

# Surviving the Divorce Process in New York State

Legal Information for the Self-Represented  
provided by  
The Rural Law Center of New York, Inc.

Whether or not you knew it was coming, being served with papers that tell you your spouse wants a divorce can be a difficult thing. You may not know what to do or what exactly the papers mean. We hope this guide will help you understand the divorce process, and what your options and rights are when you are served with divorce papers.

Getting a divorce in New York is not a simple matter. There are specific steps that New York State law requires in order to get a divorce.

First, you have to be notified that your spouse wants a divorce. If he is seeking the divorce, he is called the Plaintiff and you are called the Defendant. You are said to be notified when you are “served” with divorce papers.

## **What to Do When You Are Served With Divorce Papers**

Your spouse and his attorney will have you served with either a Summons with Notice or with a Summons and Verified Complaint.

### **If You Receive Just a Summons with Notice**

A Summons with Notice tells you that your spouse wants a divorce; it states the grounds that cover the reason he wants the divorce, and tells you that he is asking the judge for certain “relief”. (Relief means the terms of the divorce that your spouse wants the judge to order in the divorce judgment.) In this relief section your spouse will mention such things as custody of children, child support and how your marital property should be divided.

**You have 20 days after the day you are served with the Summons with Notice to respond.** If you do not respond, your spouse (probably through an attorney) will send in the rest of the divorce papers, and the judge will probably grant a divorce that includes the terms your spouse asked for.

**If you do respond, your response is called a “Notice of Appearance and a Demand for Complaint.”** We will go into more detail about how to write this, but it basically is a way for you to tell your spouse’s lawyer that you are going to want input into the final judgment of divorce and that you want to see the Verified Complaint.

There are a couple of good reasons to send out a Notice of Appearance. First of all, it allows you to see the Verified Complaint, which we will discuss in the following pages. Also, if you do not respond, the court will assume that you accept the divorce and do not want to have any input into different terms (relief). If, for example, your spouse wants

custody of the children or ownership of the house and you do not want to give those things, you need to get involved with the process of the divorce.

Included is a sample of the kind of letter that you should send with the Notice of Appearance and Demand for Complaint. This letter explains that while you are not going to just let the divorce happen without saying anything, you would be willing to allow a divorce as long as you know that certain things will happen the way you want them to: for example, as long as you have custody of your children and ownership of the house you and your spouse now own together. In the blank spaces we have left in the letter, you would write what it is you want in each category. Following the sample letter is a sample Notice of Appearance and Demand for Complaint. You are the Defendant in this action and your spouse is the Plaintiff. Do not take this personally. When you have the Notice of Appearance and Demand for Complaint finished, make 3 copies and bring the original and your copies to the County Clerk's office. File the original with the county clerk, and the clerk to stamp your copies and send one stamped to the court, one stamped copy to your spouse's lawyer, and keep one for your records.

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF \_\_\_\_\_

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Plaintiff

against

NOTICE OF APPEARANCE  
DEMAND FOR COMPLAINT

Index Number

Defendant

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PLEASE TAKE NOTICE, that I am appearing in this action, without an attorney and I hereby demand a copy of all papers in this action be served upon me at:

PLEASE TAKE FURTHER NOTICE that I am requesting a copy of the Verified Complaint within twenty days from the date of this demand.

Dated: \_\_\_\_\_, 2\_\_\_\_\_  
\_\_\_\_\_, New York,

To: Attorney for Plaintiff

NAME: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

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

**THIS IS A SAMPLE  
DO NOT USE THIS FORM**

Your name  
Your address

Date:

Name and Address of Plaintiff's Attorney:

Re: \_\_\_\_\_ v. \_\_\_\_\_

Index # \_\_\_\_\_

Dear \_\_\_\_\_:

Enclosed please find a copy of a Notice of Appearance and a Demand for Complaint for the above-entitled divorce action. The original is being filed with the \_\_\_\_\_ County Clerk's office.

