_\_\_\_\_ No

If yes, provide court information:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_.

11. Choose only one:

\_\_\_\_\_ Petitioner has not participated as a party, witness, or in any other capacity in any other litigation concerning the custody of the minor child/children in New Mexico or in any other jurisdiction and/or state.

OR

\_\_\_\_\_ Petitioner has participated as a party, witness, or in some other capacity in other litigation concerning the custody of the minor child/children. List all case names including names of parties, name of court, location of the court, and court case number:

\_\_\_\_\_  
\_\_\_\_\_.

12. Someone other than Respondent and me has physical custody of the minor child/children or claims to have custody or visitation rights with respect to the minor child/children. (*Choose one*)

\_\_\_\_\_ Yes

\_\_\_\_\_ No

If yes, list the name of any such individual(s):

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_.

13. Choose only one:

\_\_\_\_\_ Petitioner and Respondent are fit and proper persons to have joint legal custody of the minor child/children, with the rights and responsibilities identified in Paragraphs F and J of Section 40-4-9.1 NMSA 1978, and subject to a parenting plan that is consistent with the best interests of the child/children.

OR

\_\_\_\_\_ Petitioner is a fit and proper person to have sole legal custody of the child/children and is able to show the Court why sole legal custody is appropriate for the child/children.

14. The parties should be ordered to contribute to the support and maintenance of the parties' child/children pursuant to the New Mexico Child Support Guidelines.
15. Any sole and separate property or debts of the parties should be confirmed by the Court.
16. Any community property of the parties should be equitably divided.
17. Any community debts of the parties should be equitably allocated.
18. CIRCLE ONE: My spouse [is] [is not] a member of the military.
19. OPTIONAL (*Cross out if this does not apply to you*): Petitioner is in need of spousal support (alimony) to be paid to him/her by Respondent.
20. OPTIONAL (*Cross out if this does not apply to you*): Petitioner wishes to be restored to his/her former name, \_\_\_\_\_.

Petitioner asks that the Court:

A. Enter a *Final Decree of Dissolution of Marriage* on the grounds of incompatibility;

B. (*Choose only one*)

\_\_\_\_\_ Award joint legal custody of the child/children and adopt a parenting plan in the child/children's best interests;

OR

\_\_\_\_\_ Award sole legal custody of the child/children to Petitioner/Respondent (*circle one*), with visitation for the other parent that is consistent with the best interests of the child/children;

- C. Order the parties to contribute to the support and maintenance of the parties' minor child/children pursuant to the New Mexico Child Support Guidelines;
- D. Confirm the separate property and separate debts of the parties;
- E. Equitably divide the community property and community debt of the parties;
- F. Order the Respondent to pay spousal support (*cross out if this does not apply*);
- G. Order that Petitioner's name be restored to his/her former name of \_\_\_\_\_ (*cross out if this does not apply*); and
- H. Provide for such other and further relief as the Court may deem just and proper.

Submitted by:

\_\_\_\_\_  
Name

\_\_\_\_\_  
Street/mailing address

\_\_\_\_\_  
City, State, Zip

\_\_\_\_\_  
Telephone number

### VERIFICATION

I, \_\_\_\_\_, affirm under penalty of perjury under the laws of the State of New Mexico that I am the Petitioner in the above-entitled cause, and I know and understand that the contents contained in the above Petition are true to the best of my knowledge and belief. I have read and understand the Temporary Domestic Order as described in Rule 1-121 NMRA. I understand that upon the filing of this Petition with the Court that I am bound by the contents of the Temporary Domestic Order.

\_\_\_\_\_  
Signature of Petitioner

\_\_\_\_\_  
Date

[Approved by Supreme Court Order No. 13-8300-010, effective for all pleadings and papers filed on or after May 31, 2013, in all cases pending or filed on or after May 31, 2013; as amended by Supreme Court Order No. 14-8300-011, effective for all pleadings and papers filed on or after December 31, 2014, in all cases filed or pending on or after December 31, 2014.]

**4A-104. Response.**

STATE OF NEW MEXICO  
COUNTY OF \_\_\_\_\_  
SIXTH JUDICIAL DISTRICT COURT

\_\_\_\_\_,  
Petitioner,

v.

No. D-\_\_\_\_-DM-\_\_\_\_\_

\_\_\_\_\_,  
Respondent.

**RESPONSE**

Respondent, \_\_\_\_\_, responds to the Petition for Dissolution of Marriage, and states:

1. I admit (agree with) the statements in the following paragraphs (*list the paragraph numbers below*) of the Petition:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

2. I deny (disagree with) the statements in the following paragraphs (*list the paragraph numbers below*) of the Petition:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

3. I also want a divorce and the legal remedies to which I am entitled.

4. OPTIONAL (*Cross out if this does not apply to you*): I want my name to be restored to my former name, \_\_\_\_\_.

Respondent asks that the Court:

- A. Enter a *Final Decree of Dissolution of Marriage* on the grounds of incompatibility;
- B. Confirm any separate property and separate debt of the parties;

- C. Equitably divide any community property and community debt of the parties;
- D. Enter an order for spousal support, as appropriate;
- E. Provide for the custody, support, and maintenance of the child/children. *(cross out if this does not apply)*;
- F. Order that my name be restored to my former name of \_\_\_\_\_ *(cross out if this does not apply)*; and
- G. Provide for such other and further relief as the Court may deem just and proper.

Submitted by:

\_\_\_\_\_  
Name

\_\_\_\_\_  
Mailing address

\_\_\_\_\_  
City, State, Zip

\_\_\_\_\_  
Physical Address *(this must be provided unless address is sealed by court order)*

\_\_\_\_\_  
City, State, Zip

\_\_\_\_\_  
Telephone number

### VERIFICATION OF SERVICE

I affirm under penalty of perjury under the laws of the State of New Mexico that on \_\_\_\_\_ *(date)*, I *(check the applicable item below and fill in all information)*

mailed a copy of this response by United States mail, postage prepaid, to:

Name: \_\_\_\_\_

Mailing address: \_\_\_\_\_

City, state, and zip code: \_\_\_\_\_;

delivered a copy of this response to \_\_\_\_\_ *(the other party or the other party's attorney)*; or

faxed a copy of this response to \_\_\_\_\_ *(the other party or the other party's attorney)* using the following fax number: \_\_\_\_\_. The transmission was reported as complete and without error. The time and date of the

transmission was \_\_\_\_\_ (a.m) (p.m) on \_\_\_\_\_ (*date*).

\_\_\_\_\_  
Signature of person who made service

\_\_\_\_\_  
Date of signature

[Approved by Supreme Court Order No. 13-8300-010, effective for all pleadings and papers filed on or after May 31, 2013, in all cases pending or filed on or after May 31, 2013; as amended by Supreme Court Order No. 14-8300-011, effective for all pleadings and papers filed on or after December 31, 2014, in all cases filed or pending on or after December 31, 2014.]



