



PAUL FERGUSON
CLERK, CIRCUIT COURT

ARLINGTON COUNTY, VIRGINIA
CLERK OF THE CIRCUIT COURT
1425 N. COURTHOUSE ROAD, SUITE 6700
ARLINGTON, VIRGINIA 22201

April 1, 2013

Dear Sir or Madam:

Enclosed is a packet of information designed to help you pursue an uncontested, no-fault divorce in the Circuit Court of Arlington County. **This document is not intended to provide you with legal advice regarding your individual circumstances.** Rather, it is designed to answer some of the frequently asked questions that arise during uncontested divorce proceedings. The Arlington County Circuit Court has not approved any standard fill-in-the-blank forms for divorce in the Commonwealth of Virginia, except those approved by the Supreme Court of Virginia. To assist you in filing for divorce, we have attached samples of the types of documents you will need to file to obtain a divorce. The law library also has a variety of materials that offer samples of the various documents discussed in this packet.

Because there are many significant issues that arise during divorce, I strongly encourage you to hire competent domestic relations counsel to assist you with this process. The Clerk's office is prohibited by law from providing legal advice. If you have questions about the information contained in this packet or what information needs to be submitted to the court to obtain a divorce given your particular circumstances, you will need to seek the advice of an experienced attorney. Information regarding attorneys can be obtained from the Arlington Bar Lawyer Referral program at 703-228-3390. You can also contact Legal Services of Northern Virginia-Arlington Office at 703-532-3733 for assistance in finding an attorney.

As the law in this area is subject to frequent changes, you should make sure before filing for divorce that the information in this packet is current. Please understand that use of any of the forms provided in this packet will not guarantee that the Court will grant your divorce. The Court will decide each case on the facts presented and the applicable law. **Under no circumstances will the Arlington Circuit Court Clerk's Office or anyone contributing to the production of this informational packet assume any liability for any direct, indirect, or consequential damages that may occur as a result of its use.**

I hope you find this information package both helpful and informative as you pursue legal proceedings in the Arlington County Circuit Court.

Sincerely,

Paul Ferguson
Clerk, Circuit Court of Arlington County

UNCONTESTED DIVORCE PROCEEDINGS IN
ARLINGTON COUNTY CIRCUIT COURT
BASIC PROCEDURES and STANDARD FORMS

APRIL 2013

***THIS PACKET IS PROVIDED FOR
INFORMATIONAL PURPOSES ONLY. IT
IS NOT INTENDED TO BE NOR SHOULD
IT BE RELIED UPON AS A SUBSTITUTE
FOR LEGAL ADVICE FROM A
COMPETENT DOMESTIC RELATIONS
ATTORNEY.***

**UNCONTESTED DIVORCE PROCEEDINGS IN
ARLINGTON COUNTY CIRCUIT COURT
BASIC PROCEDURES AND STANDARD FORMS**

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UNCONTESTED DIVORCE PROCEEDINGS IN ARLINGTON COUNTY CIRCUIT COURT

I. GENERAL INFORMATION

The Virginia Code contains the laws of Virginia that relate to filing for and obtaining a divorce in any Circuit Court in Virginia. The Arlington Circuit Court follows the Rules of the Supreme Court of Virginia in divorce proceedings filed in Arlington. Copies of the Virginia Code and the Supreme Court Rules are available in the Arlington Law Library, which is located on the first floor of the Courthouse, 1425 N. Courthouse Road, Arlington, Virginia, 22201, as well as at local law libraries, in many public libraries, and on-line at <http://leg1.state.va.us>. You should not proceed without reviewing both the Virginia Code provisions applicable to your particular situation, as well as the Rules of the Supreme Court of Virginia, to ensure that you are not giving up important rights that you may possess under Virginia law. Because many of these laws are both complicated and complex, it is recommended that you hire a competent domestic relations attorney to assist you in filing for divorce.

If you choose to proceed without an attorney, you are a *pro se* litigant. This simply means that you are representing yourself. Your spouse may also choose to proceed as a *pro se* litigant, or your spouse may elect to hire an attorney to represent his/her own best interests.

If you choose to proceed without the help of a competent attorney, you might unknowingly give up certain important rights, including custody of or visitation with your children, child support, spousal support, distribution of certain property that you and your spouse have acquired, or other legal claims that you may be entitled to make as a result of your marriage. Many of these rights cannot be claimed at a later date if not addressed as part of your final decree of divorce. Therefore, you are strongly encouraged to consult with an attorney about your individual situation so that you fully understand both your rights and future obligations before any final decree is entered by the court.

There are various websites that sell pre-made forms to be used for a divorce. The Supreme Court of Virginia has not approved any of these forms for use in the Commonwealth of Virginia. If you decide to purchase and use one of these forms, your divorce will be denied if the form does not follow the laws of Virginia.

There are certain forms contained in the Appendix to this package, including the VS-4, Acceptance/Waiver of Service, Privacy Addendum, and Order for Change of Name that have been approved by the Supreme Court of Virginia. You are encouraged to use these forms as appropriate.

The remaining forms set forth in the Appendix are provided as samples only and may or may not apply to your particular circumstances. You are responsible for ensuring that the documents you file meet all of the statutory requirements applicable to your individual circumstances. Again, there is no substitute for the personalized legal advice that you may receive from a competent domestic relations attorney.

The following disclaimer is set forth at the end of each sample form included in this packet and you should read it carefully before proceeding.

DISCLAIMER: THIS DOCUMENT IS A SAMPLE ONLY. It is not intended to address any or all issues relating to your particular circumstances or to offer legal advice regarding your individual claims or causes of action. The information set forth in this sample document may or may not apply to your case and will need to be changed to reflect the specific facts and circumstances of your case. This form is NOT intended to provide legal advice regarding any rights or obligations you may have under Virginia law and should NOT be relied upon as such. To the extent this form references provisions of the Code of Virginia, it is NOT, nor is it meant to be, an exhaustive listing of all sections of the Code of Virginia that apply to your case. Use of this sample form will not guarantee that the Court will grant your request for a divorce. Failure to consult with a competent attorney before filing and/or obtaining a divorce may result in your waiving important rights or not receiving benefits to which you may otherwise be entitled legally.

II. GENERAL REQUIREMENTS FOR A DIVORCE IN VIRGINIA

Virginia allows two kinds of divorce – fault-based divorce and no-fault divorce.

Fault-based divorces require that certain grounds exist at the time one party files for divorce. These include adultery, cruelty and abandonment, among others.

No-fault divorces are based instead on a period of time set by statute during which there is no cohabitation between the parties as husband and wife.

The information set forth in this packet applies only to obtaining a no-fault divorce in Virginia. Circuit Court staff cannot and will not help you make a decision about whether you should seek a no-fault or fault-based divorce, or any differences that might exist between the two.

In order to obtain a divorce in Virginia, either you or your spouse must have lived (resided) within Virginia for a minimum of six (6) months immediately prior to filing for divorce and must be a domiciliary of the Commonwealth of Virginia, meaning you consider Virginia to be your home state at the time you file for divorce.

In addition, you and your spouse must have lived separately and apart, with no cohabitation as husband and wife, for a continuous period of time. If you do not have minor children, this period must be at least six (6) months immediately prior to the date you file for divorce. Your Complaint (See Section IV) must clearly state that the date of separation was at least six (6) months prior to the filing date of the Complaint and you must have a written separation agreement. If you have minor children, you must have lived apart from your spouse for at least one (1) year immediately prior to filing for divorce. Again your Complaint must clearly state a date of separation that is more than one year prior to the filing date of the Complaint. The Complaint must also clearly state that at the time of the separation, it was the intention of at least one of the parties that the separation be permanent and that intention continues to the present.

Virginia law now provides three options for presenting witness testimony to the Court in support of a complaint for an uncontested divorce:

- (1) in person in an *ore tenus* hearing held before a judge;
- (2) through submission of a deposition transcript that has been recorded and authenticated in accordance with Virginia law; and
- (3) in certain cases, through submission of sworn, notarized affidavits.

Virginia law also requires that before a Final Decree of Divorce can be entered by the Court, it must contain the following notice in bold print:

NOTICE IS HEREBY GIVEN THAT BENEFICIARY DESIGNATIONS FOR ANY DEATH BENEFIT, AS DEFINED IN SUBSECTION B OF 20-111.1 OF THE CODE OF VIRGINIA, MADE PAYABLE TO A FORMER SPOUSE MAY OR MAY NOT BE AUTOMATICALLY REVOKED BY OPERATION OF LAW UPON THE ENTRY OF A FINAL DECREE OF ANNULMENT OR DIVORCE. IF A PARTY INTENDS TO REVOKE ANY BENEFICIARY DESIGNATION MADE PAYABLE TO A FORMER SPOUSE FOLLOWING THE ANNULMENT OR DIVORCE, THE PARTY IS RESPONSIBLE FOR FOLLOWING ANY AND ALL INSTRUCTIONS TO CHANGE SUCH BENEFICIARY DESIGNATION GIVEN BY THE PROVIDER OF THE DEATH BENEFIT. OTHERWISE, EXISTING BENEFICIARY DESIGNATIONS MAY REMAIN IN FULL FORCE AND EFFECT AFTER THE ENTRY OF A FINAL DECREE OF ANNULMENT OR DIVORCE.

To avoid having your complaint rejected, you must ensure that this notice is clearly set forth using **bold print** in any Final Decree you submit to the Court for consideration.

III. FILING REQUIREMENTS IN THE CIRCUIT COURT OF ARLINGTON COUNTY

Please read carefully and follow the filing instructions below to avoid processing delays or the rejection of documents required to be filed with the Court as part of any no-fault divorce.

- The Court will only accept filings of original documents. Copies, facsimile transmissions, or any electronic document will not be accepted for filing.
- Each document submitted to the Court must be typed and double-spaced on 8½ x 11 inch white paper, with 1-inch margins on all sides. Each document must contain your name, address, and a daytime phone number. You must also sign each document you submit.
- All submissions to the Court must be made at the proper time, in the appropriate order and format, and must be accompanied by the required fee. If any of the materials you submit to the Court do not comply with the Rules of the Supreme Court of Virginia, in either substance or form, you will be asked to correct the problem and resubmit your documents. If you do not pay the required fees, your documents will be rejected.
- If your submission is incorrect or incomplete, a Circuit Court Judicial Law Clerk will notify you in writing of the issues to be corrected. It is your responsibility to correct any errors brought to your attention by one of the Law Clerks. Law Clerks cannot and will not give advice about your situation or help you with the preparation or correction of any of your documents.

