

# **LEGAL SEPARATION WITHOUT MINOR CHILDREN**

**4**

## **The Court Order**

Part 4: To get the Legal Separation Order

(Instruction and Forms Packet)

## LEGAL SEPARATION WITHOUT MINOR CHILDREN

### PART 4: THE COURT ORDER/DECREE

#### CHECKLIST

Use the forms and instructions in this packet only if the following factors apply to your situation:

- ✓ You or the other party filed a Petition for Legal Separation Without Minor Children, **AND**
- ✓ You and the other party have no minor children with each other, **AND**
- ✓ You have paid the filing fee, **AND**
- ✓ You are going to a default hearing, **or** you have filed the papers to get a default decree without a hearing, **or** you are going to a trial, **AND**
- ✓ You are ready to complete the court papers about the final order.

**READ ME:** Consulting a lawyer before filing documents with the court may help prevent unexpected results. A list of lawyers you may hire to advise you on handling your own case or to perform specific tasks, as well as a list of court-approved mediators can be found on the Law Library Resource Center website.

## Court order for legal separation

### Part 4: Order/Decree for legal separation – without minor children

This packet contains court forms and instructions to file a court order for legal separation. Items in **BOLD** are forms that you will need to file with the Court. Non-bold items are instructions or procedures. Do not copy or file those pages!

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The documents you have received are copyrighted by the Superior Court of Arizona in Maricopa County. You have permission to use them for any lawful purpose. These forms shall not be used to engage in the unauthorized practice of law. The Court assumes no responsibility and accepts no liability for actions taken by users of these documents, including reliance on their contents. The documents are under continual revision and are current only for the day they were received. It is strongly recommended that you verify on a regular basis that you have the most current documents.

## How to complete a Spousal Maintenance Worksheet (Applies only to cases in which the original petition for dissolution or legal separation was filed on or after September 24, 2022)

In a dissolution of marriage (divorce) or legal separation, one party may request that the court order the other party to pay “spousal maintenance.” This is financial support paid by one party to the other party. The court considers certain statutory factors to decide whether a party is eligible for spousal maintenance. In these cases, either party may request that the other pay spousal maintenance.

### Spousal Maintenance Guidelines:

For a case filed on or after September 24, 2022, if a person is eligible for spousal maintenance, then the court uses the Arizona Spousal Maintenance Guidelines to determine the amount and duration of the award for spousal maintenance.

The Guidelines can be found here:

<https://www.azcourts.gov/familylaw/Child-Support-Family-Law-Information/Spousal-Maintenance-Guidelines>.

### Spousal Maintenance Calculator:

In any dissolution of marriage or legal separation case that was originally filed on or after September 24, 2022, when a party requests spousal maintenance, or requests to change a past spousal maintenance court order, a completed Spousal Maintenance Worksheet **must** be included under the following situations.

- When filing an Application for Entry of a Default Decree and the party seeking default proceeds by motion without a hearing (Rule 44.1, ARFLP)
- When the parties agree to spousal maintenance and are submitting either a Summary Consent Decree or Consent Decree for Court approval (Rules 45 and 45.1, ARFLP).

The worksheet is created using the FREE online Spousal Maintenance Calculator. Access to the internet is required. The online Spousal Maintenance Calculator can be found here:

<https://www.superiorcourt.maricopa.gov/app/selfsuffcalc/>.

If you do not have access to the internet and/or a printer, you may use the computers at any Law Library Resource Center location. There is a small, per-page charge for printing.

### Next Steps:

After completing the Spousal Maintenance Calculator, print out the Spousal Maintenance Worksheet in order to file it with your other paperwork.

When you have completed all necessary forms, go to the “Procedures” page and follow the steps.

## Instructions: How to fill out the decree for legal separation without minor children

### INFORMATION ABOUT THE SEPARATION DECREE

- What the Decree Means to You. The Decree is the Court Order that legally separates you and your spouse. You are not divorced and cannot marry someone else until you have a Decree of Dissolution of Marriage. Once the judge or commissioner has signed the Decree, it determines the rights and responsibilities of both you and your spouse. If either party does not do what the Decree tells him or 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 whether you are following the Decree. It does mean you or your spouse can request a Contempt Order or an Order to enforce parts of the Decree if you or your spouse fail to do what the Decree tells you to do.
- Getting a Legal Separation Decree. Before you and your spouse become legally separated, a judge or commissioner must sign what we call the Decree of Legal Separation. The Decree tells you who gets the property, who pays the debts, who pays support, and so forth.
- Legal Separation by Default. If you are seeking a Default Decree, you must repeat as closely as possible what you requested in your Petition for Legal Separation. You cannot mark something different in the Decree from what you asked for 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 follow the instructions to fill out your Decree.
- 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 judge's signature and date. If the judge disagrees with anything you have written into the decree, he or she may change it before signing the decree or ask the parties to come to a hearing.

