

**INSTRUCTIONS FOR
COMPLETING AN
ANSWER & COUNTERCLAIM FOR DIVORCE
WITH NO MINOR CHILDREN**

INTRODUCTION

If you have been served with a complaint for divorce with no children, this form can be used to answering the complaint and file a counterclaim for divorce. If you and the plaintiff have minor children together, you cannot use this form but instead should use the form entitled "Answer & Counterclaim for Divorce with Minor Children." Before filing any document with the court, you should speak with a licensed attorney.

The following are detailed instructions for completing this form. Please read them carefully and refer to them when completing this form.

Step 1-Complete the Heading

Heading

Enter your name on the defendant's line and then your spouse's name on the plaintiff's line. Enter the civil action number where indicated. Use the same civil action number found on the complaint that was served on you.

In the very first paragraph, enter you name again.

Step 2-Complete the Paragraphs

Paragraphs 1 through 13

Each paragraph of the answer portion of this form asks the same question for each corresponding paragraph of the complaint for divorce. You **must** check one (1) box in each of the numbered paragraph in order to answer the complaint for divorce that was served on you. If you do not check a box, then you have not answered the corresponding paragraph of the complaint. If there is a paragraph that is unanswered or the entire complaint is not answered, then the court will assume that you do not disagree with or have any defenses to the allegations of the complaint that are unanswered.

Answering Paragraphs 1 through 13

These instructions and the form Answer and Counterclaim presume that the complaint is organized along the lines of the Petition for Divorce without Children found in this packet. If the complaint served upon you has additional or fewer paragraphs, then either add or subtract answering paragraphs as needed.

For paragraphs 1 through 13, you have four (4) options to answer the complaint. Check **only** the box that applies to you. The following are explanations of each of the four options.

- Admitted as true: Check this box if you agree with and admit to the allegations in a paragraph.
- Denied as true: Check this box if you do not agree with and deny the allegations in a paragraph.
- Neither admitted or denied: Check this box if you do not have enough information to admit or deny the truth of the allegations in a paragraph.
- Partly true/partly untrue: Check this box if part of an allegation is true and part is not true. In the spaces provided, explain to the court what is and is not true and why.

Answering Paragraph 14

If there are any other reasons why the divorce should not be granted or why this case should not be heard, write those reasons here. You **must** provide legal reasons **that are true and can be proven** in this space. Examples of those reasons are lack of jurisdiction over the person, improper venue, etc. See O.C.G.A. 9-11-12 (b) for additional legal reasons that, if true, could be used.

Step 3-Complete the Counterclaim

If you want to file a counterclaim to the divorce action filed against you, you should complete paragraphs through 27, as well as the final paragraph. Instead of being the defendant, you will become the counterclaim plaintiff, and you spouse will become the counterclaim defendant. Once you have completed your counterclaim, you must sign your name where indicated.

Paragraph 15: Subject Matter Jurisdiction *CHECK ONLY ONE BOX*

Check box "a" if you have been a resident of the State of Georgia for at least six (6) months prior to filing your complaint for divorce.

Check box "b" if you are not a resident of the State of Georgia but your spouse lived in Clayton County, Georgia for at least six (6) months prior to your filing for divorce.

If neither box "a" nor "b" applies to you, you cannot file for divorce in Clayton County.

Paragraph 16: Venue *CHECK ONLY ONE BOX*

This paragraph tells the court that the counterclaim defendant/plaintiff currently resides in Clayton County.

Paragraph 17: Service of Process *CHECK ONLY ONE BOX*

This paragraph indicates to the court that you intend to serve a copy of this document on the counterclaim defendant/plaintiff. **You must** serve a copy of this Answer & Counterclaim on the counterclaim defendant/plaintiff. Under O.C.G.A. 9-11-5, you can do so by mailing a copy to the address listed on the Summons.

Paragraph 18: Date of Marriage *CHECK ONLY ONE BOX*

Check box "a" if you and the counterclaim defendant/plaintiff were married by a licensed clergyman or by a judge at the courthouse. Give the date of the marriage in the space provided.

Check box “b” if you and the counterclaim defendant/plaintiff lived together and held yourselves out as husband and wife, common law, **before** January 1, 1997. Give the date you and the defendant began your common law marriage in the space provided.

Paragraph 19: Date of Separation

In the space provided, give the date that you and the counterclaim defendant/plaintiff separated and remained separated. Provide only one (1) date.

Paragraph 20: Settlement Agreement

Check this box **only if** you and the defendant have signed a settlement agreement telling the court how you will divide any joint/marital property and satisfy any joint/marital debts. This document must be agreed to, signed and notarized by **both** parties.

Paragraph 21: Minor Children *CHECK ONLY ONE BOX*

Check box “a” if you and the defendant do not have any minor children together. **If you and the defendant do have minor children together, you must use the complaint entitled “Answer & Counterclaim for Divorce with Minor Children.”**

Paragraph 22: Alimony *CHECK ONLY ONE BOX*

Check box “a” if you are financially dependent on the counterclaim defendant/plaintiff and want the court to order the defendant to pay alimony for your support.

Check box “b” if you are not asking the court to order alimony payments for your support.

Paragraph 23: Marital Property *CHECK ONLY ONE BOX*

Check box “a” if you and the counterclaim defendant/plaintiff have already divided your marital property and are both satisfied with the division. Attach the signed and notarized Settlement Agreement to this complaint. This document must be signed **and** notarized by both parties and filed with this Answer & Counterclaim.