While I am appearing in this action, I might be willing to withdraw my appearance if we came to a mutually satisfactory agreement signed by both parties and incorporated into the divorce.

I think a fair settlement would be:

Custody:

Child Support (pursuant to Child support Standards Act):

Marital Residence:

Pension:

Bank Accounts:

Automobiles:

Other issues:

Please advise me as to whether this proposal is satisfactory:

Sincerely,

\_\_\_\_\_  
Your Name and Signature

**THIS IS A SAMPLE**  
**DO NOT USE THIS FORM**  
**The Verified Complaint**

Once you have a copy of the Verified Complaint you have the right to answer it. If you do not answer the Complaint within 20 days after you receive it, the judge can issue a Judgment of Divorce.

The Verified Complaint is the document your spouse and your spouse's lawyer have written up to give to the court to explain why he or she should be given a divorce from you. In New York State, because of the way the laws are written, you must have "grounds" in order to get divorced. "Grounds" are reasons for ending a marriage that the court will accept. This means that even if you are getting a divorce just because you don't get along, your spouse may write in the complaint that things were much worse than you thought they were.

One important thing to think about is in the "relief" category. This is the part of the Complaint that will affect your life once you are divorced. If your spouse says you ignored him or her for a year and you don't think that's true, you have every right to deny that, but you may wish to pay attention to things like who gets ownership of marital property. The bad things you both say about each other will only be seen by you, your spouse, your attorney(s) and the judge so try not to get too upset about this.

The Verified Complaint is made up of numbered paragraphs. The first few paragraphs will probably be very simple and you will probably agree with them. They will give your spouse's name, your name, your place and date of marriage, and other information like where you lived while you were together. Go through the Verified Complaint and write "admit" next to any paragraphs that have information like this—information that is true and that you do not want to argue with. Next, read through the Verified Complaint for paragraphs that say things that you do not think are true or that you think are exaggerating or stretching the truth. Write "deny" next to these. Now go to our form on page 6. In the blanks in sentence 1 on our form, list the numbers of the paragraphs that you agree with. In the blanks in sentence 2, list the numbers of the paragraphs that you deny. In the blank in sentence 3, write out what you want the judge to decide to do in terms of custody of children, any property you own with your spouse, any child support your spouse may owe you, and, if your spouse has a pension, the share of the pension that you are entitled to. If you have been married to your spouse for any length of time, you may have the right to a part of his pension. If you think this is so, you should write that you want your possible share of your spouse's pension. You must then take your Answer and verify it in front of a Notary. After you have the Notary's signature, When you have the Answer finished, make 3 copies and bring the original and your copies to the County Clerk's office. File the original with the county clerk, and the clerk to stamp your copies and send one stamped to the court, one stamped copy to your spouse's lawyer, and keep one for your records.

SUPREME COURT, STATE OF NEW YORK  
COUNTY OF \_\_\_\_\_

Plaintiff

against

ANSWER DIVORCE COMPLAINT  
Index Number

Defendant

Defendant, appearing without an attorney, respectfully answers Plaintiff's complaint for divorce as follows:

1. The Defendant admits introductory paragraphs \_\_\_\_\_ and \_\_\_\_\_.
2. The Defendant denies paragraphs \_\_\_\_\_ and \_\_\_\_\_.
3. The Defendant opposes the relief requested for a Judgment of Divorce, and requests that:

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Dated: \_\_\_\_\_

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(print your name here and sign above)  
(Defendant)

VERIFICATION

STATE OF NEW YORK)  
) ss:  
COUNTY OF \_\_\_\_\_)

\_\_\_\_\_ being duly sworn, deposes and says that (s)he is the Defendant in the above entitled proceeding and that the foregoing Answer is true to his/her own knowledge, except as to matters herein stated to be alleged on information and belief and to those matters (s)he believes it to be true.

Sworn to before me this  
\_\_\_\_\_ day of \_\_\_\_\_.

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(print your name here and sign above)

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Notary Public