- All documents must be submitted in person or by mail (faxes and email submissions will not be accepted) to the Clerk of the Circuit Court, Civil Division, Room 6700, 1425 North Courthouse Road, Arlington, Virginia 22201.

IV. DOCUMENTS NEEDED FOR A PRO SE DIVORCE

You must file the following documents in order to obtain a divorce in Virginia.

(1) **Complaint:** This is the document that starts the divorce process. The Complaint informs the Court of necessary information regarding the parties and the reasons you are seeking a divorce. You must sign the document before it can be filed. Two sample Complaints are attached at **Appendix 1**.

(2) **VS-4 Form:** This is a Vital Statistics form that is sent to the State Department of Vital Records by the Clerk's Office once your divorce is final. A VS-4 form is attached as **Appendix 2**. You must use the form provided by the state, and submit an original only, completed fully, in black ink.

(3) **Proof of Service:** You must provide the Court with evidence that you have served your Complaint on your spouse. Proof of service includes: (i) evidence of personal service by a private process server or a Sheriff in Virginia; (ii) a Waiver of Service signed and notarized by your spouse, or (iii) a copy of a newspaper or other publication of general circulation giving public notice to your spouse that you are pursuing a divorce. A Waiver of Service form is attached as **Appendix 3**. This form is available at <http://www.courts.state.va.us/forms/circuit/cc1406.pdf>. This form must be signed and dated after the date on which your Complaint was actually filed in Circuit Court and must be notarized.

(4) **Final Divorce Decree:** This document is the decree or order the Court will enter in the event you are granted a divorce. Two different sample Final Decrees are attached as **Appendix 4**.

Virginia law now requires that the following notice be clearly set forth using **bold print** in any Final Divorce Decree:

NOTICE IS HEREBY GIVEN THAT BENEFICIARY DESIGNATIONS FOR ANY DEATH BENEFIT, AS DEFINED IN SUBSECTION B OF 20-111.1 OF THE CODE OF VIRGINIA, MADE PAYABLE TO A FORMER SPOUSE MAY OR MAY NOT BE AUTOMATICALLY REVOKED BY OPERATION OF LAW UPON THE ENTRY OF A FINAL DECREE OF ANNULMENT OR DIVORCE. IF A PARTY INTENDS TO REVOKE ANY BENEFICIARY DESIGNATION MADE PAYABLE TO A FORMER SPOUSE FOLLOWING THE ANNULMENT OR DIVORCE, THE PARTY IS RESPONSIBLE FOR FOLLOWING ANY AND ALL INSTRUCTIONS TO CHANGE SUCH BENEFICIARY DESIGNATION GIVEN BY THE PROVIDER OF THE DEATH BENEFIT. OTHERWISE, EXISTING BENEFICIARY DESIGNATIONS MAY REMAIN IN FULL FORCE AND EFFECT AFTER THE ENTRY OF A FINAL DECREE OF ANNULMENT OR DIVORCE.

(5) **Privacy Addendum:** This document is an attachment containing your Social Security number and that of your spouse. It must be separate from all other documents in order to protect your Social Security numbers from public disclosure.

This document will be placed in a sealed envelope in the Court file marked CONFIDENTIAL and is not available to the public. An Addendum for Protected Identifying Information – Confidential is attached as **Appendix 5**. This form is available at <http://www.courts.state.va.us/forms/circuit/cc1426.pdf>.

(6) **Order for a Name Change:** A woman who is getting divorced who wishes to resume use of her maiden/family name must request a name change through the Court. A name change order may be submitted to the Court as part of the divorce process but it is not required. Only the spouse whose name will change may request that the Court enter such an order. An Adult Change of Name Order is attached as **Appendix 6**. This form is available at <http://www.courts.state.va.us/forms/circuit/cc1411.pdf>.

(7) **Written Separation Agreement:** You are required to file a written separation agreement if you are filing for divorce on the basis of living separate and apart for six (6) months and you have no minor children. You may draft this document yourself or obtain the assistance of qualified domestic relations counsel to prepare one for you. Both parties must sign this document. The written separation agreement must be executed before you file your Complaint for Divorce and it must be referenced in both the Complaint and the Final Decree of Divorce. A sample written separation agreement is attached as **Appendix 7**. ***Be advised that in signing a Separation Agreement without the advice of competent counsel, you could unknowingly relinquish certain rights, including rights you may have to property acquired during the marriage or that you brought into the marriage.***

(8) **Request for Ore Tenus Hearing, or Divorce Upon Either Deposition Transcripts or Affidavits:** Under Virginia law, you now have three alternative methods of presenting sufficient proof to the court in support of your request for a divorce.

- (i) You may request that the matter be set for an *ore tenus* hearing so you and your witnesses can appear personally before the Court. To request that an *ore tenus* hearing be scheduled, you must file a **written** request with the Court to have the matter set. A sample *Ore Tenus* request is attached as **Appendix 8a**.
- (ii) You may submit deposition transcripts in lieu of having witnesses appear in court. All deposition transcripts must conform with the requirements set forth in Part Four of The Rules of the Supreme Court of Virginia. Rule 4:3 identifies those persons before whom depositions can be taken.

- (iii) You may submit sworn affidavits in support of your complaint for divorce only in cases in which the divorce is based solely on a period of separation of six or twelve months as provided in Section 20-91 of the Code of Virginia and:
- (a) the parties have resolved all issues by a written settlement agreement;
 - (b) neither party is incarcerated;
 - (c) the wife is not known to be pregnant from the marriage; and
 - (d) there are no issues other than the grounds of divorce to be adjudicated; or
 - (e) the adverse party has been personally served with the complaint and has failed to file a responsive pleading or to make an appearance as required by law. Va. Code §20-106.

The Virginia Supreme Court has not approved any standard form documents for the Complaint for Divorce, Request for *Ore Tenus* Hearing, Final Decree of Divorce, or Property Settlement Agreement, nor has it approved the samples contained in this packet. **The sample forms attached as Appendices hereto are samples only, and are not provided, nor should they be relied upon, as legal advice.** The sample forms included in this packet do not set forth all rights or obligations that may be applicable to your situation or exist under state law. Please be advised that every pleading is subject to acceptance or rejection by the Arlington Circuit Court based on whether the applicable statutory and procedural requirements pertaining to your particular case have been met. Use of these forms does not guarantee that the Court will grant your request for a divorce nor does it guarantee that you will receive all rights or benefits you may be entitled to under state law.

The Arlington Law Library does have various publications and Continuing Legal Education materials available that may be helpful in preparing the documents you will need to file to obtain a no-fault divorce. The Library is located in the lobby of the Courthouse, 1425 N. Courthouse Road, Arlington, Virginia 22201 and is open Monday through Friday from 8:30 a.m. to 4:00 p.m. (except for court holidays or other emergency closings). Clerk's Office staff and Law Library staff cannot help you draft any required documents.

V. THE PROCESS

There are very specific steps that you must follow in order to obtain a no-fault divorce in Virginia, based on either a six-month or one-year period of separation. Leaving out even one step, or not doing a step properly, may prevent you from moving forward. A brief outline of the necessary steps is set forth below.

A. Step One: Filing the Complaint, Arranging for a Summons, and Paying the Fees

To start the divorce process, you begin by filing a Complaint. You must file your typed Complaint, along with one extra copy and the completed VS-4 form, in the Circuit Court Clerk's Office, 1425 N. Courthouse Road, Suite 6700, Arlington, VA, 22201. The Clerk's Office is open from 8:00 a.m. to 4:00 p.m. Monday through Friday (except Court holidays or other emergency closings.) The VS-4 form is available for you to fill out in the Clerk's Office. You must obtain an original form from the Clerk, fill it out completely (it can be typed or printed in ink and no edits are allowed), and sign it. This form must be in your file before your divorce can be finalized. You must provide all the information requested on the VS-4 form, including the middle name of both you and your spouse, and the legal grounds for the divorce (either six-month or one-year separation). If either you or your spouse does not have a middle name, you should write the letters "NMN" in the space where the middle name would otherwise be.

Once you file your Complaint, the Clerk will assign your case a civil case number (e.g., CL09-1234). This is the number the Court will use to refer to your case and you must put this number on the first page of every document you file with the Court. The Clerk will file-stamp the Complaint, showing the date it was filed and will prepare a Summons to be served on your spouse. It is your responsibility to make sure that a copy of the Complaint, the Summons, and any other documents you file in the case are served on your spouse.

You must also pay a filing fee in the amount of **\$86** at the time you file your Complaint, plus a **\$12** service fee if you want service by the Sheriff and a **\$21** recording fee if you are changing your name. The Clerk's Office accepts cash, checks made payable to the Clerk of the Arlington Circuit Court, money orders in the exact amount of the filing fee, and Visa or MasterCard credit cards. If you use a credit card, a four percent (4%) convenience fee will be added to the cost. Fees are subject to change and you should check with the Civil Division of the Clerk's Office, 703-228-7010, prior to filing to determine the correct fee.

B. Step Two: Service of the Complaint and Summons (Service of Process)

You must serve a copy of the Complaint, Summons, and any other documents you file in the case on your spouse to formally notify him or her that you have filed for divorce. By law, you are not allowed to do this yourself. There are several ways to obtain "service." Pick the one that best fits your situation. If your papers are not served in one of the ways recognized by Virginia law, you cannot proceed with your divorce. As with all other aspects of a divorce, it is strongly recommended that you consult a competent domestic relations attorney to ensure that the manner in which you are serving documents on your spouse is one that is acceptable under Virginia law.