**4-206. Summons.**

[For use with District Court Civil Rule 1-004 NMRA]

<b>SUMMONS</b>	
District Court: Sixth Judicial _____ County, New Mexico Court Address: _____ Court Telephone No.: (575) _____	Case Number: _____  Judge: _____
Petitioner: _____ v. Respondent: _____	Respondent Name: _____ Address: _____ _____ _____

**TO THE ABOVE NAMED Respondent(S):** Take notice that

1. A lawsuit has been filed against you. A copy of the lawsuit is attached. The Court issued this Summons.

2. You must respond to this lawsuit in writing. You must file your written response with the Court no later than thirty (30) days from the date you are served with this Summons. (The date you are considered served with the Summons is determined by Rule 1-004 NMRA) The Court's address is listed above.

3. You must file (in person or by mail) your written response with the Court. When you file your response, you must give or mail a copy to the person who signed the lawsuit.

4. If you do not respond in writing, the Court may enter judgment against you as requested in the lawsuit.

5. You are entitled to a jury trial in most types of lawsuits. To ask for a jury trial, you must request one in writing and pay a jury fee.

6. If you need an interpreter, you must ask for one in writing.

7. You may wish to consult a lawyer. You may contact the State Bar of New Mexico for help finding a lawyer at [www.nmbar.org](http://www.nmbar.org); 1-800-876-6227; or 1-505-797-6066.

Dated at \_\_\_\_\_, New Mexico, this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
CLERK OF COURT

By: \_\_\_\_\_  
Deputy

\_\_\_\_\_  
Attorney for Petitioner or Petitioner pro se  
Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
Telephone No.: \_\_\_\_\_  
Fax No.: \_\_\_\_\_  
Email Address: \_\_\_\_\_

THIS SUMMONS IS ISSUED PURSUANT TO RULE 1-004 NMRA OF THE NEW MEXICO RULES OF CIVIL PROCEDURE FOR DISTRICT COURTS.



Fees: \_\_\_\_\_

\_\_\_\_\_  
Signature of person making service

\_\_\_\_\_  
Title (*if any*)

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.<sup>2</sup>

\_\_\_\_\_  
Judge, notary or other officer  
authorized to administer oaths

\_\_\_\_\_  
Official title

#### USE NOTE

1. Unless otherwise ordered by the court, this return is not to be filed with the court prior to service of the summons and petition on the respondent.
2. If service is made by the sheriff or a deputy sheriff of a New Mexico county, the signature of the sheriff or deputy sheriff need not be notarized.

[Adopted effective August 1, 1988; as amended by Supreme Court Order 05-8300-01, effective March 1, 2005; by Supreme Court Order 07-8300-16, effective August 1, 2007; by Supreme Court Order No. 12-8300-026, effective for all cases filed or pending on or after January 7, 2013; as amended by Supreme Court Order No. 13-8300-022, effective for all cases pending or filed on or after December 31, 2013; as amended by Supreme Court Order No. 14-8300-017, effective for all cases pending or filed on or after December 31, 2014.]

**4A-201. Temporary domestic order.**

[For use with Rule 1-121 NMRA]

STATE OF NEW MEXICO  
COUNTY OF \_\_\_\_\_  
SIXTH JUDICIAL DISTRICT

\_\_\_\_\_,  
Petitioner,

v.

No. D-\_\_\_\_-DM-\_\_\_\_\_

\_\_\_\_\_,  
Respondent.

**TEMPORARY DOMESTIC ORDER<sup>1</sup>**

This order is issued pursuant to Rule 1-121 NMRA. This is not an order of protection under federal or state law. It is otherwise fully enforceable. It applies to both parties. This order will continue in effect until modified. The procedure for modification of this order is described below.

**THE COURT ORDERS THE PARTIES AS FOLLOWS:**

(1) **Do not** injure or physically or mentally abuse, molest, intimidate, threaten or harass the other party or any child of either party.

(2) **Do not** interfere with the relationship of your spouse with any child of either party. If you are living apart, you shall each continue to have frequent contact and communication with any minor child of both parties, personally and by telephone. A party shall notify the other party of any change of address or telephone number within twenty-four (24) hours of the change.

(3) **Do not** change a child’s school, religion, child care, doctor, dentist, physical or mental treatment or recreational activities in which the child has been participating.

(4) **Do not** remove, cause or permit the removal of any minor child of both parties from the State of New Mexico without court order or written consent of the other party.

(5) **Do not** make the other party leave the family home, whether it be community or separate property, without court order. You should attempt to resolve the question of who leaves the home in a fair manner. If you cannot agree, you must ask the court to decide.

(a) Whoever moves from the family home may return to pick up personal belongings at a reasonable time as you may agree. Personal belongings do not include furniture unless you agree or the court permits. If an order prohibiting domestic violence has been entered, you must arrange to have a law enforcement officer present to monitor the removal of personal belongings. The party moving out of the residence is not prejudiced by reason of the

move in any way with respect to custody of any minor child, with respect to a claim of any interest in the family residence or the personal property in or on the premises.

(b) Whoever leaves the family residence shall notify the other party, within twenty-four (24) hours of an address where the vacating party can receive mail.

(c) At a reasonable time, you are entitled to examine the contents of the marital residence and to have access to all properties owned by either of you, for inspection, valuation or appraisal. If you ask, the other party must provide access to the home within fifteen (15) days after the date of the request.

(6) **Do not** incur unreasonable or unnecessary debts. Any debt that does not contribute to the benefit of both spouses or the minor children of the parties which is incurred after you have separated, may be the separate debt of the party who incurs the debt.

(7) **Do not** sell, remove, transfer, dispose of, hide, encumber or damage any property, real or personal, community or separate, except in the usual course of business or for the necessities of life. Keep an accounting of any transactions to show to the court.

(8) **Do not** drop or cancel any insurance policy, including automobile or other vehicle insurance, household insurance, medical or dental insurance or life insurance.

(9) **Do not** terminate or change the beneficiaries of any existing life insurance policy.

(10) **Do not** close any financial institution account<sup>2</sup> or cancel any credit cards nor remove the other party from any credit card account during pendency of this case, unless the parties otherwise agree in writing.

(11) **Do not** liquidate, cash out, remove funds from or take loans against any retirement account, including but not limited to PERA, pension, IRA, Roth IRA, SARSEP, SEP, profit sharing, 401(k), 403(b), defined benefit, money purchase, employee stock ownership (ESOP), or 457 or 409A accounts, unless the parties otherwise agree in writing, except in the usual course of business or for the necessities of life. Keep an accounting of any transactions to show to the court.

### **MODIFICATION BY COURT<sup>3</sup>**

This order may be modified by the court upon request of either party. To request the court to modify this order, a motion must be filed with the clerk of the court. The motion must include reference to each paragraph number the party is requesting to be modified or terminated. The party making the request must provide the other party with a copy of the motion requesting the change. If the other party agrees with the request, an order approving the request, which has been initialed by both parties as “approved,” shall be filed with the motion.