### INSTRUCTIONS FOR FILLING OUT THE DECREE:

- When filling out any court forms, type or print with black ink only.
- 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.
- If you are seeking a Default Decree, you must also promise to mail a copy of the Decree to the other party after the judge has signed it.

### PROCEDURES: HOW TO GET YOUR DECREE SIGNED BY THE JUDGE

- Make *TWO copies* of the Decree.
- Take the documents to your trial or default hearing.
- If you are using the default process and you wish to proceed without a hearing, see the procedures and forms to proceed by Motion.

Person Filing: \_\_\_\_\_

Address (if not protected): \_\_\_\_\_

City, State, Zip Code: \_\_\_\_\_

Telephone: \_\_\_\_\_

Email Address: \_\_\_\_\_

ATLAS Number: \_\_\_\_\_

Lawyer's Bar Number: \_\_\_\_\_

Representing ☐ Self, without a Lawyer OR ☐ Attorney for ☐ Petitioner OR ☐ Respondent

For Clerk's Use Only

SUPERIOR COURT OF ARIZONA  
IN YUMA COUNTY

Case Number: \_\_\_\_\_

\_\_\_\_\_  
Petitioner/Party A

DECREE OF LEGAL SEPARATION  
(Without Minor Children)

\_\_\_\_\_  
Respondent/Party B

THE COURT FINDS:

1. This case has come before this Court for a final Decree of Legal Separation. The Court has taken all testimony needed to enter a final Decree, or has determined testimony is not needed to enter the final Decree.
2. This Court has jurisdiction over the parties under the law, and the provisions of the Decree are fair and reasonable under the circumstances.
3. The Court finds:
  - (a) At the time this action was filed, one of the parties lived in Arizona, or had lived in Arizona while a member of the United States Armed Forces.
  - (b) The provisions of A.R.S. § 25-381.09 relating to Conciliation Court either do not apply or have been met.
  - (c) The marriage is irretrievably broken or one or both parties desire to live separate and apart.
  - (d) The other party does not object to the decree of legal separation.
  - (e) Where it has the legal power to do so and where it is applicable to the facts of this case, this Court has considered, approved, and made orders relating to the issue of spousal maintenance, and the division of property and/or debts.

- (f) ☐ The parties did not acquire any community property or debts during the marriage; OR
- ☐ There IS an agreement as to division of community property and debt; all community property and debt is divided pursuant to this Decree.
- ☐ There is NO agreement as to division of property and/or debt, but all community property and/or debt is divided pursuant to this Decree.
- (g) ☐ No party is pregnant; OR
- ☐ One party is pregnant, and the other party IS NOT the father of the child.
- (h) ☐ Party A, OR
- ☐ Party B
- ☐ Lacks sufficient property, including property apportioned to the spouse, to provide for that spouse's reasonable needs.
- ☐ Lacks earning ability in the labor market that is adequate to be self-sufficient.
- ☐ Is the parent of a child whose age or condition is such that the parent should not be required to seek employment outside the home.
- ☐ Has made a significant financial or other contribution to the education, training, vocational skills, career, or earning ability of the other spouse or has significantly reduced that spouse's income or career opportunities for the benefit of the other spouse.
- ☐ Had a marriage of long duration and is of an age that may preclude the possibility of gaining employment adequate to be self-sufficient.

THE COURT ORDERS:

1. THE PARTIES ARE LEGALLY SEPARATED.
2. ENFORCEMENT OF TEMPORARY ORDERS: All obligations ordered to be paid by the parties in Temporary Orders dated (fill in dates of ALL temporary orders here)

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shall be satisfied in full or judgment is awarded against the party with the obligation up to the amount due and owing as of the date of this Decree, together with the highest legal interest allowed by law.

3. SPOUSAL MAINTENANCE/SUPPORT (ALIMONY):

- (a) ☐ Neither party shall pay spousal maintenance/(alimony) to the other party; OR
- (b) ☐ Party A, OR
- ☐ Party B

Is ordered to pay ☐ Party B, OR ☐ Party A the sum of \$\_\_\_\_\_ per month spousal maintenance BEGINNING THE FIRST DAY OF THE MONTH after this Decree is signed. Each payment shall be made by the first day of each month thereafter and shall continue until the receiving party is deceased or until \_\_\_\_\_ (date). All payments shall be made through the Support Payment Clearinghouse by automatic Income Withholding Order, until all required payments have been made under this Decree. All spousal maintenance payments are governed by the applicable federal and state tax laws. It shall terminate upon the death of either party or remarriage of receiving party.