The following types of service are available under Virginia law:

- (1) **Sheriff's Office – In State.** If your spouse resides in Virginia, you may have the Complaint served by the Sheriff's Office. Service by the Sheriff costs \$12.00 (fees are subject to change and you should check with the Civil Division of the Clerk's Office, 703-228-7010 prior to filing to determine the correct fee). You must advise the Clerk at the time of filing that you would like service to be made by the Sheriff and pay the \$12.00 service fee to the Clerk. Once you have paid the service fee, the Clerk's Office will forward your papers to the Sheriff for service. It generally takes three (3) to four (4) weeks to obtain service in this way. The Clerk's Office accepts the same forms of payment for the service fee, namely cash, check made payable to the Clerk of the Circuit Court, money order for the exact amount, Visa or MasterCard credit cards.
- (2) **Sheriff's Office – Out of State.** If your spouse lives outside the Commonwealth of Virginia, you are responsible for contacting the Sheriff's Office of the jurisdiction where your spouse resides in order to find out the local regulations regarding service and any fees charged. You must provide the Arlington Circuit Court Clerk with a stamped, self-addressed envelope when you file your Complaint if you want the Clerk to mail the summons and other necessary documents to you, or you can request that you be called when the papers are ready to be picked up in the Clerk's Office. You will need to forward this paperwork, along with the appropriate fees, to the Sheriff in the jurisdiction in which your spouse resides in order to obtain service.
- (3) **Private Process.** You may hire a private company to serve the documents on your spouse. The Clerk's Office cannot recommend a company or provide you with telephone numbers or fees.

(4) **Acceptance of Service.** Your spouse may also choose to accept service by filing an Acceptance and Waiver Form with the Court. A sample is set forth in Appendix 2. This document must be signed by your spouse either in the Clerk's Office before a Deputy Clerk or the signature must be acknowledged before a Notary Public. In order for this form to be accepted by the Court, it must be signed and dated by your spouse after the date of the initial filing date of the Complaint, so be sure your spouse includes the date s/he signed the form.

(5) **Order of Publication.** If you are unable to obtain service by any of the above methods, then you may serve your spouse by publishing notice of the proceedings in a newspaper of general circulation, known as service by publication. Publication can be a difficult process and there are a number of steps that must be followed to properly obtain service in this manner. The Clerk's Office has a separate package called "Service by Publication," which you should consult before attempting service in this fashion. Please be aware that your remedies may be limited if you use this type of service.

If you use one of the service methods described in numbered paragraphs one (1) through three (3) above, the individual who actually served the Complaint on your spouse must file a Proof of Service and Acceptance with the Court. If your spouse waives service, the signed Acceptance and Waiver Form must be filed with the Clerk after the initial filing date. For service by publication, the newspaper running the notice will provide proof of service to the Court at the completion of the required notice period. Proof of service must be in the Court file before you will be able to proceed further in the case, regardless of the method of service you use.

Your spouse has twenty-one (21) days from the day s/he receives your Complaint to file a response (answer). If your spouse does not sign an Acceptance and Waiver Form, you must wait the full twenty-one (21) days before proceeding with your case. If your spouse contests the divorce, you may not proceed as an *ore tenus* case. Instead, the case will proceed in the Arlington Circuit Court as a contested divorce proceeding and the Virginia Supreme Court rules governing civil cases will apply. If you choose to represent yourself, the Court will expect you to be familiar with these Rules and act in compliance with them at all times during the proceedings. Your case will not be handled differently by the Court simply because you are representing yourself.

C. Step Three: Requesting an *Ore Tenus* Hearing before a Judge

Once Proof of Service has been filed with the Court demonstrating that your spouse has accepted service of the Complaint and either has not filed a response within twenty-one (21) days since the date of service or has signed a Waiver of Service, you may submit a letter to the Court requesting an *ore tenus* hearing. You must include with this written request an original signed version of your proposed Final Decree of Divorce for the Court to review.

Your entire case file will then be reviewed by a Judicial Law Clerk to ensure that it meets all the requirements set forth in the Virginia Code for a no-fault divorce. The Law Clerk will send you a letter indicating whether your request has been approved or denied. This process usually takes between three (3) and four (4) weeks from the time the Court receives the last piece of information, but it could take longer if your pleadings are incorrect or incomplete. Please do not contact the Clerk's Office to check on the status of your case until at least thirty (30) days after submission of all required documents.

You cannot schedule a date for an *ore tenus* hearing until the Court approves your request for such a hearing. If your request for a hearing is approved, you will be instructed to call the Circuit Court Judges' Chambers at 703-228-7000 within fourteen (14) days of receipt of the letter to schedule an *ore tenus* hearing. You must give your spouse notice of the hearing date at least seven (7) days in advance of the hearing, unless s/he has waived notice of any future proceedings. *Ore tenus* hearings are held weekly on Tuesdays and Wednesdays starting promptly at 9:30 a.m. on the tenth (10th) floor of the Courthouse.

If your request is denied, you will be given an opportunity to correct what you have filed, resubmit the documents, and request a new hearing. The letter denying your request will outline what information is either missing from your file or, if you have not filed something correctly, the information that needs to be corrected. If you submit revised documents, you will not be required to pay an additional filing fee.

D. Step Four: The *Ore Tenus* Hearing

At the hearing you will be required to present evidence to support every allegation in your Complaint for divorce. Sample *ore tenus* questions are set forth in **Appendix 9**. As with the sample form documents provided in this packet, these questions are samples only. Your decision to rely on them during your hearing or for purposes of deposition, as discussed more fully below, does not guarantee that the Court will have sufficient evidence to grant your divorce, nor does it guarantee the court will grant you a divorce.

Although the Judge might ask you and/or your witness(es) questions to clarify certain points, it is not the Court's responsibility to ensure that you have presented the evidence required by law to obtain your divorce. If you fail to present evidence supporting your Complaint, you will not be granted a divorce.

You must have at least one (1) witness present who is able to confirm the allegations in your Complaint. Your witness can be anyone over the age of eighteen (18) even if that person is related to you; however, your witness cannot be your spouse.

You and your witness(es) should arrive at least twenty (20) minutes prior to the scheduled time of your hearing. After proceeding through security in the lobby of the Courthouse (please note that cell phones are not permitted in the building and you will not be allowed to enter with a cell phone), you should go to the 10th Floor and check the posted schedule to learn in which courtroom your hearing will be held. If notice was given to your spouse by publication, you must arrange for a court reporter to attend the hearing as well.

If either you or any of your witnesses are unable to speak English well enough to testify, you must either bring an interpreter with you or request that the court provide an interpreter for the hearing. The Court will determine on a case by case basis whether an interpreter will be provided. **The court will not consider requests for an interpreter on the day of your hearing. Any request to have a court-appointed interpreter must be made at least two weeks prior to your hearing date and will be set on a Friday motions docket for consideration by the court.** There are a number of private companies in the Northern Virginia area that provide court reporting or interpretation services and if you hire your own interpreter, you will need to make arrangements directly with whichever company you choose to be present in court on the day of the hearing.

E. Decrees Upon Deposition

As an alternative to the *ore tenus* proceeding in open court, you may also proceed by deposition. Depositions may be: (1) taken orally in front of a court reporter and transcribed; or (2) submitted upon written questions acknowledged under oath and notarized. To obtain a decree upon deposition, you will still need at least one (1) witness, other than your spouse, who is over the age of eighteen (18) and who is able to confirm the allegations in your Complaint. As noted above, there are a number of private companies in the Northern Virginia area that provide court reporting services and you will need to make arrangements directly with whichever company you choose to conduct and transcribe the deposition.

You must serve your spouse with notice of the deposition, including the date, time and place, if the deposition is being taken by a court reporter. Depositions upon written questions must be under oath and notarized. Regardless of form, depositions must provide sufficient evidence and corroboration to support all necessary elements of, and grounds for, the divorce as set forth in your Complaint and Final Decree. Your questions must be specific and the answers, if written, must be clear and legible. Documents that are not legible will not be accepted.

Deposition transcripts or notarized affidavits must be filed with the Clerk's Office along with all other required documents. You must file a notice with the Court at the time of filing the deposition documents that advises both your spouse and the Court that the matter is ready for review by the Court.

Upon receipt of the notice and transcripts, the file will be sent to Judges' Chambers for review by a law clerk. As with an *ore tenus* request, if your request for a decree upon depositions is denied due to a deficiency in the pleadings you have filed, you will be given an opportunity to correct what you have filed and resubmit the documents. The letter denying your request will outline what information is either missing from your file or, if you have not filed something correctly, the information that needs to be corrected. If you submit revised documents, you will not be required to pay an additional filing fee.

If the deposition testimony you submit does not provide the court with sufficient evidence to support your request for divorce, a law clerk will send you a letter explaining what evidence is missing. You will then have to appear in court for an *ore tenus* hearing and present any additional evidence required. You will be instructed to call the Circuit Court Judges' Chambers at 703-228-7000 within fourteen (14) days of receipt of the letter to schedule the *ore tenus* hearing. You must give your spouse notice of the hearing date at least seven (7) days in advance of the hearing, unless s/he has waived notice of any future proceedings.

F. Decrees upon Affidavit

As noted above, in certain limited circumstances, you may also proceed with a divorce by affidavit in lieu of an *ore tenus* hearing. You may only proceed via affidavit if your complaint for divorce is based on either a six month or one year separation, neither party is incarcerated, the wife is not known to be pregnant from the marriage and either: (a) the parties have resolved all issues by a written settlement agreement and the only issue for the court to adjudicate is the grounds for divorce or (b) your spouse has been personally served with the complaint and has failed to respond or make an appearance as required by law.

Affidavits must be based on the personal knowledge of the affiant, contain only facts that would be admissible in court, give factual support to the allegations in the complaint or counterclaim, and establish that the affiant is competent to testify to the contents of the affidavit. Section 20-106 of the Code of Virginia outlines the information required to be included in an affidavit and that Code Section is attached as Appendix 9. **All affidavits must be notarized.**

To obtain a decree upon affidavit, you will also need an affidavit from at least one (1) witness, other than your spouse, who is over the age of eighteen (18) and who is able to confirm the allegations in your Complaint. Unless your spouse has waived service, you must serve copies of any affidavits submitted to the Court on your spouse. As with depositions, the affidavits you submit must provide sufficient evidence and corroboration to support all necessary elements of, and grounds for, the divorce as set forth in your Complaint and Final Decree. Your questions must be specific and the answers, if written, must be clear and legible. Documents that are not legible will not be accepted.

Notarized affidavits must be filed with the Clerk's Office along with all other required documents. You must file a notice at the time of filing your affidavits that advises both your spouse and the Court that the matter is ready for review by the Court.