### **WAIVER BY PARTIES**

The parties may modify a specific provision of this order by entering into a written agreement and filing it with the court. The parties may also waive a provision of this order on a specific occasion if both parties sign an agreement to waive the provision. A waiver must include the paragraph number of each paragraph waived by the parties.

### **OTHER ORDERS**

If an order of protection from a domestic violence case has been served on either party or if there is any other order in effect governing the relationship of the parties, and there is a

conflict between this order and the other order, the other order controls unless the court specifically orders otherwise.

## VIOLATIONS

Violation of this court order may result in the imposition of a fine or imprisonment. This order is binding on the petitioner at the time the petition is filed. This order is effective on the respondent immediately upon service. The parties are cautioned that actions taken by either party that are contrary to the terms of this order are subject to redress by the court, including costs and attorney fees.

\_\_\_\_\_  
Date

\_\_\_\_\_  
District Judge

## USE NOTE

1. A scheduling order may be issued at the time a domestic relations case is docketed and served with the petition, however, the scheduling order must be issued as a separate order.
2. See NMSA 1978, Section 58-1-7 for notice to any bank of an adverse claim to a bank account.
3. Within two (2) days after service of this order, a party may file a motion requesting a hearing to dissolve this order. If the court finds the motion was frivolous or was not filed in good faith it may assess the party filing the motion with costs and attorney fees. [Approved, effective November 1, 2000 until November 1, 2001; approved, effective November 1, 2002; 4A-112 recompiled and amended as 4A-201 by Supreme Court Order No. 13-8300-010, effective for all pleadings and papers filed on or after May 31, 2013, in all cases pending or filed on or after May 31, 2013; as amended by Supreme Court Order No. 17-8300-017, effective for all pleadings and papers filed on or after December 31, 2017.]

**Committee commentary.** — This form deviates from the forms used by some judicial districts, however, the changes are necessary to comply with due process requirements. See Rules 1-121 and 1-066(B) NMRA.

STATE OF NEW MEXICO  
COUNTY OF \_\_\_\_\_  
SIXTH JUDICIAL DISTRICT COURT

\_\_\_\_\_,  
Petitioner,

vs.

Case Number: D- \_\_\_\_\_ -DM- \_\_\_\_\_

\_\_\_\_\_,  
Respondent.

**ORDER FOR SHARED PARENTING EDUCATION**

**THIS MATTER** coming on sua sponte and the Court having determined that the issues involved in this cause include custody and visitation of minor child(ren) parented by the parties; the Court being further advised that there is available a one-time shared parenting class to inform and educate the parties on making appropriate decisions relative to the welfare of their child(ren).

**IT IS ORDERED** that the parties attend a court approved one-time shared parenting class. You must attend this class separately from your partner. This class may be attended at one of the following locations:

Reymundo A. Molina, Ph.D.  
122 S. Gold St.  
Suites 5&6  
Deming, NM 88030  
(575) 544-1849  
(Spanish available)

Online Parenting Programs.com  
<https://6thnm.onlineparentingprograms.com/>  
(The 4-hour online course is available to parties  
in all cases filed in Grant, Hidalgo or Luna County, NM)  
(Spanish available)

Kids in Need of Supportive Services  
22 Kirkland Road  
Arenas Valley, NM 88022  
(575) 388-2414  
(Spanish available)

Foundations Counseling  
805 W. 6<sup>th</sup> St.  
Silver City, NM 88061  
(575) 590-1072

Attendance must be completed within 45 days of the date of this order. **The court approved program does not take personal checks; payment must be made by cash, money order, credit card or other method accepted by the provider.** Verification of attendance must be submitted to the Court prior to the entry of a final order.

\_\_\_\_\_  
DISTRICT JUDGE

**4A-301. Marital settlement agreement.**

STATE OF NEW MEXICO  
COUNTY OF \_\_\_\_\_  
SIXTH JUDICIAL DISTRICT

\_\_\_\_\_,  
Petitioner,

v. No. D- \_\_\_\_\_ -DM- \_\_\_\_\_

\_\_\_\_\_,  
Respondent.

**MARITAL SETTLEMENT AGREEMENT<sup>1</sup>**

\_\_\_\_\_ (*Petitioner's name*) and \_\_\_\_\_  
(*Respondent's name*) are married and agree to follow this agreement beginning on the day we both sign it. We understand that the judge may make changes to this agreement and that we must comply with any changes made.

**I. PROPERTY WE ARE DIVIDING<sup>2</sup>**

**A. Personal property** (*such as clothing, furniture, jewelry, or artwork*). We have agreed how we will divide our property. We have attached a Personal Property List (Attachment A) showing all our property and which of us will receive that property.

(*Choose 1 or 2*)

1. Each of us already has possession of all the personal property we each expect to receive.

(*Or*)

2. We will make sure we each have our own property by \_\_\_\_\_ (*date*).

**B. Real Property** (*such as a home, mobile home, condominium, lot, or commercial building*).<sup>3</sup>

(*Choose all that apply*)

1. Neither of us has real property.

2. We have a marital home, which is located at \_\_\_\_\_  
\_\_\_\_\_ (*street address*), and we agree to do the following:



(Complete the correct section: a. Keep the home; b. Sell the home; or c. Other plan.)

a. **Keep the home.** We agree to the following:

(Choose i or ii)

i. Petitioner shall keep the home and be responsible for all debts related to the home.

(Or)

ii. Respondent shall keep the home and be responsible for all debts related to the home.

The person who keeps the home is called the “homeowner.” The other person is called the “moving spouse.”

We further agree to the following:

(Choose all that apply)

iii. The amount owed to the moving spouse to buy out that person’s interest is \$ \_\_\_\_\_, which is included in the calculation of the Cash Payment, Section III, below.

iv. The homeowner will apply to refinance the debt owed on the home no later than \_\_\_\_\_ (date).

v. This is our plan for the homeowner to buy out the moving spouse’s interest in the home or to get the moving spouse off of the loan papers:<sup>4</sup>

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

b. **Sell the home.** We are going to sell the home and divide the money from the sale as follows:

\_\_\_\_\_  
\_\_\_\_\_.

While the home is being sold,  Petitioner (or)  Respondent (*choose one*) will stay in the home.

Until the home sells, we will pay expenses, including mortgage, taxes and insurance, utility bills, and repairs for the home as follows (*describe who is to pay and how much each person will pay*):

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_.

We both will cooperate with the showing of the home and the sale of the home, including signing all paperwork needed in order to sell it and transfer title. Both of us will preserve the home in a reasonable way including the following things:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_.

c. **Other plan.** We have attached a separate sheet with our plan regarding the home.

3. One or both of us has other real property as set forth in the attached Real Property List (Attachment B), and we have agreed to divide that property as set forth in the attachment. If one party owes the other money for the division of the other real property, that amount should be included in the calculation of the Cash Payment, Section III, below.

