



Legal Aid Society of Hawai`i

Divorce

What To Do If You Get Divorce Papers From Your Spouse

Use this brochure if:

- your spouse has filed or is thinking of filing for divorce, AND
- you have been served with a Complaint for Divorce.

This brochure will tell you what you need to do after you get the Complaint for Divorce.

Be sure to start your answer as soon as possible because you need to meet very strict deadlines with the court.

Important

This packet is only good for papers received from a Hawai`i court. If the papers are from a court in another state, you should seek legal advice from an attorney in that state. Divorce laws differ in each state. Call Legal Aid in that area. To get the number of another state's Legal Aid, call the Legal Aid Society of Hawai`i. *See the back of this brochure for phone numbers.*

Also

If the papers are from another state and you have children, there are specific rules about which court may make decisions about children. Please see Legal Aid Society of Hawai`i's *Responding to Out of State Court Papers* brochure if this applies to you.

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Why file an Answer?

If you been served with a Complaint for Divorce, you should file an "Answer," especially if you don't agree with what your spouse is saying in the Complaint. An Answer is your way to tell the judge what you want from the divorce. If you do not do an Answer, the judge could give your spouse everything s/he asked for in the Complaint. That is called a "default judgment."

In Hawai'i, your Answer is due at the court within **20 days** after you were served with the Complaint.

This packet can help you write a short Answer to the divorce Complaint. In your Answer, you will be disagreeing or agreeing with the statements your spouse made in the Complaint for Divorce. There is not much room to tell your side of the story on this Answer form. Your main goal is to include the most important issues in this written Answer.

If you missed a deadline:

Turn in an Answer as soon as possible, even if the 20-day deadline has passed. If you do not, the judge has no record of what you agree or disagree with in the Complaint and may give your spouse a default judgment.

If there is a hearing scheduled in your divorce, you must show up at the hearing, even if you do a written Answer to the divorce Complaint.

The "Answer" form

Before you begin:

1. Read through the instructions first.
2. Have the Complaint for Divorce beside you.
4. Type if you can or write very clearly in black ink only.

These instructions match the numbers on the attached Answer form.

Filling out the Form

1. Write or type your name, full mailing address and phone number. You can use a friend or relative's address/phone if you don't want your spouse to know your address, as long as your friend/relative will give you your mail.

Fill in your circuit number where it says "IN THE FAMILY COURT OF THE ___ CIRCUIT"

2. Your spouse is the "Plaintiff." Write his/her name *exactly* as it appears on the Complaint.

3. You are the "Defendant." Write your name *exactly* as it appears on the Complaint.

4. "FC-D No." is your case # in the Family Court and is how the court identifies your case. Fill in the FC-D number at the top right corner of the page. This is the same number which is on the Complaint papers your spouse served you.

5. Look at the Complaint for Divorce. Decide which statements you agree and do not agree with. Each statement in the Complaint is numbered. In your Answer, list by number the statements you *agree* with on line 5. Make sure you agree with the entire statement, because once you agree to it, you have legally agreed it is true and will be held to it for the entire case. If you do not agree with the *entire* statement, do not list it on line 5.

6.. In your answer, list the items you *do not agree* with on line 6.

7. This is where you can tell the judge what your situation is and what you want. Write it here in your own words. This includes:

- telling about domestic abuse in your marriage,
- asking for sole or joint custody of the children,
- asking for a specific visitation schedule, or supervised visitation,
- changing your name, and
- telling the judge how your assets and debts should be divided.

You can also leave line 7 blank if you want.

8. Write the date you fill in the form in line 8.

9. Sign your full name on line 9.

How to File and Serve Your Answer

After you have finished filling out the form, you need to “file” it. “Filing” your Answer just means giving your forms to the clerk at the court. Make 4 copies of your completed and signed Answer. For each copy, staple the 2 pages together at the top left and top right corners. Take the original + copies to the court—it must be filed in the same circuit where the Complaint was filed. The clerk will date-stamp them, keep the original, and give you the copies.

After you have filed your answer, you must to “serve” the other party. “Serving” means giving the other party a copy of what you filed with the court. If your spouse has an attorney, you must serve the attorney. If your spouse has no attorney, you must serve your spouse directly. You can serve the Answer by mail or in person. To serve by mail, send 2 filed copies to your spouse’s attorney (if your spouse has one). If your spouse has no lawyer, mail 1 filed copy to your spouse. Send it by certified mail, return receipt requested.