#### 4. PROPERTY AND DEBT:

- (a) ☐ Party A is ordered to pay all debts unknown to Party B.
- (b) ☐ Party B is ordered to pay all debts unknown to Party A.
- (c) ☐ Each party is ordered to pay his or her debts which he or she incurred since the date of the parties' separation, \_\_\_\_\_ (date).
- (d) ☐ Other orders and relief relating to community property or debts are contained in Exhibit A relating to the division of community property and debts, which is attached and incorporated into and made a part of this Decree.
- (e) ☐ Each party is assigned his or her separate property as contained in Exhibit A relating to the separate property and debts, which is attached and incorporated and made a part of this Decree.
- (f) ☐ This Decree can be used as a transfer of title and can be recorded. Parties shall sign all documents necessary to complete all transfer of titles ordered in this Decree, such as motor vehicles, houses, and bank accounts. The parties shall transfer all real and personal property as described in Exhibit A to the other party on or before \_\_\_\_\_ by 5:00 p.m.

If the party required to transfer the property has not transferred the property to the other party entitled to receive the property on or before the date and time listed above, the party entitled to receive the property is entitled upon application to a Writ of Assistance or Writ of Execution to be issued by the Clerk of Superior Court commanding the sheriff to put him or her in possession of the property.

- (g) ☐ For previous calendar years, the parties shall file
  - ☐ joint federal and state income tax returns and hold the other harmless from additional income taxes, if any, and other costs, and each shall share equally in any refunds, OR
  - ☐ separate federal and state income tax returns.

AND



- ☐ This calendar year and continuing thereafter,
- ☐ joint federal and state income tax returns and hold the other harmless from half of all additional income taxes and other costs, if any, and each shall share equally in any refunds, if any, OR
- ☐ separate federal and state income tax returns.

AND

Each party shall give the other party all necessary documentation to file all tax returns.

5. OTHER ORDERS: (Leave blank for Judicial Officer) \_\_\_\_\_

\_\_\_\_\_

6. FINAL APPEALABLE ORDER. There are no further matters that remain pending before the court and this judgment is a final order under Rule 78(c) of the Arizona Rules of Family Law Procedure.

DONE IN OPEN COURT this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
JUDGE OR COURT COMMISSIONER

If this Decree/Judgment was issued as a "Default," I certify that within three (3) days of receiving this Decree/Judgment, I will mail a copy of this Decree/Judgment to the last known address of the party in default as follows:

Party B's Name: \_\_\_\_\_

Mailing Address: \_\_\_\_\_

City, State Zip Code: \_\_\_\_\_

By: (Party A's Name) \_\_\_\_\_

Date: \_\_\_\_\_

## EXHIBIT A: PROPERTY AND DEBTS

## 1. DIVISION OF COMMUNITY PROPERTY:

- ☐ Award each party the furniture, furnishings, artwork, collectibles, appliances, cookware, and related items of personalty in his or her possession, or
- ☐ The following community property is awarded to each party as follows:

## 2. LIST OF COMMUNITY PROPERTY. Be specific

## AWARD TO:

Party A

Party B

<input type="checkbox"/> Household furniture/furnishings	<input type="checkbox"/>	<input type="checkbox"/>
_____	<input type="checkbox"/>	<input type="checkbox"/>
_____	<input type="checkbox"/>	<input type="checkbox"/>
_____	<input type="checkbox"/>	<input type="checkbox"/>
_____	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/> Appliances	<input type="checkbox"/>	<input type="checkbox"/>
_____	<input type="checkbox"/>	<input type="checkbox"/>
_____	<input type="checkbox"/>	<input type="checkbox"/>
_____	<input type="checkbox"/>	<input type="checkbox"/>
_____	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/> DVD/DVR/VCR (be specific)	<input type="checkbox"/>	<input type="checkbox"/>
_____	<input type="checkbox"/>	<input type="checkbox"/>
_____	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/> TV	<input type="checkbox"/>	<input type="checkbox"/>
_____	<input type="checkbox"/>	<input type="checkbox"/>
_____	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/> Personal Computer	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/> Stereo	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/> State Income Tax Refund	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/> Federal Income Tax Refund	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/> Motor vehicle _____	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/> Motor vehicle _____	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/> Motor vehicle _____	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/> Cash, bonds of \$ _____	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/> Other: _____	<input type="checkbox"/>	<input type="checkbox"/>