**C. Bank and investment accounts** (*such as checking accounts, savings accounts, stocks, bonds, certificates of deposit, mutual funds, or life insurance policies with cash value*).

(Choose 1 or 2)

1. We do not have any bank or investment accounts.

(Or)

2. We have the following bank or investment accounts and will divide them as follows:

Petitioner will have the following bank or investment accounts:

Name of institution	Last four (4) digits of account number
_____	_____
_____	_____
_____	_____

Respondent will have the following bank or investment accounts:

Name of institution	Last four (4) digits of account number
_____	_____
_____	_____
_____	_____

**D. Retirement Plans** (such as IRAs, retirement accounts, pension plans, or 401(k) plans).<sup>5</sup>

(Choose 1 or 2)

1. Neither of us has a retirement plan.

(Or)

2. We will be dividing our retirement plan(s) as follows:

Petitioner has the following retirement plan(s):	<i>(Circle one to show whether Petitioner will KEEP the entire plan, DIVIDE the plan with Respondent, or TRANSFER the</i>	If plan will be DIVIDED, the amount or % to be given to
	[KEEP] [DIVIDE] [TRANSFER]	
	[KEEP] [DIVIDE] [TRANSFER]	
	[KEEP] [DIVIDE] [TRANSFER]	

Respondent has the following retirement plan(s):	<i>(Circle one to show whether Respondent will KEEP the entire plan, DIVIDE the plan with Petitioner, or TRANSFER the</i>	If plan will be DIVIDED, the amount or % to be given to
	[KEEP] [DIVIDE] [TRANSFER]	
	[KEEP] [DIVIDE] [TRANSFER]	
	[KEEP] [DIVIDE] [TRANSFER]	

(Check and complete if retirement plan(s) will be divided)

For the following retirement plans that will be divided, Petitioner shall prepare a Qualified Domestic Relations Order (“QDRO”), obtain the signature of the other party, and submit the QDRO to the Court by \_\_\_\_\_ (date).<sup>6</sup> (List the plans)

\_\_\_\_\_  
\_\_\_\_\_

For the following retirement plans that will be divided, Respondent shall prepare a Qualified Domestic Relations Order (“QDRO”), obtain the signature of the other party, and submit the QDRO to the Court by \_\_\_\_\_ (date).<sup>6</sup> (List the plans)

\_\_\_\_\_  
\_\_\_\_\_

**E. Vehicles** (such as cars, trucks, motorcycles, recreational vehicles, boats, tractors, or trailers).<sup>7</sup>

(Choose 1 or 2)

1. We do not have any vehicles.

(Or)

2. We have vehicles and are dividing them as follows:

Petitioner will keep the following vehicles and assume any debt relating to each vehicle (provide the make, model, and year of each vehicle and list the vehicle identification number):

<b>Vehicle description</b>	<b>Vehicle Identification No.</b>
_____	_____
_____	_____
_____	_____

Respondent will keep the following vehicles and assume any debt relating to each vehicle (provide the make, model, and year of each vehicle and list the vehicle identification number):

<b>Vehicle description</b>	<b>Vehicle Identification No.</b>
_____	_____
_____	_____
_____	_____

Each person listed above as keeping the vehicles will pay for the costs of the vehicles, including insurance. The parties will transfer title by the following date:

\_\_\_\_\_ (date).

(Or)

when the vehicle is paid off.

**F. Other property** (*such as business interests, patents, trademarks, copyrights, royalties, manuscripts, or any other property*).

(Choose 1 or 2)

1. Neither party has any other property.

(Or)

2. One or both parties has the other property listed below, and we have agreed to divide it as follows:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_.

**II. DEBTS WE ARE DIVIDING<sup>8</sup>**

**A. Debt.** We attach a Debt List (Attachment C) which lists all of our debts, including mortgages, vehicle payments, taxes, credit cards, student loans, medical debts, judgments, and any other debts we may have. Any debt not listed is the responsibility of the person who created it. Each of us will pay debts we created prior to our marriage, unless we state differently here. Unless we state differently here, a person who takes property (such as a house or car) with a debt associated with it, will take the debt.

(Choose all that apply)

We have no debt from our marriage.

We will pay our debts as listed on Attachment C.

The amount owed from \_\_\_\_\_ to \_\_\_\_\_ for the division of the debts is \$\_\_\_\_\_, which is included in the calculation of the Cash Payment, Section III, below.

**B. Credit cards and charge cards.** Each of us will turn in and cancel all joint credit cards, or we will have the credit card company take the other person's name off of the account.

**C. Taxes.** We will share information necessary to correctly file our income tax returns. We will get the help we need to file our taxes.

**D. Problem with tax returns.** If any of our returns that we filed together are audited or contested, we will meet to decide what to do. If we cannot decide who pays the taxes owed or who gets any refund, we will ask a judge to decide at the time the problem comes up.

**E. Legal promise.** We understand that if either of us fails to pay the debts we have promised to pay, the other party may end up making that payment. If that happens, the party who

should have paid promises to repay the other party, including any other extra costs caused by the failure to pay, such as attorney fees, late fees, and interest charged by the creditor.

### III. CASH PAYMENT

*(If the parties have agreed that one party should pay money to the other in any of the preceding sections, those amounts should be included in this section.)*

In order to settle the division of property and debts, we agree that \_\_\_\_\_ (name) shall pay \_\_\_\_\_ (name) the amount of \$ \_\_\_\_\_ no later than \_\_\_\_\_ (date). We agree that judgment shall enter in this amount for \_\_\_\_\_ (name). The statutory interest rate shall apply as provided in Section 56-8-4(A) NMSA 1978.

### IV. SPOUSAL SUPPORT<sup>9</sup>

A. We agree to spousal support as follows:

*(Choose 1 or 2)*

1. **No spousal support.** Each of us can support ourselves and neither will pay spousal support to the other.

*(Or)*

2. **Spousal support.**  Petitioner *(or)*  Respondent *(choose one)* will pay spousal support to the other spouse.

a. Spousal support will be paid as follows:

*(Choose i, ii, or iii)*

i. \$ \_\_\_\_\_ per month on the \_\_\_\_\_ (date) of each month for \_\_\_\_\_ (period of time), which is not modifiable.

*(Or)*

ii. \$ \_\_\_\_\_ per month on the \_\_\_\_\_ (date) of each month until modified by the court.

iii. This is our other plan:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

b. For tax purposes, we will treat spousal support as follows:

*(Choose i or ii)*

- i. The person paying spousal support will deduct the payments on [his] [her] income tax return. The person receiving support will show the support as income on [his] [her] income tax return. Spousal support will end if the person to receive the support dies.

*(Or)*

- ii. The person paying spousal support will not deduct the payments on [his] [her] income tax return. The person receiving spousal support will not include the payment as income on [his] [her] income tax return.