Upon receipt of the notice and all required affidavits, the file will be sent to Judges' Chambers for review by a law clerk. As with an *ore tenus* request or request for a decree on depositions, if your request for a decree upon affidavits is denied due to a deficiency in the pleadings you have filed, you will be given an opportunity to correct what you have filed and resubmit the documents. The letter denying your request will outline what information is either missing from your file or, if you have not filed something correctly, the information that needs to be corrected. If you submit revised documents, you will not be required to pay an additional filing fee.

If the notarized affidavits you submit do not provide the court with sufficient evidence to grant your request for divorce, a law clerk will send you a letter explaining what evidence is missing. You will then have to appear in court for an *ore tenus* hearing and present any additional evidence required. You will be instructed to call the Circuit Court Judges' Chambers at 703-228-7000 within fourteen (14) days of receipt of the letter to schedule the *ore tenus* hearing. You must give your spouse notice of the hearing date at least seven (7) days in advance of the hearing, unless s/he has waived notice of any future proceedings.

VI. CONCLUSION

Obtaining a divorce in Virginia can be a complicated process. For this reason, you are strongly encouraged to consult with a competent domestic relations attorney before filing for divorce to ensure that you know and fully understand your rights and responsibilities. **Nothing in this packet is intended to be, nor should you rely on it as, a substitute for the advice that can be provided by competent legal counsel.**

The requirements for obtaining a divorce are established by the Virginia General Assembly and are subject to change. Before filing for divorce, you should become familiar with the many statutes that govern divorce proceedings, including laws relating to support, custody, the distribution of property, and other issues. **Under no circumstances will the Arlington Circuit Court Clerk's Office or anyone contributing to the production of this information packet assume any liability for any direct, indirect, or consequential damages that may occur as a result of its use.**

APPENDIX 1.A

SAMPLE COMPLAINT FOR DIVORCE BASED ON A SIX (6) MONTH SEPARATION AND THE PARTIES HAVE NO CHILDREN

VIRGINIA:

IN THE CIRCUIT COURT FOR ARLINGTON COUNTY

_____ [your full name]
Plaintiff

v. CL No. _____

_____ [your spouse's full name]
Defendant

SERVE: _____ [Full Name of Defendant/spouse]
_____ [Complete Address of Defendant/spouse]

COMPLAINT FOR DIVORCE

Comes now your Plaintiff, [insert your name here] and states:

1. The parties were married on the ___ day of _____ [month], _____ [year] in the (City/County) of _____, in the State of _____;
2. There are no children born or adopted of this marriage under the age of eighteen (18) years;
3. (Plaintiff/Defendant) is domiciled in, and is and has been an actual bona fide resident of the Commonwealth of Virginia for at least six (6) months immediately before bringing this suit;
4. Both parties are over the age of eighteen (18) years, and neither is an active member of the military service of the United States [If the Defendant is in the military, he/she must sign a Servicemember's Civil Relief Act Waiver];
5. The parties have lived separate and apart without cohabitation and without interruption for more than six (6) months, since _____ [month], _____ [day] _____ [year], at the time of separation it was the intention of one (or both) of the parties that the separation be permanent, and that intention continues to the present.
6. There is no hope or possibility of reconciliation between the parties.

7. The parties have entered into a Written Separation Agreement dated _____ [month] _____ [day], _____ [year].

WHEREFORE, Plaintiff prays as follows:

That (he/she) be granted a divorce from the bond of matrimony on the ground that the parties have lived separate and apart without cohabitation and without interruption for more than six (6) months, since _____ [month] _____ [day], _____ [year]; and

That the Separation Agreement dated _____ [month] _____ [day], _____ [year] be incorporated but not merged into the Final Order of Divorce; and

That the Plaintiff's name be restored to _____ [Plaintiff's full maiden/family name, if desired. ONLY the party whose name would change may request a name restoration, the other party cannot ask to alter the other party's name].

I ASK FOR THIS:

_____ [your signature]

[Type your full name]

[Type your complete address]

[Type your daytime phone number]

DISCLAIMER: THIS DOCUMENT IS A SAMPLE ONLY. It is not intended to address any or all issues relating to your particular circumstances or to offer legal advice regarding your individual claims or causes of action. The information set forth in this sample document may or may not apply to your case and will need to be changed to reflect the specific facts and circumstances of your case. This form is NOT intended to provide legal advice regarding any rights or obligations you may have under Virginia law and should NOT be relied upon as such. To the extent this form references provisions of the Code of Virginia, it is NOT, nor is it meant to be, an exhaustive listing of all sections of the Code of Virginia that apply to your case. Use of this sample form will not guarantee that the Court will grant your request for a divorce. Failure to consult with a competent attorney before filing and/or obtaining a divorce may result in your waiving important rights or not receiving benefits to which you may otherwise be entitled legally.

APPENDIX 1.B

SAMPLE COMPLAINT FOR A DIVORCE BASED ON A ONE (1) YEAR SEPARATION WHERE THE PARTIES HAVE CHILDREN BORN OR ADOPTED DURING THE MARRIAGE

VIRGINIA:

IN THE CIRCUIT COURT FOR ARLINGTON COUNTY

_____ [your full name]
Plaintiff

v. CL No. _____

_____ [your spouse's full name]
Defendant

SERVE: _____ [Full Name of Defendant/spouse]
_____ [Complete Address of Defendant/spouse]

COMPLAINT FOR DIVORCE

Comes now your Plaintiff, [insert your name here] and states:

1. The parties were married on the ____ day of _____ [month], _____ [year] in the (City/County) of _____, in the State of _____;
2. There are (number) ____ children born or adopted of this marriage under the age of eighteen (18) years;
3. The minor children are (name and date of birth for each);
4. (Plaintiff/Defendant) is domiciled in, and is and has been an actual bona fide resident of the Commonwealth of Virginia for at least six (6) months immediately before bringing this suit;
5. Both parties are of sound mind, over the age of eighteen (18) years, and neither is an active member of the military service of the United States [If the Defendant is in the military, he/she must sign a Servicemember's Civil Relief Act Waiver];
6. The parties have lived separate and apart without cohabitation and without interruption for more than one year, since _____ [month], _____ [day] _____ [year], at the time of the separation it was the intention of one (or both) of the parties that the separation be permanent, and that intention continues to the present.

7. There is no hope or possibility of reconciliation between the parties.

(If child or spousal support is sought, insert a statement stating the relief requested.)

WHEREFORE, Plaintiff prays as follows:

That (he/she) be granted a divorce from the bond of matrimony on the ground that the parties have lived separate and apart without cohabitation and without interruption for more than one year, since _____ [month] _____ [day – if you do not remember the exact day, use the last day of the month you just listed], _____ [year]; and

That the Plaintiff's name be restored to _____ [Plaintiff's full maiden/family name, if desired. ONLY the party whose name would change may request a name restoration, the other party cannot ask to alter the other party's name].

I ASK FOR THIS:

_____ [your signature]

[Type your full name]

[Type your complete address]

[Type your daytime phone number]

DISCLAIMER: THIS DOCUMENT IS A SAMPLE ONLY. It is not intended to address any or all issues relating to your particular circumstances or to offer legal advice regarding your individual claims or causes of action. The information set forth in this sample document may or may not apply to your case and will need to be changed to reflect the specific facts and circumstances of your case. This form is NOT intended to provide legal advice regarding any rights or obligations you may have under Virginia law and should NOT be relied upon as such. To the extent this form references provisions of the Code of Virginia, it is NOT, nor is it meant to be, an exhaustive listing of all sections of the Code of Virginia that apply to your case. Use of this sample form will not guarantee that the Court will grant your request for a divorce. Failure to consult with a competent attorney before filing and/or obtaining a divorce may result in your waiving important rights or not receiving benefits to which you may otherwise be entitled legally.

APPENDIX 2

Original form must be completed.
 For a copy of the form, visit:
 Arlington Circuit Court
 1425 N. Courthouse Rd.
 Suite 6700
 Arlington, VA 22201

COMMONWEALTH OF VIRGINIA – REPORT OF DIVORCE OR ANNULMENT

Department of Health – Division of Vital Records – Richmond

NOTE:
 ITEMS 1-24 ON THIS
 FORM TO BE
 COMPLETED BY
 PETITIONER OR
 ATTORNEY AND FILED
 WITH CLERK OF COURT
 WITH PETITION OR
 DECREE

PLEASE PREPARE BY
 TYPEWRITER OR PRINT
 IN BLACK UNFADING INK.
 THIS IS A PERMANENT
 RECORD

CLERK OF COURT WILL
 CERTIFY AND FORWARD
 TO STATE REGISTRAR BY
 10TH DAY OF MONTH
 FOLLOWING DATE FINAL
 DECREE IS GRANTED

1. CIRCUIT COURT FOR CITY OR COUNTY OF _____			STATE FILE NUMBER _____	
2. FULL NAME _____				2A. SOCIAL SECURITY NUMBER _____
HUSBAND	3. PLACE OF BIRTH (state or foreign country) _____		4. DATE OF BIRTH _____	
	5. RACE _____	6. NUMBER OF THIS MARRIAGE (first, second, etc.) _____	7. EDUCATION (Specify only highest grade completed) Elementary or Secondary (0-12) _____	College (1-4 or 5+) _____
	8. USUAL RESIDENCE (street no. or rural route number) _____ (city or town) _____ (county - if not independent city) _____ (state) _____			
9. FULL MAIDEN NAME _____				9A. SOCIAL SECURITY NUMBER _____
WIFE	10. PLACE OF BIRTH (state or foreign country) _____		11. DATE OF BIRTH _____	
	12. RACE _____	13. NUMBER OF THIS MARRIAGE (first, second, etc.) _____	14. EDUCATION (Specify only highest grade completed) Elementary or Secondary (0-12) _____	College (1-4 or 5+) _____
	15. USUAL RESIDENCE (street no. or rural route number) _____ (city or town) _____ (county - if not independent city) _____ (state) _____			
16. PLACE OF MARRIAGE (city or town) _____ (county) _____ (state or foreign country) _____			17. DATE OF MARRIAGE _____	
18. NUMBER OF CHILDREN UNDER 18 IN THIS FAMILY _____		19. NUMBER OF CHILDREN UNDER 18 IN THIS FAMILY WHOSE PHYSICAL CUSTODY WAS AWARDED TO: Husband _____ Wife _____ Joint (Husband/Wife) _____ Other _____ <input type="checkbox"/> No Children		20. DATE OF SEPARATION _____
21. PLAINTIFF <input type="checkbox"/> HUSBAND <input type="checkbox"/> WIFE <input type="checkbox"/> BOTH		22. DIVORCE GRANTED TO <input type="checkbox"/> HUSBAND <input type="checkbox"/> WIFE <input type="checkbox"/> BOTH		
23. LEGAL GROUND OR CAUSE OF DIVORCE (if annulment - so state) _____		24. INFORMANT'S SIGNATURE _____ <input type="checkbox"/> PETITIONER <input type="checkbox"/> ATTORNEY FOR PETITIONER		
NAME OF INFORMANT (Type or Print) _____		ADDRESS OF INFORMANT _____		
I CERTIFY THAT A FINAL DECREE OF _____ WAS ENTERED _____ CONCERNING THE ABOVE (divorce or annulment) (date of divorce or annulment) MARRIAGE AND WAS NUMBERED _____ (court file number)				
(SEAL)		SIGNATURE OF CLERK OF COURT OR DEPUTY _____ NAME OF CLERK OR DEPUTY (Type or Print) _____		