- |                          |                             |                          |                          |
|--------------------------|-----------------------------|--------------------------|--------------------------|
| <input type="checkbox"/> | Other: _____                | <input type="checkbox"/> | <input type="checkbox"/> |
| <input type="checkbox"/> | Other: _____                | <input type="checkbox"/> | <input type="checkbox"/> |
| <input type="checkbox"/> | Other: _____                | <input type="checkbox"/> | <input type="checkbox"/> |
| <input type="checkbox"/> | Continued on attached list. |                          |                          |

3. DIVISION OF RETIREMENT, PENSION, DEFERRED COMPENSATION

(WARNING. You should see a lawyer about your retirement, pension, deferred compensation, 401k plans and/or benefits. If you do not see a lawyer regarding these assets, you risk losing any interest you have in these plans and/or benefits. There are certain documents the plan administrator must have. Only a lawyer can help you prepare these documents.)

- ☐ Award each party his or her interest in any retirement benefits, pension plans, or other deferred compensation described as:

Party A's: \_\_\_\_\_

Party B's: \_\_\_\_\_

OR

- ☐ The Plan Administrator and the parties have approved the Qualified Domestic Relations Order (QDRO) attached as Exhibit(s) \_\_\_\_\_. Do not check this box without first seeking the help of a lawyer.

OR

- ☐ Each party WAIVES AND GIVES UP his or her interest in any retirement benefits, pension plan, or other deferred compensation of the other party:

OR

- ☐ Neither party has a retirement, pension, deferred compensation, 401K Plan and/or benefits.

4. DIVISION OF REAL PROPERTY. Section A is for one piece of property. Section B is for another piece of property. If you own more than two pieces of property, check the box below and attach another sheet of paper with the information requested in A and B.

- ☐ More than 2 pieces of property are involved. See attached sheet listing the same information as in A and B.

A. Real property located at (address) \_\_\_\_\_ which is legally described as: (You must provide the legal description. The legal description can be found on the deed to the property. If you do not provide the legal description, you may have to come back to court to amend the Decree to include the legal description.)

LEGAL DESCRIPTION: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

The real property as described above is:

☐ Awarded to ☐ Party A OR ☐ Party B as his or her sole and separate property.  
OR

☐ Shall be sold and the proceeds divided as follows:

\_\_\_\_\_ % or \$ \_\_\_\_\_ to Party A.

\_\_\_\_\_ % or \$ \_\_\_\_\_ to Party B.

☐ This Decree can be used as a transfer of title and can be recorded. Parties shall sign all documents necessary to complete all transfer of titles ordered in this Decree, such as motor vehicles, houses, and bank accounts.

☐ \_\_\_\_\_ is appointed real estate commissioner to sell this real property.

- B. Real property at (address) \_\_\_\_\_ which is legally described as: (You must provide the legal description. The legal description can be found on the deed to the property. If you do not provide the legal description, you may have to come back to court to amend the Decree to include the legal description.)

LEGAL DESCRIPTION: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

The real property as described above is:

Awarded to ☐ Party A OR ☐ Party B as his or her sole and separate property.

OR

☐ Shall be sold and the proceeds divided as follows:

\_\_\_\_\_ % or \$ \_\_\_\_\_ to Party A.

\_\_\_\_\_ % or \$ \_\_\_\_\_ to Party B.

☐ This Decree can be used as a transfer of title and can be recorded. Parties shall sign all documents necessary to complete all transfer of titles ordered in this Decree, such as motor vehicles, houses, and bank accounts.

☐ \_\_\_\_\_ is appointed real estate commissioner to sell this real property.

5. DIVISION OF COMMUNITY DEBTS. (You should see a lawyer about how to divide secured and unsecured debts.) ☐ The following community debts shall be divided as follows:

Creditor(s)	Amount owed	Party A	Party B
_____	\$ _____	_____	_____
_____	\$ _____	_____	_____
_____	\$ _____	_____	_____
_____	\$ _____	_____	_____
_____	\$ _____	_____	_____

☐ Continued attached list.

6. ☐ Any debts or obligations incurred by either party before Party B was served with the Petition for Dissolution that are not identified in the list above or attached shall be paid by the party who incurred the debt or obligation and that party shall indemnify and hold the other party harmless from such debts.

