

Packet 3A General Instructions
Responding to Petition for Dissolution (Divorce), Cases without Children

Notice about these instructions and forms.

These instructions are not a complete statement of the law. They cover basic procedure for uncomplicated divorce cases. Neither court nor court staff are permitted to give legal advice. For more legal information, please talk to a lawyer, visit your local law library and/or refer to the “Additional Resources” section on the last page of these instructions.

The instructions refer to some forms not included in this packet. You may get the forms by clicking on the form name if you are using the Internet at: www.courts.oregon.gov/linn. Linn County Court also has the forms available in Room 107.

Linn County Court has local rules, programs and procedures that may not be explained in these instructions. Please refer to the “Linn County Supplementary Local Court Rules.”

This set of forms and instructions explain how to file a response to a petition for dissolution (divorce). When filling out the forms, follow these directions:

- Please make certain that all sections are complete. The document must be readable. Use black or dark blue print only. If the document is handwritten, please print. If the answer to a question is none, then write “none”. Do not use “N/A” for the word none.
- The case heading is the same as listed on the petition you were served. You are the named “respondent” on all court forms and your spouse is the “petitioner”. Use full names (first, middle or middle initial, last) and print the names the same on all forms.
- Some forms have to be notarized or signed in the presence of a court clerk. You will need your picture IID for this. Many banks provide notary services.
- Many forms say on the bottom, “I certify that this is a true copy,” and provide a place to sign. Don’t sign this line on the original form or on your own copy. You need to sign this line only on the copies that you are mailing to your spouse.
- Make yourself a copy of any document you are filing with the court. File the original with the court clerk.
- Keep the court informed of your current address so you get notice of all court dates. **You are not required to use your residential address on any court form.** You may use a contact address where you regularly check in. If you use a contact address, the court will assume that you will receive all notices sent to that address.

STEP 1: FILING YOUR RESPONSE

You have 30 days following the date you were served with the petition to file a written response with the court clerk and pay the filing fee. If you feel you can’t afford to pay the fee, you may ask the clerk for a Motion and Affidavit for Deferring or Waiving Fees and Costs. You may fill out this form and file it with the court requesting that your filing fee be waived or deferred. If the fee is waived, you don’t have to pay the fee back. If the fee is deferred, you will be required to pay the fee pursuant to a payment plan set by the court.

In the response, space is provided for you to state that you disagree with certain items asked for in the petition. You may also write in items that you would like the court to order that were not included in the petition. These are called “counterclaims.” If you agree with everything asked for in the petition, you are not required to file a response. The court will enter the General Judgment of Dissolution of Marriage based on what was asked for in the petition.

You may also be served with additional papers in which the other party is asking the court to order temporary relief. Remember to read all the papers carefully. **If you do not respond within the time period allowed, the court may order the relief requested without further notice to you.**

Legal Issues to Consider

Oregon law requires a number of issues be addressed in the General Judgment of Dissolution of Marriage. Before you fill out your response, you should review what your spouse asked for in the petition, and think about how you want to handle these issues.

Also, if you were not served with the petition in Oregon, or if you haven’t lived in Oregon for a long period of time, you may be entitled to respond by objecting to service or jurisdiction. However, these are complicated legal

determinations and you should talk to an attorney about what kind of response to file if either of these situations apply to you.

Spousal Support

Oregon law provides for three different categories of spousal support: transitional, compensatory and spousal maintenance. Transitional support may be ordered for a spouse to get work related education and training. Compensatory spousal support may be ordered if one party has significantly contributed to the education, training, vocational skills, career or earning capacity of the other spouse. Spousal maintenance may be ordered for the support of one spouse. The judge will consider a number of factors when making the award. For more information on what the judge will consider, please refer to ORS 107.105 (to view, visit your local law library or www.leg.state.or.us/ors).

Property and Debts - Statutory Restraining Order

A new Oregon law requires both Petitioner and Respondent to obey a restraining order preventing *either party* from dissipating (destroying, removing, disposing of) real or personal property assets, making unilateral (without the agreement of the other party) changes to insurance policies, and making extraordinary expenditures. **By filing your response, you agree to be bound by the terms of this automatic order.** If you violate the order, you may be subject to sanctions.

For information about property and debt issues, talk to a lawyer and/or go to the Oregon State Bar's web site (www.osbar.org), "Legal Links" and read under "Oregon's Laws" the sections on "Bankruptcy and Credit," "Real Estate," and "Taxes." If either spouse has a retirement plan, you should talk to an attorney before filling out the petition. The attorney can advise you if this packet will work for your situation. If the parties' own real estate is located in Oregon, a "lis pendens" notice (notice of pending suit) may be filed with the county clerk as provided in ORS 93.740 (to view, visit your local law library or www.leg.state.or.us/ors).

Have your documents reviewed

You may have your documents reviewed by a lawyer or the court's facilitator before you file. For information about how to find a lawyer, call the Oregon State Bar Lawyer Referral Service. If you are low income, you may get your documents reviewed for a smaller fee through the Oregon State Bar's Modest Means program, or you may call your local Legal Aid office. Contact numbers are listed in the additional resources section at the end of these instructions.

Filing the Response

After you have filled out the Response and the **required** Request to Initiate or Waive Mediation, make two copies. One copy is for your records, and the second copy is for your spouse. Mail your spouse's copy and fill out the Respondent's Certificate of Mailing form.