## **V. OTHER STATEMENTS BY PARTIES**

**A. Documents.** We will each sign the documents we need to divide the property and debts, and each will deliver to the other party all documents related to property and debt awarded to the other.

**B. Future issues.**<sup>10</sup>

1. Either of us may ask the judge for help if
  - a. one of us does not do what we said in this agreement; or
  - b. we cannot agree on what this agreement says.

We understand that the judge may make one party pay costs such as attorney fees.

2. If we forgot or failed to list any property or debt, we will seek the help we need to divide that property or debt.<sup>11</sup>

**C. Final agreement.** This is the final and entire agreement of the parties. Neither party is relying on other promises or statements that are not specifically included in this document.

## **VERIFICATION**

I affirm under oath and penalty of perjury under the laws of the State of New Mexico the following:

I have read this agreement and agree with everything in it; I have read the warnings and cautions listed in this agreement;

I have disclosed all assets and debts known to me, and I understand that the other party is relying on my disclosures;

I have gotten the help I needed before signing this agreement; and this document and the statements in it are true and correct to the best of my knowledge and belief.

I understand that I can be punished both civilly and criminally if any information in this agreement is false.

\_\_\_\_\_  
Petitioner's signature

\_\_\_\_\_  
Respondent's signature

Date: \_\_\_\_\_

Date: \_\_\_\_\_

Mailing address: \_\_\_\_\_

Mailing address: \_\_\_\_\_

\_\_\_\_\_  
Telephone: \_\_\_\_\_

\_\_\_\_\_  
Telephone: \_\_\_\_\_

STATE OF NEW MEXICO )  
COUNTY OF \_\_\_\_\_ ) ss.

Acknowledged, signed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_  
by \_\_\_\_\_, the petitioner.

\_\_\_\_\_  
Notary public

My commission expires: \_\_\_\_\_.

STATE OF NEW MEXICO )  
COUNTY OF \_\_\_\_\_ ) ss.

Acknowledged, signed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_  
by \_\_\_\_\_, the respondent.

\_\_\_\_\_  
Notary public

My commission expires: \_\_\_\_\_.





We agree to do the following with the property after the divorce:

*(Choose all that apply)*

\_\_\_\_\_ Petitioner will keep the property;

\_\_\_\_\_ Respondent will keep the property;

\_\_\_\_\_ [ ] Petitioner [ ] Respondent shall pay the other party \$\_\_\_\_\_.

\_\_\_\_\_ The property will be sold and the proceeds divided as follows:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_ Other plan:

\_\_\_\_\_

\_\_\_\_\_

2. Address/Description of property: \_\_\_\_\_

We agree to do the following with the property after the divorce:

*(Choose all that apply)*

\_\_\_\_\_ Petitioner will keep the property;

\_\_\_\_\_ Respondent will keep the property;

\_\_\_\_\_ [ ] Petitioner [ ] Respondent shall pay the other party \$\_\_\_\_\_.

\_\_\_\_\_ The property will be sold and the proceeds divided as follows:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_ Other plan:

\_\_\_\_\_

\_\_\_\_\_

**ATTACHMENT C: DEBT LIST**

*(Attach additional pages if needed)*

*(NOTE: This document is a public document. DO NOT list the full account number for any credit card or other loan information that you would not want to make public.)*

*We understand that this agreement may not bind creditors.*



6. CAUTION: You may want to consult an attorney about your retirement, pension, deferred compensation, 401k plans, and/or benefits. If you do not see an attorney regarding these assets, you risk losing any interest you have in these plans and/or benefits. There are certain documents the plan administrator must have. An attorney can help you prepare these documents.

7. To transfer vehicles or a mobile home, contact the Motor Vehicle Division.

8. This agreement may not affect the rights of creditors even when approved by the Court as part of the final decree. The creditor may expect payment from you no matter who agrees to pay the debt in this agreement. See an attorney if you have questions about separate and community debts and separate and community property.

9. There can be serious consequences resulting from spousal support awards. If your agreement includes spousal support, you should consult with an attorney.

10. Consult with an attorney if problems arise later.

11. To divide property or debts left out of this agreement, *see* Section 40-4-20(A) NMSA 1978.

[Approved by Supreme Court Order No. 13-8300-010, effective for all pleadings and papers filed on or after May 31, 2013, in all cases pending or filed on or after May 31, 2013; as amended by Supreme Court Order No. 14-8300-011, effective for all pleadings and papers filed on or after December 31, 2014, in all cases filed or pending on or after December 31, 2014; as amended by Supreme Court Order No. 15-8300-024, effective for all pleadings and papers filed after November 18, 2015.]

**4A-302. Custody plan and order.**

STATE OF NEW MEXICO  
COUNTY OF \_\_\_\_\_  
SIXTH JUDICIAL DISTRICT

\_\_\_\_\_,  
Petitioner,

v. \_\_\_\_\_ No. D-\_\_\_\_-DM- \_\_\_\_\_

\_\_\_\_\_,  
Respondent.

**CUSTODY PLAN AND ORDER<sup>1</sup>**

\_\_\_\_\_ and \_\_\_\_\_ are the parents of the children listed below. This document is the custody plan and is in the best interests of the children.

**I. IDENTIFICATION AND CONTACT INFORMATION**

<b>Parent-s name</b>	<b>Physical address and phone number</b>	<b>Place of employment and phone number</b>
_____	_____	_____
	_____	_____
	_____	_____
_____	_____	_____
	_____	_____
	_____	_____

  

<b>Child-s name</b>	<b>Year of birth</b>	<b>Age</b>
_____	_____	_____
_____	_____	_____
_____	_____	_____

[ ] The parties shall advise each other of any change to this contact information within ten (10) days of new information becoming available.

**II. CUSTODY OF THE CHILDREN<sup>2</sup>**

*(Choose either Option A, Sole legal custody, or Option B, Joint legal custody)*

A. **Sole legal custody and visitation plan.** *(Do not fill out Option B if you choose this option)*

*(Complete 1, 2, and 3)*

1. \_\_\_\_\_ *(name of parent with sole custody)* shall have sole legal custody of the children. The parent with sole custody shall make the important decisions regarding the children.

2. The reason that sole custody is in the best interest of the children is because: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

3. This is the visitation plan:

*(Choose a, b, or c)*

a. There shall be **no visitation** until further order of the Court.

