

State of Florida
Ninth Judicial Circuit of Florida

ROGER J. McDONALD
CIRCUIT JUDGE

OSCEOLA COUNTY COURTHOUSE
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SUBJECT: *No Appearance Final Hearings in Dissolutions of Marriage*

Important: Enclosed is the **“CHECKLIST FOR UNCONTESTED FINAL HEARINGS”**.

When preparing the mail in package please use the *checklist* before sending the documents. Check off the items that apply and include the checklist with the package because we look for the checklist to make sure everything has been included. If items are missing then your package will be returned and that delays the entry of your client’s final judgment.

This procedure may be used so long as there is one attorney and the other side may be represented or pro se. The success of this procedure rests upon the waiver of the right to a final evidentiary hearing by both parties, unless there is a default. It is like summary judgment procedure. Like almost all rights, the right to a “in person” final hearing may be waived. A defaulted party needs to be sent copy of the cover letter and documents that are tendered to the Court.

Some attorneys prefer the old system of scheduling a final hearing and coming to the courthouse and that option is still available, although very few attorneys do it.

If there is anything that is out of the ordinary in the final judgement or agreement, such as below guidelines child support, it should be pointed out and explained both in the cover letter and final judgment.

Office Check List for Mail In Dissolutions of Marriage OR Paternity Cases

UNCONTESTED CHECKLIST

This checklist must be completed when submitted a mail paperwork.

- ___ *Petition*: if children, *U.C.C.J.A.* allegations / attached affidavit;
- ___ *Petition*: ___ did wife ask for her *name restored*? ___ If so, is it in the final judgment;
- ___ *Service*: ___ in Florida personal; ___ out of state personal then ___ 48.193 allegations & ___ sheriff service; or ___ diligent search and publication;
- ___ *Answer* or Answer and Waiver or ___ *Default*;
- ___ “*Notice of Social Security Number*” by custodial parent **ONLY in child support cases** for both parents and child(ren); S.S. numbers are not to be in any writing except this form; use Fam. Law Form 12.901(j);
- ___ *Marital Settlement Agreement*; ___ both parties have signed it;
- ___ *Sandcastle Certificate* for children 6 to 17; Marriage & Paternity Local Rule NO: 07-98-37
- ___ *Parenting Certificate* ___ Wife ___ Husband; Marriage & Paternity Local Rule NO: 07-98-37; Sect. 61.21;
- ___ *Motion for Written Ex Parte Final Hearing & Waiver of Hearing* signed by : ___ Husband & ___ Wife;
- ___ *Financial Affidavit* of ___ Wife ___ Husband - only required when a minor child or alimony case; OR an affidavit as to the other parent’s income to the best of their knowledge;
- ___ *Child Support Guidelines Worksheet*; Rule 12.285(j) the amount here agrees with F.J. and I.D.O. amount; \$ _____; agreement states \$ _____
- ___ *Final Hearing Sworn Testimony form*; ___ **Florida** driver’s is attached; ___ issued 6 months prior to filing;
- ___ *Income Deduction Order*: ___ must be calculated every payment way; ___ missing parag. 5b address;
- ___ *Final Judgment*, copies and stamped addressed envelopes; ___ NO social security numbers;
- ___ *F.J.*: Parent’s Name, address;
- ___ *F.J.*: Children’s Name, date of birth;
- ___ *F.J.*: *Child Support*: **must contain** recipient’s name, address where to send money, child support amount, payment to SDU; if amount is less or more than 5% of guidelines must “**specialy**” state why because of future modifications;
- ___ *Vital Statistics form* for Marriage, & in Paternity case form HD 673;
- ___ *Final Disposition form* - Form 1.998; Marriage & Paternity;
- ___ \$7.00 check for recording; Marriage only;

NOTE TO JUDGE _____

Dated: _____, 2003

Attorney at Law

IN THE CIRCUIT COURT FOR OSCEOLA COUNTY, FLORIDA

_____,
Petitioner,
and

Case No.: DR _____

_____,
Respondent

**MOTION FOR WRITTEN EX PARTE FINAL HEARING,
& WAIVER OF COURT APPEARANCE BY PARTIES**

WHEREAS, the undersigned attorney at law is an officer of the court and as such has performed the following duties; and

WHEREAS, this case has been settled by a written agreement, OR by default; and

WHEREAS, the parties have been advised of their right to a final evidentiary hearing in person before the court, but have chosen this procedure; and

THEREFORE, it is requested that the Court enter a final judgment for dissolution of marriage, without further notice to either party or delay, and based upon the following:

1. **SETTLEMENT:** This case has been settled by a written:
____ Settlement Agreement, or
____ Default properly entered by the Clerk of Court;
2. **WAIVER:** The Petitioner and Respondent, unless defaulted, have signed this document to waive their legal right to a final *evidentiary hearing in person* before the Court. They consent that this case may be concluded by an attorney at law submitting the necessary written documents to the court for its review and entry of a final judgment.
3. **COURT FILE:** The court file contains the following items: (x which applies)
____ **If No Minor Children:**
____ Answer or Answer and Waiver;
____ Financial Affidavit listing all assets and debts;
____ Property Settlement Agreement;

____ **If Minor Children:**
____ Answer or Answer and Waiver;
____ Property Settlement & Custody Agreement;
____ Financial Affidavit listing all assets and debts;
____ Child Support Guidelines Worksheet; Rule 12.285(j)
____ Sandcastle Class Certificate for all children 6 to 17; Local Rule
____ Parenting and Divorce Class Certificate for both parents; Local Rule

4. **FACTUAL BASIS FOR DISSOLUTION OF MARRIAGE:**

The ___ Petitioner's / ___ Counter Petitioner's attorney at law, as an officer of the court, placed said party under oath, advised them that they were subject to the penalties of perjury, and then completed Judge McDonald's "**FINAL HEARING SWORN TESTIMONY**" form.

5. **FINAL HEARING:** The waiting period of 20 days (Sect. 61.19, F.S.) from the date of filing has expired.

THEREFORE, the ___ Petitioner's / ___ Counter Petitioner's attorney at law moves this honorable Court to enter a final judgment of dissolution of marriage based upon said documents. And additionally, enclosed are:

- ___ Final Hearing Sworn Testimony form;
- ___ Income Deduction Order, "required" if child support; and
- ___ Final Judgment, copies and stamped addressed envelopes as needed; and
- ___ Vital Statistics form;
- ___ Final Disposition form;
- ___ Check for \$7.00 for recording of final judgment;

UNDER PENALTY OF PERJURY, the undersigned Petitioner and Respondent swears or affirms to tell the truth, the whole truth, and nothing but the truth, so help me. This document is true and correct, and expresses the uncoerced desire of the undersigned.

DATED: _____, 2003

DATED: _____, 2003

PETITIONER'S SIGNATURE

RESPONDENT'S SIGNATURE

Attorney for Petitioner

Attorney for Respondent

See Next Page for Notary

STATE OF FLORIDA
COUNTY OF OSCEOLA

Sworn to or affirmed and subscribed before me on _____, 2003, by
PETITIONER, _____. Said party is _____ personally known to me or they
produced identification of _____.

Notary Public — State of Florida
Name: _____
Commission Stamp:

STATE OF FLORIDA
COUNTY OF OSCEOLA

Sworn to or affirmed and subscribed before me on _____, 2003, by
RESPONDENT, _____. Said party is _____ personally known to me or they
produced identification of _____.

Notary Public — State of Florida
Name: _____
Commission Stamp:

Petitioner,
and

Case No.: DR _____

Respondent
_____ /

FINAL HEARING SWORN TESTIMONY

UNDER PENALTY OF PERJURY, the undersigned swears or affirms to tell the truth, the whole truth, and nothing but the truth, so help me.

1. I am or we are the _____ Petitioner and _____ Respondent;
2. I or we have read the **petition for dissolution** and it is true and correct.
3. **Petitioner** has been a **Florida resident** for _____ months / years;
4. **Petitioner's** Florida Driver's License or Identification Card or Voter's Registration is **proof of Petitioner's Florida residency; date of issuance is 6 months prior to filing date of** _____ .
5. The **marriage is:**
 _____ **Irretrievably broken**, I no longer love my spouse, I do not want to be married any longer, and no delay or counseling will save my marriage.
 _____ **Not broken** and I want to save my marriage;
6. I, or my spouse, to the best of my knowledge, is: _____ **not pregnant** at this time or _____ **is pregnant** at this time;
7. There were _____ child(ren) born and _____ are **under** 18 and _____ **over** 18 years of age;
 _____ one or more child **has** as mental or physical disability;
 _____ **no child** is mentally or physically disabled;
8. **Name Change:** Do you want your former name restored? ___ Yes ___ No Name _____
9. **ALL MARITAL PROPERTY & DEBTS** have been fairly divided between my spouse and me. If applicable, **ALL CHILD SUPPORT, CUSTODY, VISITATION ISSUES ARE SETTLED**, including alimony rights, if any, by the agreement. The agreement signatures are true and signed freely.

DATED _____ , 2003.

PETITIONER'S SIGNATURE

!!! I. D. *must be issued more than 6 months prior to petition filing date!!!*
Place Picture of license Over this area or attach picture;

**RESPONDENT'S SIGNATURE
ONLY IF "SIMPLIFIED DISS."**