What happens next

After you have filed your Answer and served your spouse, either you or your spouse must ask the court to do something or nothing will happen in your case. There are basically 5 things that could happen at this point.

1. Nothing is Filed

If you/your spouse do nothing else for about a year, the court may drop the case. The court will notify you at the address on your documents.

2. Settlement

You and your spouse could decide to settle the issues in your divorce case. You could then submit this agreement to the court for its approval. This would be an uncontested divorce.

- **Motion for Temporary Relief**

You or your spouse could file a motion asking the court for temporary orders. The motion asks the court to make temporary decisions about things like child custody or support. These orders will generally be in effect only until the divorce is final.

- **Motion to Set**

You or your spouse could file a “Motion to Set.” This form is available from the court and it basically asks the court to set a trial date. Whoever files this form must attach additional information including a position statement, income/expense sheet, and asset/debt information.

- **Motion for Default Judgment**

Your spouse could file a “Motion for a Default Judgment” if you have answered the Complaint, but you do not seem to be contesting or disputing any issues in the divorce.

Useful Names & Numbers

Legal Aid Society of Hawai'i - <http://www.legalaidhawaii.org>

Legal Hotline Hours:

Monday to Friday 9:00am - 11:30am

1:00pm - 3:30pm

OAHU: 536-4302 MAUI: 242-0724

HILO: 934-0678 KONA: 329-8331

KAUAI: 245-7580 MOLOKAI: 553-3251

Family Court Phone Numbers

OAHU: 539-4200

MAUI COUNTY: 244-2770

BIG ISLAND: 934-5700 (Hilo)

329-2790 (Kona)

KAUAI: 246-3350

If there is domestic abuse in your relationship

Domestic Violence Clearinghouse & Legal Hotline 531-3771 OR 1-800-690-6200

Shelter for Abused Spouses 841-0822 (Oahu); 579-9581(Maui); 322-7233 (Big Island);

..... 245-6362 (Kauai); 567-6888 (Molokai-women and children only)

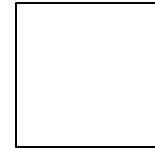
Child care for your court hearing PACT..... 847-3285

Family counseling Family Peace Center..... 841-1445

Mediation Mediation Center of the Pacific (f.k.a Neighborhood Justice Center) ... 521-6767



Legal Aid Society of Hawai'i
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Legal Terms for Divorce

Alimony an amount paid by one spouse to the other in a divorce, generally only awarded as a rehabilitation payment until the recipient spouse becomes self-sufficient

Allege to state or assert as truthful

Answer the defendant's response to a complaint, filed in the court

Assets (marital) anything of value acquired during marriage, such as real estate, personal property, jewelry, furniture, or cars

Complaint paper filed with a court to start a suit

Counterclaim filed by the defendant to defeat the plaintiff's action

Custody control of the child

Legal Custody the power to make major legal decisions about your child's future (such as religion, health care, and education)

Physical Custody the right to have your child live with you

Date-stamp the stamp the clerk at Family Court puts on your papers when you file them

Debts amounts owed

Defendant one against whom a complaint is filed; in this case: you are the defendant

Default judgment if you miss your hearing or deadline, the court may order this judgment which grants everything the plaintiff requested in the complaint because the court does not know you are interested in the case

Domiciled where someone lives with the intent to remain

File to deliver documents to the clerk at the court

Irretrievably broken a term used to refer to the grounds for divorce when no one is at fault and the spouses are unable to reunite

Judgment the decision the court makes which is legally enforceable

Liabilities these are obligations to pay, similar to debts

Non-custodial the parent who does not have the authority to keep the child with him or her and/or does not have the authority to make legal decisions about the child

Plaintiff the one who starts a lawsuit; in this case: your spouse is the plaintiff

Pro Se representing yourself without a lawyer

Serve to deliver a copy of something you file with the court to the other part to the suit; it must be delivered by a sheriff or someone over 18 who is not involved in the court case

Supervised Visitation means the non-custodial spouse can visit with your child only with someone else present to ensure the safety of the child. If your spouse does drugs or alcohol, or if you fear for your child's safety, you can request this under 7 or at your hearing.

Visitation the right of the non-custodial parent to see the child