APPENDIX 3

ACCEPTANCE/WAIVER OF SERVICE OF PROCESS AND WAIVER OF FUTURE SERVICE OF PROCESS AND NOTICE

Case No. _____

COMMONWEALTH OF VIRGINIA VA. CODE §§ 8.01-327; 20-99.1:1; Rules 3:5, 3:8

Circuit Court

PLAINTIFF

v.

DEFENDANT

I, the undersigned party named below, swear under oath/affirm the following:

1. I am a party plaintiff defendant in the above-styled suit.
2. I have received a copy of the following documents on this date:

Complaint filed on _____
DATE

Summons with copy of Complaint filed on _____ attached
DATE

Other – Describe: _____ filed on _____
DATE

I understand that my receipt of these copies and my signature below constitute

- the acceptance of service of process of these copies, or
- a waiver of service of process and notice which may be prescribed by law.

3. I agree to voluntarily and freely waiver any future service of process and notice as checked below in this case:

- a. any further service of process.
- b. notice of the appointment of a commissioner in chancery and hearings held by such commissioner in chancery, if a commissioner in chancery is appointed.
- c. notice of the taking of depositions.
- d. notice of the filing of any reports by a commissioner in chancery of the filing of depositions.
- e. notice of testimony to be given orally in open court.
- f. notice of entry of any order, judgment or decree, including the final decree of divorce.

I understand that, by waiving service of process, I am giving up my right to be notified of the events described immediately above.

DATE

DEFENDANT

PLAINTIFF

TO DEFENDANT: Notify the Court in writing of any changes of your address while this case is pending.

State/Commonwealth of _____, [] City [] County of _____

Subscribed and sworn to/affirmed before me this _____ day of _____, 20 _____

by _____

PRINT NAME OF AFFIANT

DATE

[] CLERK [] DEPUTY CLERK
[] NOTARY PUBLIC (My commission expires _____)
Registration No. _____

APPENDIX 4.A

SAMPLE FINAL DECREE FOR A DIVORCE BASED ON LIVING SEPARATE AND APART FOR SIX (6) MONTHS WITH NO CHILDREN AND A WRITTEN SEPARATION AGREEMENT

VIRGINIA:

IN THE CIRCUIT COURT FOR ARLINGTON COUNTY

_____ [your full name]

Plaintiff

v.

CL No. _____

_____ [your spouse's full name]

Defendant

FINAL ORDER OF DIVORCE

This cause, which has been regularly docketed, matured, and set for hearing by the Plaintiff, came on this day, upon proof of proper and legal service of process upon the Defendant; upon the testimony of the Plaintiff at an *ore tenus* hearing and the corroboration of that testimony, and proper and legal notice filed in accordance with law;

Upon consideration whereof the Court finds from the evidence, independent of any admissions of the parties in pleadings or otherwise, the following facts:

1. The parties were married on the _____ day of _____ [month], _____ [year] in the (City/County) of _____, State of _____;
2. There are no children born or adopted of this marriage under the age of eighteen (18) years;
3. (Plaintiff/Defendant) is domiciled in and is and has been an actual bona fide resident of the Commonwealth of Virginia for at least six (6) months immediately before bringing this suit;
4. Both parties are over the age of eighteen (18) years, and neither is an active member of the military service of the United States [If the Defendant is in the military, s/he must sign a Servicemember's Civil Relief Act Waiver and the decree must so state];
5. The Plaintiff's Social Security number and the Defendant's Social Security number are in the Privacy Addendum attached to the Final Decree;

6. The parties have lived separate and apart without cohabitation and without interruption for more than six (6) months, since _____ [month] _____ [day – if you do not remember the exact day, use the last day of the month you just listed], _____ [year], at the time of the separation it was the intention of one (or both) of the parties that the separation be permanent, and that intention continues to the present;
7. There is no hope or possibility of reconciliation between the parties.
8. The parties have entered into a Written Separation Agreement dated _____ [month] _____ [day], _____ [year];

IT IS, THEREFORE, ADJUDGED, ORDERED and DECREED that the Separation Agreement dated _____ [month] _____ [day], _____ [year], be and the same hereby is affirmed, ratified and incorporated, but not merged herein; and it is further

ADJUDGED, ORDERED, and DECREED that the Plaintiff be and the same is hereby granted a divorce, *a vinculo matromonii*, from the Defendant on the grounds that the parties have lived separate and apart without cohabitation and without interruption for more than six (6) months, since _____ [month] _____ [day], _____ [year].

NOTICE IS HEREBY GIVEN THAT beneficiary designations for any death benefit, as defined in subsection B of §20-111.1 of the Code of Virginia, made payable to a former spouse may or may not be automatically revoked by operation of law upon the entry of a final decree of annulment or divorce. If a party intends to revoke any beneficiary designations made payable to a former spouse following the annulment or divorce, the party is responsible for following any and all instructions to change such beneficiary designation given by the provider of the death benefit. Otherwise, existing beneficiary designations may remain in full force and effect after the entry of a final decree of annulment or divorce.

And nothing further remaining to be done herein, it is ORDERED that this cause is stricken from the docket and the papers placed among the ended cases.

ENTERED this _____ day of _____, 20 _____

 Judge
 Circuit Court of Arlington County

I ASK FOR THIS:

_____ [your signature]

[Type your name]

[Type your address]

[Type your phone number]

SEEN AND AGREED:

_____ [Defendant's signature]

[Type Defendant's name]

[Type Defendant's address]

[Type Defendant's phone number]

[Defendant's signature is required unless notice of the presentation of this Final Decree of Divorce to the court for entry has been given or waived as provided by law. The Defendant's signature is not required if (a) s/he signed a Waiver or Acceptance of Service and has not filed an Answer, (b) s/he was served by publication and has not entered an appearance, or (c) s/he has executed and filed a Waiver of Notice.]

The following paragraphs must be included only if spousal support is awarded/agreed to in the Written Separation Agreement or the Final Decree. You should only include the paragraphs if they are appropriate to your situation.

IT IS, THEREFORE, ADJUDGED, ORDERED and DECREED that in accordance with the provisions of Section 20-107.1(H) of the 1950 Code of Virginia, as amended:

9. The following information is provided for the parties:

Plaintiff Name: _____

Residential Address: _____

Mailing Address: _____

Date of Birth: _____

Soc. Sec. No.: _____ In the Privacy Addendum

Plaintiff Employer: _____

Employer's Address: _____

Work Phone No.: _____

Driver License No.: _____ In the Privacy Addendum

Defendant Name: _____
Residential Address: _____
Mailing Address: _____
Date of Birth: _____
Soc. Sec. No.: _____ In the Privacy Addendum

Defendant Employer: _____
Employer's Address: _____
Work Phone No.: _____
Driver License No.: _____ In the Privacy Addendum

10. The (Plaintiff/Defendant), _____, [full name of person paying support] has a duty to pay spousal support in the monthly amount of \$ _____ [dollar amount of how much support will be paid each month] to the _____ (Plaintiff/Defendant), due every month, with the first payment due on _____ [month] _____ [day] _____ [year] [date payment starts];
11. The Order of this Court as to health care coverage for spouse or former spouse is as follows: (List in this notice any agreement you may have as to health care coverage). The _____ (Plaintiff/Defendant) is to provide at _____ (his/her) expense adequate hospitalization and major medical insurance for the benefit of _____ [list name of the spouse to be covered by insurance]. Such coverage is currently provided through _____ [name of insurance company], policy number _____;
12. No support arrearage currently exists. [If there are support arrearages, list the amount of the arrearages.];
13. Notice is hereby given that the parties shall give each other and the court at least thirty (30) days written notice, in advance, of any change of address and any change of telephone number within thirty (30) days after the change; and
14. Notice is hereby given that in determination of a support obligation, the support obligation as it becomes due and unpaid creates a judgment by operation of law.

DISCLAIMER: THIS DOCUMENT IS A SAMPLE ONLY. It is not intended to address any or all issues relating to your particular circumstances or to offer legal advice regarding your individual claims or causes of action. The information set forth in this sample document may or may not apply to your case and will need to be changed to reflect the specific facts and circumstances of your case. This form is NOT intended to provide legal advice regarding any rights or obligations you may have under Virginia law and should NOT be relied upon as such. To the extent this form references provisions of the Code of Virginia, it is NOT, nor is it meant to be, an exhaustive listing of all sections of the Code of Virginia that apply to your case. Use of this sample form will not guarantee that the Court will grant your request for a divorce. Failure to consult with a competent attorney before filing and/or obtaining a divorce may result in your waiving important rights or not receiving benefits to which you may otherwise be entitled legally.

APPENDIX 4.B

SAMPLE FINAL DECREE OF DIVORCE BASED ON ONE-YEAR SEPARATION, THE PARTIES HAVE A MINOR CHILD, AND THERE IS A WRITTEN SEPARATION AGREEMENT.

VIRGINIA:

IN THE CIRCUIT COURT FOR ARLINGTON COUNTY

_____ [your full name]
Plaintiff

v.

