INSTRUCTIONS: HOW TO FILL OUT THE "*DECREE OF DISSOLUTION OF MARRIAGE (Divorce) WITHOUT MINOR CHILDREN"*

What the Decree Means to You. The Decree is the Court Order that legally ends your marriage. The Decree, once the judge or commissioner has signed it, is important because it determines the rights and responsibilities of both you and your ex-spouse. If either party **does not do** what the Decree tells him/her to do, then the other party may ask the court for help. **This is a very important document.** Once it has been signed by the judge, your rights and responsibilities are affected forever.

Failure to do what the Decree tells you to do could get you Into Trouble with the Court. This **does not** mean that the court will police you or the other party to make sure you are following the Decree. It **does** mean that you, or your ex-spouse, can request a ***"Contempt Order"*** or an ***"Order to Enforce"*** parts of the Decree if you, or your ex-spouse, fail to do what the Decree tells you to do.

Getting Your Divorce Finalized. Before your divorce can become final, a judge or commissioner must sign the Decree. The Decree states how the property (if any) is divided, how the debts and assets (if any) are divided, the amount of spousal maintenance/support (alimony)(if any), and in cases involving minor children, custody, parenting time and the amount of child support, etc.

Divorce by Default. If you have a Default Hearing, you must repeat, as closely as possible, what you requested in your Petition. You cannot request something different in the Decree than what you requested in the Petition. If you try to do this, the judge or commissioner will **not** sign the Decree. If you want to change your requests to the court, you must file an ***"Amended Petition."*** It is a good idea to have your Petition handy when you fill out your Decree so you can refer to it as needed.

The Decree. Fill out the Decree **before** you go to your hearing or **before** you give it to the judge to sign. Do **not** fill in the spaces allocated for the judge's signature and date. If the judge disagrees with anything you have written, he/she may change it before signing the Decree **or** he/she may ask the parties to come to a hearing.

INSTRUCTIONS FOR FILLING OUT THE DECREE: (The section number in front of each paragraph below corresponds with the section number on the Decree. For example: Read Sections 1-3d below. Turn to Sections 1-3d in the Decree. Each section that follows will help you fill out each section of the Decree.) When filling out any court forms, **type or print with black ink only**.

SECTION: **Type or print clearly using <u>black ink only.</u>**

(A) Write in the name of the Petitioner, the name of the Respondent and the case number in the appropriate spaces provided. These should be written the same as they are written on the Original Petition.

(B) COURT FINDINGS SECTION:

1-3 a-d. This section tells you that before the judicial officer signs the Decree, the judicial officer will have determined that the court has the legal power to make the orders in your case. It also confirms that at least one of the parties lived in Arizona for at least 90 days before the Petition for Divorce was filed, and that the parties are unable to get back together and save their marriage. (If you have a trial, you must bring a copy of your marriage license to the trial to show the judge what type of marriage you have.) **Also, i**f you served the other party by publication, the court cannot sign a Decree that divides community property and/or debt, or order the other party to pay spousal maintenance/ support (alimony).

3e. Mark the first box **only** if you and your spouse did **not** get any property together while you were

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married and **do not** owe money to anyone for property, goods or services you got while you were married. Otherwise, mark the box that tells the court that the parties **have not** agreed to a division, but all community property will be divided pursuant to the Decree.

3f. Mark the first box if the wife is **not** pregnant. Mark the second box if the wife **is** pregnant. Then mark whether the husband is the father. If the husband **is** the father, you **cannot** use these forms for a divorce without children. YOU MUST USE THE FORMS for a divorce with children.

3g. Mark this box if you have requested spousal maintenance/support (alimony) in the Petition for Divorce **or** if the parties have agreed that one party will pay the other party spousal maintenance/support (alimony).

(C) COURT ORDERS SECTION:

1. THIS SECTION ENDS YOUR MARRIAGE.

2. WRITE IN THE FORMER/MAIDEN NAME OF THE HUSBAND OR WIFE, **only** if the husband or wife wants to use, and/or be called by, the former/maiden name. (The law does **not** require you to use your former/maiden name.)

3. **ENFORCEMENT OF TEMPORARY ORDERS.** If the court ordered temporary payment of spousal maintenance/ support (alimony), debt division, or other temporary relief, fill in the dates of ALL of the temporary orders. This section allows you to enforce nonpayment of those debts.

4a. SPOUSAL MAINTENANCE/SUPPORT (ALIMONY) Mark this box if **neither party** is requesting spousal maintenance/support (alimony).