7. SEPARATE PROPERTY. The following separate property is awarded as follows: (Be specific)

Description of Property. Be specific.	Party A	Party B
_____	<input type="checkbox"/>	<input type="checkbox"/>
_____	<input type="checkbox"/>	<input type="checkbox"/>
_____	<input type="checkbox"/>	<input type="checkbox"/>
_____	<input type="checkbox"/>	<input type="checkbox"/>
_____	<input type="checkbox"/>	<input type="checkbox"/>

8. SEPARATE DEBT. The parties are each ordered to pay his or her separate debt as follows:

Creditor(s)	Amount owed	Party A	Party B
_____	\$ _____	_____	_____
_____	\$ _____	_____	_____
_____	\$ _____	_____	_____
_____	\$ _____	_____	_____

# **CURRENT EMPLOYER\* INFORMATION**

You may also fill out this form online at the Family Support Center Website.

For Clerk's Use Only

## **THIS FORM MUST BE COMPLETED FOR:**

- ☐ **AN INCOME WITHHOLDING ORDER**
- ☐ **ORDER TO STOP AN INCOME WITHHOLDING ORDER**
- ☐ **NOTIFICATION OF A CHANGE OF EMPLOYER (*or OTHER PAYOR*)**

**CASE NUMBER:** \_\_\_\_\_ **ATLAS NUMBER:** \_\_\_\_\_

**NAME OF PERSON ORDERED TO MAKE PAYMENTS:**

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**LIST THE NAME OF THE EMPLOYER\* AND THE ADDRESS OF THE PAYROLL OR FINANCIAL DEPARTMENT (for the person named above) WHERE THE INCOME WITHHOLDING ORDER OR STOP ORDER SHOULD BE MAILED.**

**EMPLOYER\* NAME:** \_\_\_\_\_

**PAYROLL ADDRESS:** \_\_\_\_\_

**CITY:** \_\_\_\_\_ **STATE:** \_\_\_\_\_ **ZIP:** \_\_\_\_\_

**EMPLOYER\* TELEPHONE:** \_\_\_\_\_

**EMPLOYER\* FAX:** \_\_\_\_\_

***\*or other payor or source of funds***

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**FOR COURT USE ONLY. DO NOT WRITE BELOW THIS LINE.**

**WA/FSC**

WA/LOG ID:	_____
TYPE OF W/A	_____
DATE	_____
AMOUNT OF ORDER	_____
EMPLOYER STATUS	_____
ENTERED BY	_____
NEW W/A	_____
AG	_____
SUB	_____
DCSE	_____

## Instructions and Procedures for a Default Decree by Motion, without a Hearing

### REQUIREMENTS

Sometimes a court hearing is not required to get a default decree. If you meet the following requirements, you may use this “no hearing” process to request a default decree:

- ✓ All parties must be legally competent and sane.
- ✓ The “*Summons*” and “*Petition*” were served to the other party, other than by publication
- ✓ The “*Petition*” requests to the Court are the same as the requests proposed in the default order.

*This means, you cannot use this process if . . .*

- the responding party was served by publication,
- if the other party is insane or incompetent, or
- if the other party has filed a response, or made an appearance in the cases, or
- the requests to the Court in the proposed default order are not the same as those requested in the “*Petition*.”

You must have already filed and mailed to the other party an “*Application and Affidavit for Default*.” Also, it must be at least ten (10) court (business) days since you filed and mailed the “*Application*.”

If you filed for divorce, legal separation or annulment, it must also have been at least 60 calendar days since service of the “*Summons*” and “*Petition*” was completed.

### INSTRUCTIONS

Complete the “*Motion and Affidavit for Default Decree without a Hearing*”

1. Complete the top part of the page with your personal information, name of parties, and case number.
2. On the upper page right, mark the box that describes the kind of court order you are requesting (i.e. divorce, annulment, etc.)
3. SECTION A:
  - Read the information carefully.
  - Mark the boxes in front of the statements that are true.
4. SECTION B: (To be completed only by parties seeking a decree of dissolution, legal separation, or annulment)
  - Mark the boxes that best apply to your situation.
  - NOTE: ATTACHMENTS. If you marked a box next to a statement that requires an “attachment”, be sure to attach the required document at the end of the original “*Motion and Affidavit for Default Decree without a Hearing*.” If you are missing an attachment or any required document, your case could be rescheduled for a hearing, which extends the process and delays your decree or court order.
5. SECTION C: (To be completed only by parties seeking a judgment of paternity/maternity, and/or legal decision-making, parenting time or child support.)
  - Mark the boxes that best apply to your situation.
  - If the statement next to the box asks for an explanation, write it clearly in black ink.
  - NOTE: ATTACHMENTS. If you marked a box next to a statement that requires an “attachment”, be sure to attach the required document at the end of the original “*Motion and Affidavit for Default Decree without a Hearing*.” If you are missing an attachment or any required document, your case could be rescheduled for a hearing, which extends the process and delays your decree or court order.