CL No. _____

_____ [your spouse's full name]
Defendant

FINAL ORDER OF DIVORCE

This cause, which has been regularly docketed, matured, and set for hearing by the Plaintiff, came on this day, upon proof of proper and legal service of process upon the Defendant; upon the testimony of the Plaintiff at an *ore tenus* hearing and the corroboration of that testimony, and proper and legal notice filed in accordance with law;

Upon consideration whereof the Court finds from the evidence, independently of any admissions of the parties in pleadings or otherwise, the following facts:

1. The parties were lawfully married on the ____ day of _____ [month], _____ [year] in the (City/County) of _____, in _____ [state];
2. There (is/are) ____ [number] child(ren) born of the marriage or adopted by the parties who is/are under the age of eighteen (18) years, namely: _____; [list all children's names and their ages];
[OR] There are no children born or adopted of this marriage under the age of eighteen (18) years;
3. Plaintiff /Defendant is and has been an actual bona fide resident and domiciliary of the Commonwealth of Virginia for at least six (6) months immediately before bringing this suit;

4. Both parties are over the age of eighteen (18) years, and neither is, or has been, an active duty member of the military service of the United States since the filing of the Complaint in this case [If the Defendant is in the military, s/he must sign a Servicemember's Civil Relief Act Waiver and the decree must so state];
5. The Plaintiff's Social Security number and the Defendant's Social Security number are in the Privacy Addendum attached to the Final Decree;
6. The parties have lived separate and apart without cohabitation and without interruption for more than one year, since _____ [month] _____ [day – if you do not remember the exact day, use the last day of the month you just listed], _____ [year], at the time of the separation it was the intention of one (or both) of the parties that the separation be permanent, and that intention continues to the present;
7. There is no hope or possibility of reconciliation between the parties; and
8. The parties have entered into a Written Separation Agreement dated _____ [month] _____ [day], _____ [year];

IT IS, THEREFORE, ADJUDGED, ORDERED, and DECREED that the Plaintiff is hereby granted a divorce, *a vinculo matromonii*, from the Defendant on the ground that the parties have lived separate and apart without any cohabitation and without interruption for more than one year, since _____ [month] _____ [day], _____ [year]; and it is further

ADJUDGED, ORDERED and DECREED that the Separation Agreement dated _____ [month] _____ [day], _____ [year], be and the same is hereby affirmed, ratified and incorporated, but not merged herein.

NOTICE IS HEREBY GIVEN THAT beneficiary designations for any death benefit, as defined in subsection B of §20-111.1 of the Code of Virginia, made payable to a former spouse may or may not be automatically revoked by operation of law upon the entry of a final decree of annulment or divorce. If a party intends to revoke any beneficiary designations made payable to a former spouse following the annulment or divorce, the party is responsible for following any and all instructions to change such beneficiary designation given by the provider of the death benefit. Otherwise, existing beneficiary designations may remain in full force and effect after the entry of a final decree of annulment or divorce.

Custody and Visitation: [insert terms of the custody agreement];

IT IS FURTHER ADJUDGED, ORDERED and DECREED that in accordance with the provisions of Section 20.124.5 of the 1950 Code of Virginia, as amended:

Either party who intends to relocate his or her residence shall give thirty (30) days advance written notice of any such intended relocation and of any intended change of address, said notice being given to both the other party and to this Court; and it is further

ADJUDGED, ORDERED and DECREED that in accordance with the provisions of Section 20.60.3 and 20-107.1(H) of the 1950 Code of Virginia, as amended:

SUPPORT: A duty of support is owed to: _____ [list the name, date of birth, and last four digits of the social security number of each child and/or spouse for whom a duty of support exists]. The party responsible for paying support is _____ [give name of party who will be paying the support, the Plaintiff and/or the Defendant].

The following information is provided for the parties:

Plaintiff Name: _____
Residential Address: _____
Mailing Address: _____
Date of Birth: _____
Soc. Sec. No.: In the Privacy Addendum

Plaintiff Employer: _____
Employer's Address: _____
Work Phone No.: _____
Driver License No.: In the Privacy Addendum

Defendant Name: _____
Residential Address: _____
Mailing Address: _____
Date of Birth: _____
Soc. Sec. No.: In the Privacy Addendum

Defendant Employer: _____
Employer's Address: _____
Work Phone No.: _____
Driver License No.: In the Privacy Addendum

Notice is hereby given that support payments may be withheld as they become due pursuant to Section 20-79.1 or Section 20-79.2 of the Code of Virginia, 1950 as amended, from income as defined in Section 63.2-1900 and without further amendments of this Order and Decree or having to file an application for services with the Department of Social Services.

Notice is hereby given that support payments may be withheld pursuant to Chapter 19 (Section 63.2-1900, et seq.) of Title 63.2 of the Code of Virginia, 1950 as amended, without further amendments to this Order and Decree upon application for services with the Department of Social Services.

Notice is hereby given that in determination of a support obligation, the support obligation as it becomes due and unpaid creates a judgment by operation of law. Pursuant to Section 20-78.2 of the Code of Virginia, 1950 as amended, interest shall accrue on the arrearage at the judgment rate as established by Section 6.2-302 unless the obligee, in a writing submitted to the court, waives the collection of interest.

Notice is hereby given that on and after July 1, 1994, the Department of Social Services may, pursuant to Chapter 19 of Title 63.2 of the Code of Virginia, 1950 as amended, and in accordance with Section 20-108.2 and Section 63.2-1921 of the 1950 Code of Virginia, as amended, initiate a review of the amount of support ordered by any Court.

Notice is hereby given that, in cases enforced by the Department of Social Services, the Department of Motor Vehicles may suspend or refuse to renew the driver's license of any person upon receipt of notice from the Department of Social Services that the person (i) is delinquent in the payment of child support by ninety (90) days or in an amount of \$5,000 or more or (ii) has failed to comply with a subpoena, summons, or warrant relating to paternity or child support proceedings.

Notice is hereby given that a petition may be filed for the suspension of any license, certificate, registration or other authorization to engage in a profession, trade, business, occupation, or recreational activity issued by the Commonwealth of Virginia to a parent as provided in Section 63.2-1937 upon a delinquency for a period of ninety (90) days or more or in the amount of \$5,000.00 or more.

The following party(ies) hold(s) the following license(s):

_____ [list any license(s) either party may hold or if neither party holds a license, clearly state so in the paragraph above].

CHILD SUPPORT: The (Plaintiff/Defendant) [whoever is paying support], _____ [full name of person paying support], is ordered to pay child support in the monthly amount of \$ _____ [dollar amount of how much support will be paid each month] on behalf of _____ [give name(s) of child(ren) support is paid for] to the (Plaintiff/Defendant), due on or before the day of every month, commencing on _____ [month] _____ [day] _____ [year];

Pursuant to Section 20-60.3 and 20-124.2 of the Code of Virginia, 1950 as amended, support shall continue to be paid for any child over the age of eighteen (18) who is (i) a full-time high school student, (ii) not self-supporting, and (iii) living in the home of the party seeking or receiving child support until such child reaches the age of nineteen (19) or graduates from high school, whichever

occurs first, and that the court may also order the continuation of support for any child over the age of eighteen (18) who is (a) severely and permanently mentally or physically disabled, (b) unable to live independently and support himself, and (c) residing in the home of the parent seeking or receiving child support.

If at any time child support payments are ordered to be paid through the Department of Social Services, _____ [name of party paying support] shall keep the Department of Social Services informed of the name, address, and telephone number of (his or her) current employer, or if at any time payments are ordered to be paid directly to _____ [name of party to whom support is paid], _____ [name of party paying support] shall keep the Court informed of the name, address and telephone number of (his or her) current employer;

Unless the Court orders otherwise based upon a showing of good cause, the parties shall give each other and the Court, and, when payments are to be made through the Department, the Department of Social Services at least thirty (30) days written notice in advance, of any change of address and any change of telephone number.

If child support payments are ordered to be paid through the Department of Social Services, the party obligated to provide health care coverage shall keep the Department of Social Services informed of any changes in the availability of the health care coverage for the minor child or children, or if payments are ordered to be paid directly to the obligee, the party obligated to provide health care coverage shall keep the other party informed of any changes in the availability of the health care coverage for the minor child or children.

SPOUSAL SUPPORT: The (Plaintiff/Defendant) [whoever is paying] _____ [full name of person paying support], is ordered to pay spousal support in the monthly amount of \$ _____ [dollar amount of how much support to be paid each month] to the (Plaintiff/Defendant) [whoever is paying], due on or before the ___ day of every month, commencing on _____ [month] _____ [day] _____ [year] [insert the date payment starts] and continuing until the earliest to occur of: (i) the death of either party; (ii) the remarriage of the recipient; (iii) the cohabitation of the recipient with another person, as defined in Section 20-109(A) of the Code of Virginia as amended; or (iv) until further order of this Court.

HEALTH CARE COVERAGE:

FOR CHILDREN: The Order of this Court as to health care coverage for each child is as follows: [List in any agreement you may have as to health care for the children from your Written Separation Agreement, or if true, a written statement that health care coverage cannot be obtained at a reasonable cost.]

FOR SPOUSE OR FORMER SPOUSE: Health care coverage (i) is not required by this Order for a spouse or former spouse; OR (ii) shall be provided by _____ [name of party providing health insurance] for the spouse or former spouse _____ [name], through _____ [name of insurance company]. [Choose either (i) OR (ii).]

ARREARAGES:

CHILD SUPPORT ARREARAGES:

- (i) No child support arrearages exist as of the date of this Order. [If arrearages presently exist, they will be deemed to be forever waived.] or
- (ii) The (Plaintiff/Defendant), _____ [full name of person paying support] owes child support arrearages to _____ [name of the party to whom child support is paid], in the total amount of \$ _____ [total dollar amount of arrearages] for the period between _____ [start of time period for which arrearage is calculated] and _____ [end of time period for which arrearage is calculated]. At any time that support arrearages should exist, all payments made are to be credited to current support obligations first, with any payment in excess of the current obligation applied to the arrearage. [Choose either (i) OR (ii)—NOT BOTH.]
- (iii) If any arrearages for child support, including interest or fees, exist at the time the youngest child included in the order emancipates, payments shall continue in the total amount of \$ _____ [current support plus amount applied toward arrearages] at the time of emancipation until all arrearages are paid.