4b. **MARK THIS BOX IF.** You are the Petitioner and you requested spousal maintenance/support (alimony) in your Petition and you have a default hearing. You cannot get spousal maintenance/support (alimony)if the other party was served by publication. Indicate by check mark, who will pay the spousal maintenance/ support (alimony) and who will receive the spousal maintenance/support (alimony). Put in the amount and the date the spousal maintenance/support(alimony) will end. Generally, spousal maintenance/ support (alimony) is taxable income to the person receiving it and tax deductible for the person paying it. **Check with the IRS for specific rules and regulations.**

5a. COMMUNITY PROPERTY DEBTS AND TAX RETURNS. Mark the first two boxes, if each party will pay the debts that are unknown to the other party. By marking the third box under 6.a., you are telling the court you do **not** want to pay for bills your spouse got after you separated. Write the approximate date you separated on the line provided.

5b. Mark this box if you want to divide the community property and debt, even if you have already divided most of your property. You can give the court this information on **"*EXHIBIT A: Property and Debts,"*** which you must attach to the Decree if you mark this box. Instructions for Exhibit A are included at the end of this instruction.

5c. This states that you and your spouse get to keep property, your separate property, or property that was a gift or an inheritance to you. You can also keep any personal items, clothing, and any other property you own that is not considered community property. You can give the court this information on **"*Exhibit A: Property and Debt,"*** which you must attach to the Decree if you mark this box. Instructions for Exhibit A are included at the end of this instruction.

5d. This means either spouse can record the Decree if there is a transfer of title to real estate, such as land or a house. This section also requires each spouse to sign documents to transfer other property, like titles to vehicles, bank accounts, etc..

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5e. Mark this box to tell the court whether the parties will file joint or separate tax returns for previous years if taxes have not been paid. For this calendar year, and future calendar years, neither you, nor your spouse, can file joint tax returns **with each other**. According to the IRS, "State law governs whether you are married, divorced, or legally separated. If you are divorced under a final decree by the last day of the year, you are considered unmarried for the whole year." See a lawyer or accountant for advice if you are not sure which box to check **OR** call the IRS at 1-800-829-4477 **OR** visit their INTERNET website at http://www.irs.ustreas.gov

6. **FINAL APPEAL ORDER.** This Decree/Order/Judgment is a final order and may be appealed.

(D) SIGNATURES SECTION:

☐ Do not sign or date the Decree, the Judge/Commissioner must do this.

☐ If you have a Default Hearing, you, the Petitioner, must also promise to mail a copy of the Decree to the Respondent, after the Judge has signed it.

(E) EXHIBIT A: PROPERTY AND DEBT: If you have questions about whether your property is community property or separate property, or whether your debt is community debt or separate debt, you should see a lawyer for help.

1. **Division of Community Property**. If you marked the box on the Decree to indicate you have **no** community property or debts, **STOP.** You have completed your Decree. If you ***have*** community property or debt, **check this box** and complete this form.

2. **List of Community Property**. Describe the property, then mark the box showing which party is being given the property. Mark the box stating "award each party the personal property in his/her possession." If you had to use a separate sheet to list more property, mark the box that states "continued on reverse side or see attached list." Be as specific as possible in describing your property.

3. **Retirement Benefits**. Decide what you want to do about these assets. Generally, each spouse is entitled to a half interest in the pension or retirement or deferred compensation benefits of the other spouse, based upon the length of time the parties were married. This is very complicated, and very important to both spouses. If you are entitled to any interest in your spouse's retirement assets, you may be required to file a ***"Qualified Domestic Relations Order."*** This is a very important document. The court does not have this document. See a lawyer for help. Check the box that describes what you asked for in the Petition or what the parties have agreed to.

4. **Real Property**. Mark this box if you own a home or any other real estate together. IT IS VERY IMPORTANT THAT YOU WRITE IN THE CORRECT ADDRESS AND THE LEGAL DESCRIPTION OF EACH PIECE OF PROPERTY. Mark the box showing which spouse gets which property, **OR** that the property is to be sold and the proceeds divided. If you used your own earnings to pay for property owned by your spouse, see a lawyer.

5. **Community Debt.** Mark this box if the parties have community (or joint) debt. Describe the debt, including the creditor and the amount owed. Then mark the box showing which party is going to pay for the debt. If you had to use a separate sheet to list more debts, or if you continued to list debts on the reverse side of the page, check the box to indicate that to the judge. (Mark the next box if you both agree that each spouse will pay his/her own debt, debts incurred, and owed, prior to the marriage)

6. Mark this box if you want to divide the debt(s) that were incurred by a spouse, but were not listed to be paid by the spouse who incurred the debt(s). Remember, even though the Decree orders either spouse to pay community debts, that does not mean a creditor cannot pursue collection from the other spouse, even after the divorce is final.

7. **Separate Property.** If you checked box 5(e) on the Decree, and you and/or your spouse have separate property, describe the separate property, its value, and who the property belongs to.

8. **Separate Debt**. If you checked box 5(e) on the Decree and you and/or your spouse have separate debt, identify the creditor, the amount owed, and who is responsible for paying the separate debt.

PROCEDURES: HOW TO GET YOUR DECREE SIGNED BY THE JUDGE

Make three copies of the Decree. Take the documents to your court default hearing or to your trial for the Judge to review and sign if he/she approves them.

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