6. SECTION D: To be completed if it applies to you.

NOTE: ATTACHMENTS. If you marked a box next to a statement that requires an "attachment", be sure to attach the required document at the end of the original "*Motion and Affidavit for Default Decree without a Hearing*." If you are missing an attachment or any required document, your case could be rescheduled for a hearing, which extends the process and delays your decree or court order.

7. OATH or Affirmation: Sign and date this in front of the Clerk of Superior Court or Notary, with a picture identification.

8. COPY: Make two copies of the original "*Motion and Affidavit for Default Decree **without** a Hearing*," with ALL the REQUIRED ATTACHMENTS.

Complete the Default Decree / Judge / Order

1. See the instructions in this packet to complete the Default Decree / Judgment / Order.

2. If children are involved, there will be additional forms to complete, such as a Parenting Plan, Child Support Worksheet, and Child Support Order. See additional instructions in this packet.

3. COPY:

- Make two (2) copies of the original "*Decree / Judge / Order*", plus attachments and any addition required forms.
- Note: If you are missing an attachment or any required form, your case could be rescheduled for a hearing, which extends the process and delays your decree or court order.

After completing instructions above, you are ready to complete the Decree/Order, also in this packet.

However, BEFORE YOU REQUEST Default Decree by Motion Without A Hearing, CHECK TO BE SURE THAT YOU:

- Properly served the "*Petition*", Summons and other papers to other party and filed the proof of service. (Service cannot be done by publication if you are using this method (without a hearing)), AND
- Completed and filed the "*Application and Affidavit for Default*," with ALL the REQUIRED ATTACHMENTS and mailed a copy to the other party; AND
- IF the other party is on active duty in the United State Military, you completed and notarized "*Service Member Civil Relief Act Waiver*", AND
- Waited at least 61 days after the completion of service, if you filed for divorce, legal separation or annulment.

PROCEDURES

1. FILE the original "*Motion and Affidavit for Default Decree without a Hearing*," with ALL the REQUIRED ATTACHMENTS, and two copies with all the attachments at one of the following Clerk of Superior Court locations.

- The Clerk of Superior Court will keep the original "*Motion*" and all the attachments, as well as date-stamp the copy, and return both copies to you.

Clerk of Superior Court  
250 W. 2nd Street  
Yuma, AZ 85365



2. HAND-DELIVER OR MAIL the following documents as indicated below to the Family Department:
- One (1) file-stamped copy of the *“Motion and Affidavit for Default Decree without a Hearing”* with all attachments.
  - The original and two (2) copies of the *“Decree / Judge / Order”* and related forms and attachments for signature by the Judge.
  - Two (2) 9" x 12" envelopes with sufficient postage, one addressed to you, and one addressed to the other party.

Clerk of Superior Court  
250 W. 2nd Street  
Yuma, AZ 85364

3. WAIT. There is a review process upon receipt of your paperwork. This process can take as long as 4-6 weeks. You can call Family Department: (602) 372-3332 between the hours of 8:00 a.m. and 5:00 p.m. to check on the status of your case. Please wait at least four (4) weeks before checking the status.

The Judge will review your file and the documents you have submitted.

- If the Judge determines that everything is in order they will sign the final decree. The Clerk will file-stamp your copies and they will be mailed to you and the other party in the envelopes you have provided.
- If the Judge finds anything wrong with your court file or paperwork, your documents will be returned to you in the envelope you have provided along with a coversheet describing the deficiency and in most cases how it can be corrected.