SPOUSAL SUPPORT ARREARAGES:

- (i) No spousal support arrearages exist as of the date of this Order. [If arrearages presently exist, they will be deemed to be forever waived.] or
- (ii) The (Plaintiff/Defendant), _____ [full name of person paying support], owes spousal support arrearages in the total amount of \$ _____ [total dollar amount of arrearages] for the period between _____ [start of time period for which arrearage is calculated] and _____ [end of time period for which arrearage is calculated]. At any time that support arrearages should exist, all payments made are to be credited to current support obligations first, with any payment in excess of the current obligation applied to the arrearage. [Choose either (i) OR (ii)—NOT BOTH.]

And nothing further remaining to be done herein, it is ORDERED that this cause is stricken from the docket and the papers placed among the ended cases.

ENTERED this _____ day of _____, 20_____

Judge
Circuit Court of Arlington County

I ASK FOR THIS:

_____ [your signature]

Plaintiff, pro se
[Type your name]
[Type your address]
[Type your phone number]

_____ [Defendant's signature]

Defendant [, pro se – if applicable]
[Type Defendant's name]
[Type Defendant's address]
[Type Defendant's phone number]

[Defendant's signature is required unless notice of the presentation of this Final Decree of Divorce to the court for entry has been given or waived as provided by law. The Defendant's signature is not required if (a) s/he signed a Waiver or Acceptance of Service and has not filed an Answer, (b) s/he was served by publication and has not entered an appearance, or (c) the s/he has executed and filed a Waiver of Notice.]

DISCLAIMER: THIS DOCUMENT IS A SAMPLE ONLY. It is not intended to address any or all issues relating to your particular circumstances or to offer legal advice regarding your individual claims or causes of action. The information set forth in this sample document may or may not apply to your case and will need to be changed to reflect the specific facts and circumstances of your case. This form is NOT intended to provide legal advice regarding any rights or obligations you may have under Virginia law and should NOT be relied upon as such. To the extent this form references provisions of the Code of Virginia, it is NOT, nor is it meant to be, an exhaustive listing of all sections of the Code of Virginia that apply to your case. Use of this sample form will not guarantee that the Court will grant your request for a divorce. Failure to consult with a competent attorney before filing and/or obtaining a divorce may result in your waiving important rights or not receiving benefits to which you may otherwise be entitled legally.

APPENDIX 5

ADDENDUM FOR PROTECTED IDENTIFYING INFORMATION— CONFIDENTIAL

Commonwealth of Virginia

Case No. _____

In the Circuit Court of the City County of _____

_____ v. _____

This addendum is filed with and incorporated by reference in the document(s) indicated below, from which the protected identifying information contained herein has been removed by the attorney or party whose signature appears below. This addendum shall be used to distribute such information only as required by law, and may be made available only to the parties, to their attorneys, and to other person(s) as the court may allow.

Complaint Petition Motion Order Decree Other Pleading: _____

Agreement(s) of the Parties Transcripts Other: _____

PARTY NAME (LAST, FIRST, MIDDLE)

ADDRESS

SOCIAL SECURITY NUMBER _____
DATE OF BIRTH

PARTY NAME (LAST, FIRST, MIDDLE)

ADDRESS

SOCIAL SECURITY NUMBER _____
DATE OF BIRTH

NAME OF ASSET, LIABILITY, ACCOUNT, CREDIT CARD	IDENTIFYING ACCOUNT NO.
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

NAME OF ASSET, LIABILITY, ACCOUNT, CREDIT CARD	IDENTIFYING ACCOUNT NO.
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

CHILD NAME (LAST, FIRST, MIDDLE)

SOCIAL SECURITY NUMBER

DATE OF BIRTH

CHILD NAME (LAST, FIRST, MIDDLE)

SOCIAL SECURITY NUMBER

DATE OF BIRTH

Attach additional sheet(s) for other information, as needed.

DATE

PARTY ATTORNEY

PRINT NAME ADDRESS / TELEPHONE NUMBER OF SUBSCRIBER

APPENDIX 6

SAMPLE NAME CHANGE ORDER

VIRGINIA:

IN THE CIRCUIT COURT FOR ARLINGTON COUNTY

_____ [your full name]

Plaintiff

v.

CL No. _____

_____ [your spouse's full name]

Defendant

ORDER OF RESTORATION OF NAME

THIS CAUSE came before the Court upon Plaintiff's Complaint for Divorce from the Defendant and (Defendant's/Plaintiff's) prayer therein for restoration of her (maiden/family) name; and

IT APPEARING to the Court that:

The (Plaintiff/Defendant) resides at _____ [current address];
and

The (Plaintiff/Defendant) previously changed her name to _____ [name changed to as a result of the marriage] as a result of marriage to _____ [name of person you were/are married to]; and it is therefore

ADJUDGED, ORDERED, and DECREED, pursuant to Section 20-121.4 of the Code of Virginia of 1950, as amended, that the name of _____ [current name] be and hereby is changed to _____ [new name].

The Clerk of this Court shall forthwith spread this Order upon the current deed book, indexing the order in the names of _____ [current name] and _____ [new name].

ENTERED this _____ day of _____, 20_____

Judge
Circuit Court of Arlington County

I ASK FOR THIS:

_____ [your signature]

[Type your name]

[Type your address]

[Type your phone number]

DISCLAIMER: THIS DOCUMENT IS A SAMPLE ONLY. It is not intended to address any or all issues relating to your particular circumstances or to offer legal advice regarding your individual claims or causes of action. The information set forth in this sample document may or may not apply to your case and will need to be changed to reflect the specific facts and circumstances of your case. This form is NOT intended to provide legal advice regarding any rights or obligations you may have under Virginia law and should NOT be relied upon as such. To the extent this form references provisions of the Code of Virginia, it is NOT, nor is it meant to be, an exhaustive listing of all sections of the Code of Virginia that apply to your case. Use of this sample form will not guarantee that the Court will grant your request for a divorce. Failure to consult with a competent attorney before filing and/or obtaining a divorce may result in your waiving important rights or not receiving benefits to which you may otherwise be entitled legally.

APPENDIX 7

SAMPLE SEPARATION AGREEMENT (NO REAL PROPERTY and NO CLAIM for SPOUSAL SUPPORT)

THIS AGREEMENT, made this _____ day of _____ [month], _____ [year], between _____ [Plaintiff's name], herein after referred to as the "(Husband/Wife)", and _____ [Defendant's name], herein after referred to as the "(Husband/Wife)."

WITNESSETH:

WHEREAS, the parties hereto were duly married in _____ [city], _____ [state] on _____ [month, day and year of marriage]; and

WHEREAS, there are no children born to or adopted by the marriage who are under the age of eighteen (18) and none are expected; and

WHEREAS, the parties, in consequence of disputes and irreconcilable differences, have voluntarily agreed to and did separate from each other on _____ [month, day and year of separation], and are now living separate and apart from each other, and have voluntarily and mutually agreed to continue to live separate and apart; and

WHEREAS, each party has been advised of his/her rights to obtain full disclosure of the other party's financial condition, including income, expenses, assets, liabilities, and assets transferred, and have obtained full and satisfactory disclosure of such; and

WHEREAS, the parties desire to settle their financial, property, and other rights and obligations arising out of the marriage and otherwise.

NOW, THEREFORE, in consideration of the mutual promises and agreements herein contained, the parties hereto agree as follows:

1. Real Property: The parties acknowledge that there are no real properties to be divided between the parties;
2. Monetary Assets: The parties acknowledge that they have agreed to a division and settlement of their monetary assets (include bank accounts, retirement accounts, investment accounts, stocks, and all similar assets) as set forth in the written list attached hereto. Each party shall own, have, and enjoy, free of any right or claim of the other party, all property hereafter acquired by such party;

3. **Other Personal Property:** The parties acknowledge that they have agreed to a division and settlement of other personal property and personal effects as set forth in the written list attached hereto. Each party shall own, have and enjoy, free of any right or claim of the other party, all property hereafter acquired by such party;
4. **Responsibility for Debts:** Each party represents and warrants that he or she, as the case may be, has not incurred or contracted any debts or obligations for which the other or any property of the other may be liable, either individually or jointly. Each party agrees that he or she shall be solely responsible for the payment and performances of all debts and obligations presently in his or her respective name and he or she hereafter shall not incur any debts or obligations for which the other may be liable.
5. **Waiver of Maintenance and Support:** Each party represents that he or she is in good health and is self-supporting, and that his or her resources and income are sufficient to provide for his or her own proper maintenance and support, now and in the future, in accordance with the standard of living he or she now enjoys. Each of the parties hereby declares that each does not desire or require any maintenance or support from the other party. Each party hereby waives any claim, which he or she may have against the other for alimony, maintenance, or support, and agrees that their respective duties to support and maintain the other are extinguished in consideration of the provision of this Agreement. Each party recognizes that this waiver includes rights that he or she otherwise might have or acquire under Section 20.107.1 of the 1950 Code of Virginia, as amended, and any amendment thereof or any successor statute. Neither party under any circumstances, ordinary or extraordinary, shall hereafter seek or require from the other any alimony, maintenance, support or similar payment. This waiver by the parties of maintenance and support shall survive, and not be merged in, any judgment, decree, or order of any court.
6. **Full Acknowledgement:** Each party acknowledges that all of the matters embodied in this Agreement, including all terms, covenants, conditions, waivers, releases and other provisions contained herein, are fully understood by him or her; that he or she is entering into this Agreement freely, voluntarily and after due consideration of the consequences of doing so; and that this Agreement is valid and binding upon him or her.

7. Full Disclosure: Each party has made independent inquiry into the complete financial circumstances of the other, and acknowledges that he or she is fully informed of the income, assets, and financial prospects of the other, and is satisfied that full disclosure has been made.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the date first above written.

_____ [Plaintiff's Signature]
[Plaintiff's Name]

_____ [Defendant's Signature]
[Defendant's Name]

DISCLAIMER: THIS DOCUMENT IS A SAMPLE ONLY. It is not intended to address any or all issues relating to your particular circumstances or to offer legal advice regarding your individual claims or causes of action. The information set forth in this sample document may or may not apply to your case and will need to be changed to reflect the specific facts and circumstances of your case. This form is NOT intended to provide legal advice regarding any rights or obligations you may have under Virginia law and should NOT be relied upon as such. To the extent this form references provisions of the Code of Virginia, it is NOT, nor is it meant to be, an exhaustive listing of all sections of the Code of Virginia that apply to your case. Use of this sample form will not guarantee that the Court will grant your request for a divorce. Failure to consult with a competent attorney before filing and/or obtaining a divorce may result in your waiving important rights or not receiving benefits to which you may otherwise be entitled legally.