File the original Response and Request to Initiate or Waive Mediation, Respondent's Certificate of Mailing and Acknowledgment about Dissolution forms with the court clerk along with the required filing fee (unless your fee has been waived or deferred by a judge).

Temporary Orders

You may ask the court to make temporary orders after the petition is filed. Temporary orders are in effect once signed by the judge and last until changed by the judge or until the final judgment is signed by a judge. For example, either spouse may request an order for spousal or child support, an order preventing one or both parties from getting rid of property owned by both spouses, an order requiring one spouse to move out of the family home or an order preventing either party from interfering with Page 3 of 4, RESPONDING INSTRUCTIONS (WITHOUT CHILDREN) the child/ren's regular living arrangement and schedule. To make any of these requests, you file a "motion" (request) asking the court to do what you want. You may need the assistance of an attorney to file these requests.

You may use Packet 6B, Status Quo Order Application Packet, to ask the court to order that neither parent change the child/ren's usual place of residence, change the child/ren's regular routine, or interfere with the other parent's usual contact with the child. In addition, there are restraining order forms available for cases involving domestic violence. A restraining order can usually be obtained within a day or two of filing if there has been abuse in the last 180 days and if there is further danger of abuse. Check with the court clerk about forms and filing instructions.

Conferences with the Judge

Linn County court will schedule an early resolution conference if a response has been filed. These meetings usually take place with a judge with both spouses present, along with their attorneys if they are represented. **You must attend all conferences that are scheduled unless you have received permission from the judge not to attend. If you fail to appear at the conferences or court appearances, your pleadings may be stricken and a judgment entered against you.**

At the conference, the judge will probably talk to you about how the case is going to be resolved, may consider requests for temporary orders and will set future court dates.

Working Toward Agreement

The court wants to help you resolve the issues that you and your spouse disagree on. You may discuss these issues with your spouse directly if it is safe for you to do so and if no court order prohibits that contact. If you can't resolve the issues on your own, the court may provide a number of options to help you, including arbitration.

Arbitration

The court may refer spouses who disagree on how to divide their property to an arbitrator. The parties may also ask the arbitrator to resolve spousal support issues. An arbitrator is a lawyer appointed by the court who meets with both spouses and their lawyers, if they are represented, and makes a decision about how the property should be divided. Both spouses are required to pay for this service unless the court has specifically waived or deferred the arbitrator's fee. If either spouse disagrees with the arbitrator's decision, he or she can ask the court for a trial. If a trial is not requested, the arbitrator's decision is final unless both spouses agree on another resolution.

STEP 3: FINALIZING YOUR DIVORCE

A divorce is "final" on the date the General Judgment of Dissolution of Marriage (divorce) is signed by a judge. If there are still items that you don't agree on, the court will probably set a date for a "final hearing" or trial. Some judges may want you to attend a "settlement conference" (a meeting between the parties to discuss settlement, usually led by a different judge than your trial judge) to help you come to agreement.

Forms to Finalize Your Divorce

The following forms are required to finalize your divorce:

General Judgment of Dissolution of Marriage (Divorce)

Affidavit Supporting General Judgment of Dissolution of Marriage (Divorce)

You may also need to file the following additional forms, depending on your circumstances.

Uniform Support Affidavit - This form is only required if a response was filed and you and your spouse do not agree on spousal support. You aren't required to complete the schedules on the form unless one spouse asks for spousal support.

Waiver of Personal Service - After the General Judgment of Dissolution of Marriage is signed, if one spouse doesn't do what it says, the other spouse may ask the judge to enforce the judgment. The spouse asking for enforcement is required to personally serve (deliver) the other spouse with notice of this request. You are responsible for making sure you get all papers delivered to the address you list. A Waiver of Personal Service form is available from the court clerk.

The General Judgment of Dissolution of Marriage

The General Judgment of Dissolution of Marriage finalizes your divorce and contains all of the issues decided in mediation, arbitration, hearing, or through your agreement. If both spouses agree on all issues, the General Judgment of Dissolution of Marriage may be prepared by either spouse as long as it is reviewed and signed by both spouses. If the spouses don't agree on all issues, the judge may direct one spouse to fill out the General Judgment of Dissolution of Marriage.

If you are responsible for filling out and filing the General Judgment of Dissolution of Marriage, make a copy for yourself and one for your spouse, and file the original with the court. **If your case involves child or spousal support, file an extra copy of the proposed General Judgment of Dissolution of Marriage with the court.**

ADDITIONAL RESOURCES

Oregon Judicial Department - Family Law Forms and Resources: www.courts.oregon.gov

Oregon State Bar www.osbar.org
Lawyer Referral 1-800-452-7636
Modest Means (low income) “ ”
Tel-law 1-800-452-4776

Legal Aid Service of Oregon (must have low income)
Child Support Help Line 1-800-383-1222

Local offices: Look on the “Local Family Law Practices and Programs” form for your court, the telephone book, or in the “legal links” section of the Oregon State Bar’s web site: www.osbar.org

OSU Extension Service Publications:
1-541-737-2513
Publications available on marriage, shared custody, financial planning and other topics.

Domestic Violence Help 1-800-799-SAFE