Common reasons why your paperwork may be rejected:

- Incomplete: The *“Decree”* was not fully completed.
  - Not all applicable boxes were marked.
  - An explanation(s) was missing
  - An attachment(s) was missing
- Different Requests: Items asked for in the *“Decree”* were not the same as the items asked for in the *“Petition.”*
- Missing Documents: The original *“Decree”* and copies were not submitted with the *“Motion and Affidavit for Default Decree without Hearing”*.
- Overlooked *“True”* Statements: You did not mark all boxes on the *“Motion and Affidavit for Default Decree without Hearing”* as true statements.
- No notarized Waiver: Did not provide a notarized *“Service Members Civil Relief Act Waiver.”*

Arizona Rules of Family Law Procedure (ARFLP), Rule 44.1, allows for application for a default decree *without hearing* in Family cases for divorce, legal separation, annulment, maternity or paternity, money judgments, attorney fees, and spousal maintenance, but be WARNED:

- There are special legal requirements involved in qualifying for an annulment, and a default decree with no hearing.
- If your court papers do not fully explain how you meet those requirements, it could result in your case being delayed or dismissed.
- Consulting an experienced attorney about whether your situation *and your papers* indicate you qualify for an annulment or a default decree, may help you to avoid unnecessary expense, delay, and disappointment.

Person Filing: \_\_\_\_\_  
Address (if not protected): \_\_\_\_\_  
City, State, Zip Code: \_\_\_\_\_  
Telephone: \_\_\_\_\_  
Email Address: \_\_\_\_\_  
ATLAS Number: \_\_\_\_\_  
Lawyer's Bar Number: \_\_\_\_\_

FOR CLERK'S USE ONLY

Representing ☐ Self, without a Lawyer or ☐ Attorney for ☐ Petitioner OR ☐ Respondent

## SUPERIOR COURT OF ARIZONA IN YUMA COUNTY

In the Marriage of

Case No. \_\_\_\_\_

\_\_\_\_\_  
Name of Petitioner / Party A

### MOTION AND AFFIDAVIT FOR DEFAULT DECREE WITHOUT HEARING for:

and

- ☐ DISSOLUTION OF MARRIAGE (Divorce)  
☐ LEGAL SEPARATION  
☐ ANNULMENT  
☐ MATERNITY/PATERNITY  
☐ ESTABLISH LEGAL DECISION-MAKING /  
PARENTING TIME / CHILD SUPPORT  
A.R.F.L.P. 44.1

\_\_\_\_\_  
Name of Respondent / Party B

I am the Petitioner / Party A and I am asking the Court to enter a **“Decree”** of **Dissolution of Marriage,” “Legal Separation,” “Annulment,”** or **“Maternity/Paternity,”** or an **“Order”** establishing legal-decision-making by default without a court hearing.

### SECTION A:

I have marked each box in front of the statements below that are true and I understand that if any statement is not true, I cannot get a default decree *without a hearing*.

- ☐ I have read this **“Motion and Affidavit for Default Decree without a Court Hearing”** and to the best of my knowledge everything I said is true.
- ☐ I have paid the filing and service fees or the filing and service fees were waived or deferred. A copy of the receipt showing payment or a copy of the Order showing that the fees were waived or deferred is attached.
- ☐ To the best of my knowledge, both Party A and Party B are competent and sane at this time (even if “legal incompetence” or “insanity” *at the time of the marriage* is listed as a ground for an annulment).

- ☐ At least 60 days have passed since the other Party (Respondent) was served with the dissolution, legal separation, or annulment papers. OR my case is to establish maternity/paternity and/or legal decision-making / parenting time / child support and there is no 60 day waiting period.
- ☐ Service was not done by publication.
- ☐ Party B has not made an appearance in this matter or filed a **“Response.”** I filed the **“Application and Affidavit for Default”** and Default has been entered against the other Party.
- ☐ At the time this action was filed, Party A or Party B was domiciled in Arizona or was stationed in Arizona while a member of the United States Armed Forces. If this is an action for dissolution of marriage (divorce) or annulment, Party A or Party B was domiciled or stationed in Arizona for more than 90 days, at the time the Petition was filed.
- ☐ My case does not involve a member of the military waiving service **OR** - I have submitted a notarized **“Service Members Civil Relief Act Waiver”** completed by the other party.

**SECTION B.**

**I am requesting Judgment of DISSOLUTION, LEGAL SEPARATION, or ANNULMENT.**

☐ **YES** - If YES, answer each question below.

☐ **NO** - If NO, skip to Section C.

☐ Conciliation Services provisions have been met since the filing of the Petition, or the provisions do not apply. This must be true to proceed. (A.R.S. § 25-381.09).

Covenant Marriage: Our marriage ☐ IS or ☐ IS NOT a covenant marriage.

Pregnancy: ☐ Neither party ☐ Party A ☐ Party B is pregnant with a child common to the parties.

Choose only one that applies:

☐ If seeking divorce, the marriage is irretrievably broken.

☐ If seeking legal separation, the parties desire to live separate and apart.