APPENDIX 8

SAMPLE REQUEST FOR *ORE TENUS* HEARING

VIRGINIA:

IN THE CIRCUIT COURT FOR ARLINGTON COUNTY

_____ [your full name]

Plaintiff

v.

CL No. _____

_____ [your spouse's full name]

Defendant

REQUEST FOR *ORE TENUS* HEARING

I, _____ [Plaintiff's Name], hereby requests that this matter be set for an *ore tenus* hearing as all issues in this case are totally uncontested.

I ASK FOR THIS:

_____ [your signed name]

[Type your full name]

[Type your complete address]

[Type your daytime phone number]

Attachments:

Written Settlement Agreement _____ Final Decree _____
Name Change Order _____

DISCLAIMER: THIS DOCUMENT IS A SAMPLE ONLY. It is not intended to address any or all issues relating to your particular circumstances or to offer legal advice regarding your individual claims or causes of action. The information set forth in this sample document may or may not apply to your case and will need to be changed to reflect the specific facts and circumstances of your case. This form is NOT intended to provide legal advice regarding any rights or obligations you may have under Virginia law and should NOT be relied upon as such. To the extent this form references provisions of the Code of Virginia, it is NOT, nor is it meant to be, an exhaustive listing of all sections of the Code of Virginia that apply to your case. Use of this sample form will not guarantee that the Court will grant your request for a divorce. Failure to consult with a competent attorney before filing and/or obtaining a divorce may result in your waiving important rights or not receiving benefits to which you may otherwise be entitled legally.

APPENDIX 9.A

SAMPLE ORE TENUS OR DEPOSITION TESTIMONY FOR A PLAINTIFF

(You must adjust the questions asked or testimony provided to address your specific circumstances)

1. My name is _____ and I am the Plaintiff in this action.
2. My address is _____.
3. The Defendant's address is _____.
4. The Defendant and I were married on _____ (month, day, year) in _____ (city, state).
5. Both the Defendant and I are over eighteen (18) years of age.
6. I am/am not a member of the armed forces of the United States, and the Defendant is/is not a member of the armed forces of the United States.
7. The Defendant and I have not had or adopted any children – OR – The Defendant and I have _____ (number) of child(ren). His /Her/Their name(s) is/are _____, and his/her/their birthday(s) is/are _____ (month, day, year).
8. I filed this action for divorce on _____ (month, day, year).
9. I have been a domiciliary and resident of Virginia since _____ (month, day, year), which is more than six (6) months before I filed this action for divorce – OR – The Defendant has been a domiciliary of and resident of Virginia since _____ (month, day, year), which is more than six (6) months before I filed this action for divorce.
10. The Defendant and I separated from each other on _____ (month, day, year).
11. I (or the Defendant) intended the separation to be permanent on the day we separated, and I (or the Defendant) still intend for the separation to be permanent.
12. Since the day we separated, the Defendant and I have lived separate and apart continuously without any cohabitation and without interruption.
13. There is no hope or possibility that the Defendant and I will reconcile.
14. I ask that the Court grant me a final decree of divorce on the grounds of having lived separate and apart without any cohabitation and without interruption for _____ (you must state whether the separation period is six (6) months or in excess of one (1) year and this must be the same time period set forth in both your Complaint and Final Decree).

If you are the wife and want to change your name back to your maiden name, state the following:

15. I ask that the Court restore my maiden/family name.

If your proposed Final Decree of Divorce incorporates a Written Settlement Agreement, state the following:

16. (*Ask to see the Written Settlement Agreement from the court's file; then say*) This is the Agreement the Defendant and I entered into on _____ (date on which it was last signed). I affirm that this is my signature, and that this is the Defendant's signature. This Agreement resolves all the issues pending before this Court. I request that the Court affirm, ratify, and incorporate but not merge this Agreement into the Final Decree of Divorce.

DISCLAIMER: THESE QUESTIONS ARE PROVIDED AS SAMPLES ONLY. They are not intended to address any or all issues relating to your particular circumstances or to offer legal advice regarding your individual claims or causes of action. Use of these sample questions will not guarantee that the Court will grant your request for a divorce. Failure to consult with a competent attorney before filing and/or obtaining a divorce may result in your waiving important rights or not receiving benefits to which you may otherwise be entitled legally.

APPENDIX 9.B

SAMPLE ORE TENUS TESTIMONY FOR A WITNESS

(You must adjust the questions asked or testimony provided to address your specific circumstances)

1. Please state your name and current address.
2. Do you know the Plaintiff or Defendant in this divorce action?
3. How long have you known the Plaintiff or Defendant?
4. To the best of your knowledge were Plaintiff and Defendant married on _____(month, day, year) in _____(place)?
5. How long has the Plaintiff or Defendant lived in Virginia and considered Virginia to be his/her home (number of months or years)?
6. When did the Plaintiff or Defendant file this action for divorce (date)?
7. Has the Plaintiff or Defendant been a resident and domiciliary of Virginia for the six (6) months immediately preceding the filing of this Complaint for divorce?
8. Are the Plaintiff and Defendant over eighteen (18) years of age?
9. Is either the Plaintiff or Defendant now, or at any time during the pendency of this divorce action, a member of the armed forces of the United States?
10. Were there any children born or adopted of the marriage? If so, what are their names and dates of birth?
11. Did you learn at some time that the Plaintiff and Defendant had separated from one another? How did you learn of the separation?
12. Where is Plaintiff or Defendant living now?
13. Have you visited Plaintiff or Defendant in his/her place of residence since the separation?
14. How many times?
15. During your visits to the Plaintiff's or Defendant's residence, did you see any evidence that would indicate to you that the Plaintiff and Defendant cohabited in any fashion?
16. Do you feel like you know the Plaintiff or Defendant well enough that if s/he had cohabited with the other since the separation that you would know of it?
17. Since the date of separation, to the best of your knowledge, have the Plaintiff and Defendant lived separate and apart continuously, without cohabitation and without interruption?
18. Has Plaintiff or Defendant ever told you that s/he intended the separation be permanent?
19. When did either the Plaintiff or Defendant form the intent to have the separation be permanent? Do you know whether that intention continues through to the present time?
20. In your opinion, is there any hope or possibility of reconciliation between the Plaintiff and the Defendant?

DISCLAIMER: THESE QUESTIONS ARE PROVIDED AS SAMPLES ONLY. They are not intended to address any or all issues relating to your particular circumstances or to offer legal advice regarding your individual claims or causes of action. Use of these sample questions will not guarantee that the Court will grant your request for a divorce. Failure to consult with a competent attorney before filing and/or obtaining a divorce may result in your waiving important rights or not receiving benefits to which you may otherwise be entitled legally.

**APPENDIX 9C.
AFFIDAVIT CONTENTS**

VIRGINIA CODE SECTION 20-106

§ 20-106. Testimony may be required to be given orally; evidence by affidavit.

A. In any suit for divorce, the trial court may require the whole or any part of the testimony to be given orally in open court, and if either party desires it, such testimony and the rulings of the court on the exceptions thereto, if any, shall be reduced to writing, and the judge shall certify that such evidence was given before him and such rulings made. When so certified the same shall stand on the same footing as a deposition regularly taken in the cause; provided, however, that no such oral evidence shall be given or heard unless and until after such notice to the adverse party as is required by law to be given of the taking of depositions, or when there has been no service of process within this Commonwealth upon, or appearance by the defendant against whom such testimony is sought to be introduced. However, a party may proceed to take evidence in support of a divorce by deposition or affidavit without leave of court only in support of a divorce on the grounds set forth in subdivision A (9) of § 20-91, where (i) the parties have resolved all issues by a written settlement agreement, (ii) there are no issues other than the grounds of the divorce itself to be adjudicated, or (iii) the adverse party has been personally served with the complaint and has failed to file a responsive pleading or to make an appearance as required by law.

B. The affidavit of a party submitted as evidence shall be based on the personal knowledge of the affiant, contain only facts that would be admissible in court, give factual support to the allegations in the complaint or counterclaim, and establish that the affiant is competent to testify to the contents of the affidavit. The affidavit shall:

1. Affirm the allegations in the complaint or counterclaim, including that the parties are over the age of eighteen (18) and not suffering from any condition that renders either party legally incompetent;
2. Affirm that neither party is incarcerated;
3. Verify the military status of the opposing party and advise whether the opposing party has filed an answer or a waiver of his rights under the federal Servicemembers Civil Relief Act (50 U.S.C. App § 501 et seq.);
4. Affirm that at least one party to the suit is, and has been for a period in excess of six months, a bona fide resident and domiciliary of the Commonwealth;
5. Affirm that the parties have lived separate and apart, continuously, without interruption and without cohabitation, and with the intent to remain separate and apart permanently, for the statutory period required by subdivision A (9) of § 20-91;

6. Affirm the affiant's desire to be awarded a divorce pursuant to subdivision A (9) of § 20-91;

7. State whether there were children born or adopted of the marriage and affirm that the wife is not known to be pregnant from the marriage; and

8. Be accompanied by the affidavit of a corroborating witness, which shall:

a. Verify that the affiant is over the age of 18 and not suffering from any condition that renders him legally incompetent;

b. Verify that neither party is incarcerated;

c. Verify the allegations in the complaint or counterclaim;

d. Verify that at least one of the parties to the suit is, and has been for a period in excess of six months, a bona fide resident and domiciliary of the Commonwealth;

e. Verify whether there were children born or adopted of the marriage and verify that the wife is not known to be pregnant from the marriage; and

f. Verify the affiant's personal knowledge that the parties have not cohabitated since the date of separation alleged in the complaint or counterclaim, and that it has been the moving party's intention since that date to remain separate and apart permanently.

C. A verified complaint shall not be deemed an affidavit for purposes of this section.

(Code 1919, § 5109; 1932, p. 388; 2012, c. 72.)