

**INSTRUCTIONS FOR  
COMPLETING AN  
ANSWER & COUNTERCLAIM  
WITH MINOR CHILDREN**

**INTRODUCTION**

If you have been served with a complaint for divorce with minor children, this form can be used to answering the complaint and file a counterclaim for divorce with minor children. If you and the plaintiff do not have minor children together, you cannot use this form. If you want to file an answer to a complaint for divorce without minor children, use the form entitled "Answer & Counterclaim for Divorce without 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 26***

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 25***

These instructions and the form Answer and Counterclaim presume that the complaint is organized along the lines of the Petition for Divorce with 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 25, 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 26**

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 27 through 51, as well as the final paragraph. Instead of being the defendant, you will become the counterclaim plaintiff, and your spouse will become the counterclaim defendant. Once you have completed your counterclaim, you must sign your name where indicated.

#### **Paragraph 27: 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 28: Venue \*CHECK ONLY ONE BOX\***

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

#### **Paragraph 29: 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 30: 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 31: 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 32: 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 33: 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 not have minor children together, you must use the complaint entitled “Answer & Counterclaim for Divorce without Minor Children.”**

Check box “b” if you and defendant have minor children together. List the number of minor children that you and the defendant have together in the space provided. In the additional spaces, list the name of each child, their sex, date of birth and with which parent they live. List information for additional children on a separate piece of paper and attach that paper to this complaint.

**Paragraph 34: Children’s Current Residence**

You must give the court the address of where each child lives, the county in which they with whom they live. In the spaces provided, you must also tell the court the how long the children have lived at the address you provided. If the children live at a different address than the one you have listed, you must give that information to the court on a separate piece of paper and attach that paper to this complaint. In the space provided, tell the court the approximate year the children lived at the address you list continuously (e. g.: ‘since approximately 1995’)

**Paragraph 35: Children’s Past Residences**

You must tell the court where the children have lived within the past five (5) years. In the spaces provided, tell the court the dates that the children lived at an address and then list the address next to the corresponding date.

**Paragraph 36: People with whom Children have Lived**

In the spaces provided, list the name of the person and that person’s current address of where the children have lived within the past five (5) years.

**Paragraph 37: Prior Court Cases About Children \*CHECK ONLY ONE BOX\***

Check box “a” if you have never participated in litigation (filed a case, testified in a case), other than this case, concerning the custody of the minor children in this state or any other state.

Check box “b” if you have participated in litigation (filed a case, testified in a case), other than this case, concerning the custody of the minor children in this state or any

other state. In the spaces provided, tell the court the name of the parties and the date of the final order.

**Paragraph 38: Pending Cases About Children \*CHECK ONLY ONE BOX\***

Check box "a" if you do not have any information about a current custody proceeding concerning the minor children pending in Georgia or any other state.

Check box "b" if you do have information on another proceeding concerning the custody of the minor children in Georgia or another state. In the spaces provided, you must tell the court the names of the parties involved **and** the dates of final orders concerning any prior cases. Use additional paper and attach that paper to this complaint.

**Paragraph 39: Others Claiming Custody or Visitation \*CHECK ONLY ONE BOX\***

Check box "a" if you do not know of any person other than the defendant, who has physical custody of the children or who claims to have custody or visitation rights to the children

Check box "b" if you do know of someone other than the defendant, who has physical custody of the children or claims to custody or visitation rights to the children. In the spaces provided list the name and address of each person involved.

**Paragraph 40: Child Custody \*CHECK ONLY ONE BOX\***

Check box "a" if you want the court to grant full custody of the children to you, the plaintiff, **or** the defendant. If you want the court to grant the plaintiff full custody of the children, insert the word *plaintiff* in the space provided. If you want the court to grant the defendant full custody of the children, insert the word "defendant" in the space provided.

**Paragraph 41: Child Visitation \*CHECK ONLY ONE BOX\***

Check box "a" if you believe that the other party should have reasonable visitation with the minor children. Insert the word "defendant" in the space provided.

Check box "b" if you believe that the other party should have limited visitation with the minor children. In the spaces provided, tell the court why and how visitation should be limited. Insert the either *plaintiff or defendant in the space provided*.

**Paragraph 42: Child Support \*CHECK ONLY ONE BOX\***

Check box "a" if you are asking the court to order the counterclaim defendant/plaintiff to pay child support. In the spaces provide, list the range of the amount you believe the defendant should pay per month. You must use the Georgia child support guidelines along with the defendant's real and accurate income in order to calculate this amount.

Check box "b" if you believe that you to should pay child support to the counterclaim defendant/plaintiff. In the spaces provide, list the range of the amount you believe that you should pay, per month. You must use the Georgia child support guidelines along with the your real and accurate income in order to calculate this amount.

**Paragraph 43: Health Insurance for Children \*CHECK ONLY ONE BOX\***

Check box "a" if you want the court to order the counterclaim defendant/plaintiff to maintain medical, dental and hospitalization insurance for the minor children.

Check box “b” if you already provide health insurance for the minor children and you believe the counterclaim defendant/plaintiff should be required to reimburse you for a share of the cost each month.

Check box “c” if you are not asking the court to decide this issue in this case.

**Paragraph 44: Other Medical Expenses for Children \*CHECK ONLY ONE BOX\***

Check box “a” if you believe that the counterclaim defendant/plaintiff should be responsible for all expenses incurred for the children’s medical, dental and hospital care, that are not covered by insurance.

Check box “b” if you believe that you and the counterclaim defendant/plaintiff should share the cost of expenses incurred for the children’s medical, dental and hospital care that are not covered by insurance.

Check box “c” if you are not asking the court to address this issue in this case.

**Paragraph 45: Life Insurance to Support Children \*CHECK ONLY ONE BOX\***

Check box “a” if the children depend on the counterclaim defendant/plaintiff for support, and you believe that the counterclaim defendant/plaintiff should maintain a life insurance policy on himself/herself for the support of the minor children. In the space provided, give the amount of insurance you believe the counterclaim defendant/plaintiff should maintain on himself/herself.

Check box “b” if you are not asking the court to decide this issue in this case.

**Paragraph 46: 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 47: 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 48: 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 49: 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 50: 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 51: 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 custody and visitation according to paragraphs 40 and 41.

Check box “d” if you want the court to order child support, health insurance, medical expenses and life insurance according to paragraphs 42, 43, and 45.

Check box “e” if you want the court to order the plaintiff to pay alimony for your support.

Check box “f” if you want the court to divide the marital property as described in paragraph 47.

Check box “g” if you want the court to divide the joint or marital debts as described in paragraph 48.

Check box “h” 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 “i” if you want the court to restore your former or maiden name according to paragraph 50.

Check box “j” 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 “k” 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 3-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 4-Other Court Documents**

In addition to filing the Answer and Counterclaim and the Verification Form (if necessary) you must include and attach the Domestic Relations Financial Affidavit.

### **Step 5-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 29 above) and your records, respectively.

### **Step 6-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 7-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.**