*(Or)*

b. \_\_\_\_\_ *(name of other parent)* shall have **unsupervised visitation** with the children as follows: *(Fully describe visitation plan to include who shall transport the children and where and when the visitation shall occur. Attach additional sheets if necessary.)* \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

*(Or)*

c. \_\_\_\_\_ *(name of other parent)* shall have **supervised visitation** with the children as follows: *(Fully describe visitation plan to include who shall supervise the visitation, who shall transport the children and where and when the visitation shall occur. Attach additional sheets if necessary.)* \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

[ ] B. **Joint legal custody and parenting plan.** (*Do not fill out Option A if you choose this option*)

1. **Important decisions.** The parents shall share joint legal custody of the children and shall make important decisions about the children together. No change regarding any of the following shall happen unless the parents both agree to the change in writing or the court changes it:

- a. City and county of residence: \_\_\_\_\_
- b. Religion: \_\_\_\_\_
- c. Activities: \_\_\_\_\_

	<b>Name</b>	<b>Address and telephone</b>
d. Doctor	_____	_____ _____
e. Dentist	_____	_____ _____
f. School	_____	_____ _____
g. Child care	_____	_____ _____
h. Other	_____	_____ _____

2. **Solving arguments.** The parents shall resolve any parenting or time-sharing dispute regarding the children in this way (*steps continue until problem solved*):

- a. Talk together; or
- b. Communicate in writing as follows:
  - i. parent requests change, and gives reasons for the change; and
  - ii. answering parent sends response within \_\_\_\_\_ days.

If the answering parent does not agree to the change, that parent must say why, and, if possible, make a new proposal.

- c. Take the following steps:  
(*check all that apply and number them if there is a particular order*)

- \_\_\_\_ Go to couple, family, or other counseling;
- \_\_\_\_ Go to mediation with a neutral party;
- \_\_\_\_ Other: \_\_\_\_\_;
- \_\_\_\_ Go to court.

3. **Timesharing schedule.**

(Complete ASchedule 1@or ASchedule 2@below.)

**Schedule 1. Same schedule each week or every two weeks.**

(Set out the time that each parent shall have the children for that day.)

<b>Week 1</b>	_____ <b>≈ time</b>	_____ <b>≈ time</b>
	<i>(name of parent)</i>	<i>(name of parent)</i>
Monday	_____	_____
Tuesday	_____	_____
Wednesday	_____	_____
Thursday	_____	_____
Friday	_____	_____
Saturday	_____	_____
Sunday	_____	_____

<b>Week 2</b>	_____ <b>≈ time</b>	_____ <b>≈ time</b>
	<i>(name of parent)</i>	<i>(name of parent)</i>
Monday	_____	_____
Tuesday	_____	_____
Wednesday	_____	_____
Thursday	_____	_____
Friday	_____	_____
Saturday	_____	_____
Sunday	_____	_____

**Schedule 2. Write your own schedule.** (Write your own schedule here or attach a separate sheet or calendar or make additions to Schedule 1.)

\_\_\_\_\_

\_\_\_\_\_



\_\_\_\_\_  
\_\_\_\_\_.

4. ***Vacation and holiday plan.***

- a. **Vacations.** The parents shall each have \_\_\_\_ [days] [weeks] (*circle one*) of uninterrupted time with the children each year. Each parent shall give the other parent at least \_\_\_\_ [days] [weeks] (*circle one*) notice of the vacation time.
- b. **Holidays.** Regardless of the day of the week, the children shall spend holidays as follows: (*Insert name of parent who will have the children on each holiday*)

<b>Holidays:</b>	<b>Even year</b>	<b>Odd year</b>	<b>Times (if split)</b>
Mother's Day	_____	_____	From _____ To _____
Father's Day	_____	_____	From _____ To _____
Child's Birthday	_____	_____	From _____ To _____
Halloween	_____	_____	From _____ To _____
Thanksgiving break	_____	_____	From _____ To _____
Winter religious holidays	_____	_____	From _____ To _____
1st 1/2 winter break	_____	_____	From _____ To _____
2nd 1/2 winter break	_____	_____	From _____ To _____
Spring Break	_____	_____	From _____ To _____
July 4th	_____	_____	From _____ To _____
Other religious holidays	_____	_____	From _____ To _____
Others:	_____	_____	From _____ To _____

The Monday of a 3-day weekend due to a school, federal, or state holiday is the same as the Sunday schedule unless we agree differently.

5. **Details about the timesharing.**

a. **Communication.** Each parent may have reasonable communication with the children at all times. Neither parent shall unreasonably interfere with the children's communications with the other parent.

b. **Transfer of children.** Responsibility for transferring the children from one parent to the other shall be as follows (*write what you will do here*):

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c. **Long-distance transfer of children.** Responsibility for transferring the children from one parent to the other in long-distance arrangements shall be as follows (*write down what you will do here*):

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d. **Emergencies.** If there is a medical emergency, the parent with the children shall try to call the other parent about the emergency. If the other parent cannot be reached, any decision for emergency medical treatment shall be made by the available parent in the best interest of the children.

e. **Changes.** Each parent may ask the other for changes to this schedule. The other parent has the right to say *no*. If the other parent says *no*, the parent asking for changes shall not argue or criticize the other parent's decision.

f. **Review of plan.** The parents agree to meet  every year (*or*)  every \_\_\_\_\_ years to make sure this plan continues to work well.

**VERIFICATION**

I affirm under oath and penalty of perjury under the laws of the State of New Mexico that I have read this document, that I agree with everything in it, and that the statements in it are true and correct to the best of my knowledge and belief.

Name of parent ( <i>print</i> )	Name of parent ( <i>print</i> )
Parent's signature	Parent's signature
Date	Date
Mailing address	Mailing address
Physical address	Physical address
Telephone	Telephone

STATE OF NEW MEXICO            )  
COUNTY OF \_\_\_\_\_        ) ss

Acknowledged, signed and sworn to before me this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_ by \_\_\_\_\_, the parent.

\_\_\_\_\_  
Notary public

My commission expires: \_\_\_\_\_.

STATE OF NEW MEXICO            )  
COUNTY OF \_\_\_\_\_        ) ss

Acknowledged, signed and sworn to before me this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_ by \_\_\_\_\_, the parent.

\_\_\_\_\_  
Notary public

My commission expires: \_\_\_\_\_.

Approved, adopted, and ordered by the District Court

Date	District Court Judge
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## USE NOTE

1. A custody plan must be filed in every dissolution of marriage case if the parties have minor children or a child under nineteen years of age who is attending high school. For more information about filling out this form, *see* Form 4A-300 NMRA.

2. The parties should understand the difference between the rights and obligations of joint custodians and a sole custodian. Descriptions of these terms are set out in NMSA 1978, Section 40-4-9.1. See an attorney with questions you may have. Joint custody does not imply an equal division of the child's time between the parents or an equal division of financial responsibility for the child.

[Approved by Supreme Court Order No. 13-8300-010, effective for all pleadings and papers filed on or after May 31, 2013, in all cases pending or filed on or after May 31, 2013; as amended by Supreme Court Order No. 14-8300-011, effective for all pleadings and papers filed on or after December 31, 2014, in all cases filed or pending on or after December 31, 2014; as amended by Supreme Court Order No. 15-8300-024, effective for all pleadings and papers filed after November 18, 2015.]

**4A-303. Child support obligation and order.**

STATE OF NEW MEXICO  
COUNTY OF \_\_\_\_\_  
SIXTH JUDICIAL DISTRICT

\_\_\_\_\_,  
Petitioner,

v. No. D-\_\_\_\_-DM-\_\_\_\_\_

\_\_\_\_\_,  
Respondent.