Check box “b” if you and the counterclaim defendant/plaintiff did not acquire any property during your marriage to each other.

Check box “c” if you and the counterclaim defendant/plaintiff have acquired property during your marriage to each other and you are asking for a fair division of that property. **All** property that was acquired by either party during the marriage is considered marital property, except gifts or property that was inherited. **If you check box “c”, you must provide the court with information about the property that you or the counterclaim defendant/plaintiff have acquired at any time during the marriage. Use the spaces provided to describe the property and check EACH box that applies. Use additional paper if necessary and attach that paper to this complaint. List any and all other property as well.**

Paragraph 24: Joint or Marital Debts *CHECK ONLY ONE BOX*

Check box “a” if you and the counterclaim defendant/plaintiff do not have any joint or marital debts.

Check box “b” if you and the counterclaim defendant/plaintiff have outstanding joint or marital debts and you and the defendant have decided which party will be

responsible for paying each of those debts. In the spaces provided, list each creditor (i.e.: Visa, MasterCard, etc.), the balance owed and which party will pay each debt. Use additional paper if necessary and attach that paper to this complaint.

Check box "c" if the court does not have personal jurisdiction over the defendant.

Paragraph 25: Restraining Order Where Violence Has Occurred

Check this box **only if** there has been a history of violence by the defendant toward you, and you are afraid that the defendant will continue this history of violent acts or harassment against you. **Do not check this box if there has not been any history of violent acts or harassment against you by the defendant.**

Paragraph 26: Restore Former Name

Check this box **only if** you want the court to restore your former or maiden name. Tell the court what your former or maiden name was in the space provided. This is not a name change action and cannot be used outside of this Answer & Counterclaim.

Paragraph 27: Grounds for Divorce

Check only the boxes that you **can prove** in court if your case goes to trial.

Check box "a" if there is no hope that you and the counterclaim defendant/plaintiff can save this marriage.

Check box "b" if the counterclaim defendant/plaintiff has committed acts of cruelty against you. You must tell the court what the defendant did to you in the spaces provided.

Check box "c" if the counterclaim defendant/plaintiff has had sexual relations with someone else while your were married to each other.

Check box "d" if the counterclaim defendant/plaintiff left you and did not come back for at least a year.

Check box "e" if you can prove other grounds for divorce. **You must** research the law at O.C.G.A. § 19-5-3, and tell the court what other grounds for divorce you are asserting in this complaint. Use the space provided or use and attach additional paper.

Final Paragraph: Request for Relief *CHECK ONLY THE BOXES THAT APPLY*

Check box "a" if you want the court to grant you a total divorce from the plaintiff.

Check box "b" if you want the Settlement Agreement signed by you and the defendant to be incorporated in the Final Judgment and Decree of Divorce.

Check box "c" if you want the court to order that you be paid alimony for your support.

Check box "d" if you want the court to divide the marital property as described in paragraph 23.

Check box “e” if you want the court to divide the joint or marital debts as described in paragraph 24.

Check box “f” if you want the court to temporarily and permanently restrain the defendant from harassing you or committing any acts of violence toward you.

Check box “g” if you want the court to restore your former or maiden name according to paragraph 26.

Check box “h” if you want the court to schedule a Rule Nisi to decide on the relief you have requested. Attach a Rule Nisi for the court to complete and sign. The court will have it filed in the clerk’s office, and notify you if a hearing date.

Check box “i” if you want the court to make an order for any other relief the court deems appropriate.

Before filing this Answer & Counterclaim, add the date on which you file it, sign your name in the space designated as “Defendant, Pro Se” and add your address and telephone number in the spaces provided.

Step 4-Complete the Verification Form if Necessary

The Verification form must be attached if you are filing a Counterclaim, but not otherwise. In the heading, insert your name as the Defendant, and your spouse’s name as the Plaintiff. **Sign your name in front of a notary public** in the space provided and check the box indicated as Defendant. **You must have this document notarized before filing it with the court.**

Step 5-Other Court Documents

In addition to filing the Answer and Counterclaim and the Verification Form (if necessary) you must include and attach the following forms:

If this divorce action is contested (you and the Plaintiff are not in agreement), you must also attach the Domestic Relations Financial Affidavit. You may need to attach it if alimony is to be paid.

Step 6-Filing Your Forms

After signing your Answer and Counterclaim and having other forms notarized as necessary, make two (2) copies of all the documents (You should then have three (3) copies in total: one original and two copies.) Give the clerk in the Clerk’s office the originals. The clerk will date and time stamp your documents. The two (2) remaining copies will be for the service (see discussion regarding Paragraph 7 above) and your records, respectively.

▲ Step 7-Providing a copy to the Opposing Party

Because you are answering a compliant filed against you by the counterclaim defendant/plaintiff, you do not need to have the opposing party formerly served with your Answer & Counterclaim. However, **you must mail or hand-deliver a copy of this document to the opposing party, with the necessary Certificate of Service attached.**

▲ Step 8-Hearing

Once you have completed this document and provided the court with all the necessary documentation signed and notarized as prescribed by Georgia law, you will be notified of a hearing date. You may, however, request a Rule Nisi, a temporary hearing, to ask the judge to make interim decisions in your case before a final hearing date is set. (Interim or temporary issues may include: temporary support payments, visitation, living arrangements, use of an automobile, etc.) Before the hearing date (temporary or final), **you must prepare your case to be presented to the court.**