☐ If seeking annulment, a condition exists which renders the marriage void or voidable.

Spousal Maintenance: (choose only one)

- ☐ Party A or Party B has made a claim for spousal maintenance/support and Form 6 “(Default Information for Spousal Maintenance)” is attached to this Motion and Affidavit.
- ☐ Party A or Party B has NOT made a claim for spousal maintenance/support, and the claim is deemed waived by **both** parties.

Property and Debt: (choose all that apply)

- ☐ There was no property or debt obtained during the marriage.
- ☐ Does not apply because (explain): \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
- ☐ All of the allegations, including those concerning property and debts listed in the **“Petition”** were true at the time filed and remain true as of the date of the filing of this motion and affidavit, **OR any changes are explained below:**  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
- ☐ I attached a list of all community property and debt (obtained or incurred during the marriage), including personal property, motor vehicles, bank accounts, retirement assets, life insurance, real property, including the **value** and the **party to whom the property or debt is to be awarded**. The attached list also includes any requests for the award of sole and separate property and debt.
- ☐ Everything in the **“Petition for Dissolution of Marriage,” “Legal Separation,” or for “Annulment,”** concerning who gets the property and who pays the bills/debts is fair and reasonable.

☐ I have requested reasonable attorney fees and support for this request is **attached** to this Motion and Affidavit.

☐ Same as Petition: The requests in this form and relief to be awarded in the **“Decree”** are the same as the relief I requested in the underlying **“Petition,”** **OR** if the relief to be awarded is different, it has been approved by both parties, as reflected in a notarized statement from the other party, or a **“Decree”** containing the notarized signatures of both parties. This must be true to proceed.

**SECTION C.**

**I am requesting a Judgment of MATERNITY or PATERNITY and/or an Order for LEGAL DECISION-MAKING / PARENTING TIME / CHILD SUPPORT.**

☐ **YES - If YES, answer each question below.**

☐ **NO - If NO, skip to Section D.**

☐ The name and date of birth of each child is:

Name: \_\_\_\_\_

Date of Birth: \_\_\_\_\_

Name: \_\_\_\_\_

Date of Birth: \_\_\_\_\_

Name: \_\_\_\_\_

Date of Birth: \_\_\_\_\_

Name: \_\_\_\_\_

Date of Birth: \_\_\_\_\_

Name: \_\_\_\_\_

Date of Birth: \_\_\_\_\_

☐ The factual basis for the finding of maternity / paternity is: \_\_\_\_\_

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

☐ The child(ren) live with: \_\_\_\_\_

☐ Length of Residence: The child has lived in Arizona for at least six (6) months before the filing of the Petition or is less than six (6) months old and has lived in Arizona since birth.

☐ There are no proceedings involving the child that are pending in **another jurisdiction. OR**

☐ There are other proceedings involving the child that are pending in **another jurisdiction** and I have listed the court name(s) and case number(s) below:

Court Name(s) \_\_\_\_\_

Case Number(s) \_\_\_\_\_

☐ There are no proceedings involving the child that are pending in **another court. OR**

☐ There are other proceedings involving the child that are pending in **other courts** and I have listed the court name(s) and case number(s) below:

Court Name(s) \_\_\_\_\_

Case Number(s) \_\_\_\_\_

State of Arizona Request:

☐ Does not apply. OR

☐ The State of Arizona has requested the default judgment of paternity. The factual basis for the finding of paternity is described above.

Child Support:

☐ I have attached the required Child Support Worksheet. Child Support is based on the following:

☐ The Arizona Child Support Guidelines OR

☐ A deviation from the Arizona Child Support Guidelines because: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

☐ Other: \_\_\_\_\_  
\_\_\_\_\_

☐ The basis for determining the gross income of the defaulting party is: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**SECTION D:**

☐ Attorney Fees: I have attached an itemized bill for a reasonable amount of attorney fees to support this request.

☐ Money Judgment(s): I have attached the calculations to establish the sum of requested money to support this request.

☐ Other requested relief. I have attached the following document, to establish the facts supporting the request: \_\_\_\_\_  
\_\_\_\_\_

**OATH OR AFFIRMATION AND VERIFICATION**

**I swear or affirm that the information on this document is true and correct under penalty of perjury.**

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

STATE OF \_\_\_\_\_

COUNTY OF \_\_\_\_\_

Subscribed and sworn to or affirmed before me this: \_\_\_\_\_ by  
(Date)

\_\_\_\_\_.

(Notary seal)

\_\_\_\_\_  
Deputy Clerk of Court or Notary Public