**CHILD SUPPORT OBLIGATION AND ORDER<sup>1</sup>**

\_\_\_\_\_ and \_\_\_\_\_ are the parents of the children listed below.

**I. IDENTIFICATION AND CONTACT INFORMATION**

<b>Parent's name</b>	<b>Physical address and phone number</b>	<b>Place of employment and phone number</b>
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

  

<b>Child's name</b>	<b>Year of birth</b>	<b>Age</b>
_____	_____	_____
_____	_____	_____
_____	_____	_____

[ ] The parents shall advise each other of any change to this contact information within ten (10) days of new information becoming available.

**II. CHILD SUPPORT<sup>2</sup>**

A. **Child Support Worksheet.**<sup>3</sup> A signed child support worksheet is attached to this plan. *(Complete and sign a child support worksheet prior to completing this section.)*

**Child support:** \_\_\_\_\_ pays \_\_\_\_\_  
\$ \_\_\_\_\_ per month. Payments shall begin on \_\_\_\_\_ (*date*) and shall  
be paid in the amount of \$ \_\_\_\_\_ every [ ] week [ ] two weeks [ ] month.  
Payments shall continue each month until the youngest child turns eighteen (18); however,  
if the youngest child turns eighteen (18) while still attending high school, payments shall  
continue until the month the child graduates or turns nineteen (19), whichever occurs  
first.<sup>4</sup>

(Choose 1 or 2)

[ ] 1. This amount is the amount shown on the worksheet;

(Or)

[ ] 2. This is a deviation from the amount shown on the child support worksheet because  
(*fill in the reason here*)<sup>5</sup>

\_\_\_\_\_  
\_\_\_\_\_.

**B. Health insurance coverage<sup>6</sup>**

(Choose 1, 2, or 3)

[ ] 1. \_\_\_\_\_ (*name of parent*) shall keep the minor children  
covered by health and dental insurance under the policy of insurance available to  
[him] [her] from [his] [her] employer or other group health care insurance plan.

(Or)

[ ] 2. Neither parent has private health or dental insurance coverage available at a  
reasonable cost. If the children are covered under Medicaid, the child support  
obligor shall pay a cash medical support payment as determined at a subsequent  
hearing in which the State of New Mexico, Child Support Enforcement Division  
("CSED"), has been given sufficient notice, or upon the stipulation of the parties  
and with the agreement of CSED. The notification to and agreement of CSED is  
required only for cash medical support.

(Or)

[ ] 3. Other health insurance coverage shall be provided as follows:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_.

C. Additional healthcare expenses to be determined by percentage. The parents shall split the cost of uncovered necessary healthcare expenses in proportion to their income on the child support worksheet.

**D. Wage withholding of child support.**

*(Choose and complete 1 or 2)*

1. **Withhold wages for child support.** Child support payment shall be withheld from \_\_\_\_\_'s paycheck.<sup>7</sup>

*(Choose a or b)*

a. Attached is a completed Form 4A-304 NMRA Wage Withholding Order which directs all withheld payments to the Child Support Enforcement Division ("CSED").

*(Or)*

b. \_\_\_\_\_ (*name of parent*) shall take a copy of this child support obligation after it is signed by the Court to CSED to open a case and to request that CSED issue a notice of wage withholding on [his] [her] behalf.

*(Or)*

2. **Other plan.** Wage withholding is not appropriate at this time as the parents have made the following alternate arrangements for the payment of support (*describe alternate payment arrangements, subject to approval by the Court*):

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**E. Health and dental insurance.** The parents shall do the following:

1. follow the insurance plan in selecting a doctor or dentist;
2. use doctors and dentists who are part of the insurance plan;
3. make sure each parent has a copy of the insurance card and policy; and
4. cooperate and work together to promptly submit all insurance forms.

**F. Exchange of information.** Once a year either parent can ask, in writing, for both parents to exchange the following information (*this paragraph is required by statute, Section 40-4-11.4 NMSA 1978*):<sup>8</sup>

1. federal and state tax returns for the prior year;
2. W-2 statements for the prior year;
3. IRS form 1099s for the prior year;
4. work related day care statements for the prior year;

- 5. dependent medical insurance premiums for the prior year; and
- 6. wage and payroll statements for the four months prior to the request.

G. **Tax issues.**<sup>9</sup> This is the plan about tax issues, such as the dependency exemption, that relate to the children:

- Follow IRS regulations; or
- Adopt another plan as follows:

\_\_\_\_\_  
\_\_\_\_\_.

H. **Other expenses.** Each parent shall provide the children with items they need while they are with that parent.

- (*If applicable*) The parents shall pay for special activities as follows:

\_\_\_\_\_  
\_\_\_\_\_.

### VERIFICATION

I affirm under oath and penalty of perjury under the laws of the State of New Mexico that I have read this document, that I agree with everything in it, and that the statements in it are true and correct to the best of my knowledge and belief.

\_\_\_\_\_  
Name of parent (*print*)

\_\_\_\_\_  
Name of parent (*print*)

\_\_\_\_\_  
Parent's signature

\_\_\_\_\_  
Parent's signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

\_\_\_\_\_  
Mailing address

\_\_\_\_\_  
Mailing address

\_\_\_\_\_  
Telephone

\_\_\_\_\_  
Telephone

STATE OF NEW MEXICO            )  
COUNTY OF \_\_\_\_\_        ) ss

Acknowledged, signed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_ by \_\_\_\_\_, the parent.

\_\_\_\_\_  
Notary public  
My commission expires: \_\_\_\_\_.



STATE OF NEW MEXICO )  
COUNTY OF \_\_\_\_\_ ) ss

Acknowledged, signed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_ by \_\_\_\_\_, the parent.

\_\_\_\_\_  
Notary public  
My commission expires: \_\_\_\_\_.

Approved, adopted, and ordered by the District Court

\_\_\_\_\_  
Date District Court Judge

USE NOTE

1. A child support obligation must be filed in every dissolution of marriage case if the parties have minor children or a child under nineteen years of age who is attending high school. For more information about filling out this form, *see* Form 4A-300 NMRA.
2. If child support is not paid in a timely manner, interest will be added to the amount owed at the rate provided by law. *See* NMSA 1978, Section 40-4-7.3 for accrual of interest on delinquent child support.
3. *See* NMSA 1978, Section 40-4-11.1 for the child support worksheet. An interactive version of this worksheet may be found at [www.nmcourts.com](http://www.nmcourts.com), click on “Family Law Forms.” *See also* Form 4A-300 NMRA for a further explanation of the child support worksheet. The child support worksheet is used to determine the monthly child support obligation.
4. If child support is being paid for more than one child, the end of a child support obligation for a child may be a change of circumstances that justifies a different child support amount. A new child support worksheet must be completed and adopted by the court. If your child has an intellectual or physical disability, you should consult with an attorney.
5. The judge may or may not accept a proposed change from the worksheet amount. Proposed changes may be appropriate if application of the child support guidelines would be unjust or inappropriate, or create a substantial hardship. If child support has been ordered in another proceeding, tell the court about it here and attach that child support worksheet.
6. *See* NMSA 1978, Section 40-4C-4 for medical support orders. In some circumstances the court may order both parties to provide employer-provided health insurance.
7. *See* Form 4A-304 NMRA for the Wage Withholding Order. Wage withholding is required unless the parties show good cause and make alternate payment arrangements. Wage withholding is mandatory if the children are receiving public assistance. Payments made by wage withholding go through the Title IV-D agency (CSED) and cannot be directly sent by the employer to a party. Either party may request the court to enter a Wage Withholding Order. *See also* Form 4A-300 NMRA for a further explanation of the Wage Withholding Order.
8. You need a court order to adjust child support payments.
9. Consult with a professional about tax issues that relate to any children.

[Approved by Supreme Court Order No. 13-8300-010, effective for all pleadings and papers filed on or after May 31, 2013, in all cases pending or filed on or after May 31, 2013; as amended by Supreme Court Order No. 14-8300-011, effective for all pleadings and papers filed on or after December 31, 2014, in all cases filed or pending on or after December 31, 2014; as amended by Supreme Court Order No. 15-8300-024, effective for all pleadings and papers filed after November 18, 2015.]

**4A-306. Final decree of dissolution of marriage (with children).**

STATE OF NEW MEXICO  
COUNTY OF \_\_\_\_\_  
SIXTH JUDICIAL DISTRICT

\_\_\_\_\_  
Petitioner,

v. No. D-\_\_\_\_\_-DM-\_\_\_\_\_

\_\_\_\_\_  
Respondent.

**FINAL DECREE OF DISSOLUTION OF MARRIAGE  
(with children)<sup>1</sup>**

This matter was brought before the Court to enter a Final Decree of Dissolution of Marriage by Petitioner and Respondent (“the parties”).

The following documents are referenced in this decree:

- A Marital Settlement Agreement (*select only one*),
    - signed and filed by the parties, that settles the claims related to their marital relationship;

(Or)

  - attached as Exhibit A, because the parties did not agree on the terms of a Marital Settlement Agreement;<sup>2</sup>
- 
- A Custody Plan and Order (*select only one*),
    - signed and submitted by the parties, that sets out the custody of their children;

(Or)

  - attached as Exhibit B, because the parties did not agree on the terms of a Custody Plan;<sup>2</sup>
- 
- A Child Support Obligation and Order, including a child support worksheet (*select only one*),
    - signed and submitted by the parties, that sets out the child support for their

children;

(Or)

attached as Exhibit C, because the parties did not agree on the terms of a Child Support Obligation.<sup>2</sup>

The Court, having considered the evidence FINDS AND CONCLUDES:

1. The Court has jurisdiction over the subject matter of this action and over the parties and the children.
2. The parties are incompatible.
3. The Marital Settlement Agreement is fair and reasonable and should be adopted by the Court.
4. The Custody Plan and Order is fair and reasonable and should be adopted by the Court.
5. The Child Support Obligation and Order is fair and reasonable and should be adopted by the Court.

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED:

1. The marriage of Petitioner and Respondent is dissolved on the grounds of incompatibility.
2. The parties are ordered to comply with the terms of the Marital Settlement Agreement, which (*select one*)
  - has been filed with the Court and is incorporated here by reference.(Or)
  - is attached and adopted as the order of the Court.
3. The parties are ordered to comply with the terms of the Custody Plan and Order, which (*select one*)
  - has been adopted by the Court and is incorporated here by reference.(Or)
  - is attached and adopted as the order of the Court.

4. The parties are ordered to comply with the terms of the Child Support Obligation and Order, which (*select one*)

has been adopted by the Court and is incorporated here by reference.

(*Or*)

is attached and adopted as the order of the Court.

5.  Petitioner (*or*)  Respondent is ordered to pay child support in the amount of \$\_\_\_\_\_ per month to the other parent.

6. Legal custody of the children is as follows (*select one*):

The parties have joint legal custody of the children.

(*Or*)

Petitioner (*or*)  Respondent has sole legal custody of the children.

7. The Court has continuing jurisdiction over issues relating to the children of the marriage until the children reach the age of majority as provided by law.

(*Select and complete the following paragraphs if applicable*)

8. The Court retains jurisdiction to enter QDROs or other orders dividing the retirement plans referenced in the Marital Settlement Agreement.

9. Judgment in favor of  Petitioner (*or*)  Respondent is awarded in the amount of \$\_\_\_\_\_, as set forth in Section III of the Marital Settlement Agreement (Cash Payment). The statutory interest rate shall apply as provided in Section 56-8-4(A) NMSA 1978.

10. Petitioner's name is restored to the former name of \_\_\_\_\_.

11. Respondent's name is restored to the former name of \_\_\_\_\_.

SO ORDERED:

\_\_\_\_\_  
District Court Judge

By signing below I affirm under penalty of perjury under the laws of the State of New Mexico that everything in this document is true and correct to the best of my knowledge,

information and belief, including the following:

1. **Right to trial is waived.** I understand that by signing the Final Decree, I am waiving my right to a trial before a Judge.

2. **No duress or coercion; complete agreement.** I am not under force, threats, duress, coercion or undue influence from anyone, including the other party, to sign this Final Decree. This Decree and any attachments that I have signed is our full agreement. I have not agreed to something different from what is stated in writing in this Decree.

3. **Legal advice.** I understand that even if I am representing myself without an attorney, I have the right to be represented by an attorney. I have the right to call an attorney and get legal advice before I sign this Final Decree.

\_\_\_\_\_  
Petitioner's signature

Date: \_\_\_\_\_

Mailing address: \_\_\_\_\_  
\_\_\_\_\_

Telephone: \_\_\_\_\_

\_\_\_\_\_  
Respondent's signature

Date: \_\_\_\_\_

Mailing address: \_\_\_\_\_  
\_\_\_\_\_

Telephone: \_\_\_\_\_

#### USE NOTE

1. This form may be used anywhere in this state by the court to enter a final decree of dissolution of marriage when the parties have minor children or a child under nineteen years of age who is attending high school.

2. If the parties are not in agreement, each party must complete and submit a proposed draft of this document to the court with this decree. *See* Form 4A-301 NMRA (Marital Settlement Agreement); Form 4A-302 NMRA (Custody Plan and Order); Form 4A-303 NMRA (Child Support Obligation and Order). The court may approve some or all of the proposed terms of either party, or it may order any other terms that it deems are just and proper.

[Approved by Supreme Court Order No. 14-8300-011, effective for all pleadings and papers filed on or after December 31, 2014, in all cases filed or pending on or after December 31, 2014.]