

Filing a No Fault Divorce under §3301 (c) of the Divorce Code-Mutual Consent-INSTRUCTIONS-PLEASE READ AND FOLLOW (TIME FRAMES ARE INVOLVED!)

Self Help-Northampton County Court of Common Pleas

This instructional section is for reference and research only. This section explains the basic forms needed for a plaintiff to file a simple Mutual Consent No Fault Divorce in Pennsylvania in a step-by-step format.

Divorce in Pennsylvania involves important legal rights involving money, property, and custody of children. The forms provided on this website are not appropriate for everyone. If you and/or your spouse have property, such as real estate, automobiles, life insurance, pension and retirement benefits, stocks, bank accounts, credit cards, mortgages, loans, or other assets and debts, you should seek the advice of an attorney. Marital property is all property acquired during marriage, regardless of whose name is on a title, policy, or account. **IF YOU DO NOT FILE A CLAIM FOR ALIMONY, DIVISION OF PROPERTY, LAWYER'S FEES OR EXPENSES BEFORE A DIVORCE IS GRANTED, YOU MAY LOSE THE RIGHT TO CLAIM ANY OF THEM.**

The forms below are available in Word format.

State and Local Court Rules Must Be Followed.

-Pennsylvania Rules of Civil Procedure are available at <http://www.pacode.com>

-Northampton County Rules are available at <http://courtrules.northamptoncounty.org>

If the Defendant is serving in the military, then STOP and consult and attorney.

IMPORTANT NOTICE: To complete the divorce successfully, you must follow all instructions and complete the forms exactly as written. You must also record the dates on which you take certain steps on the instructions so that you have those dates to complete other forms later in the process. If you fail to do the steps in the proper order, fail to complete any steps, or fail to keep track of dates, you risk having your divorce denied. Completing the divorce process is your responsibility. No additional assistance is available.

SECTION 1-Complaint Preparation

Step 1. Form preparation

Complete the following forms in order and photocopy:

- Notice to Defend and Claim Rights-Original plus 2 copies
- Complaint- Original plus 2 copies

Step 2. Signature

-Sign and date all copies of the completed forms in Step 1 that require your signature.

Step 3. Packet Assembly

DO NOT add or attach any other documents, photos, photocopies, etc. to any of the form packets. Doing so may cause your Divorce to be denied.

Assemble into three (3) Complaint packets

One packet for the Clerk of Courts-Civil Division (Prothonotary) containing the following forms:

- Notice to Defendant and Claim Rights
- Complaint

One packet for your records containing the following forms:

- Notice to Defendant and Claim Rights
- Complaint

One packet to be served on the defendant containing the following forms:

- Notice to Defendant and Claim Rights
- Complaint

SECTION 2-Filing the Complaint

Take the following items to the Clerk of Courts-Civil Division (Prothonotary) located in the lower level of the Northampton County Courthouse:

- All three (3) completed Complaint packets from Section 1-Form Preparation, Step 3.

- Cash or money order to cover divorce filing fees. No personal checks will be accepted. For filing fees, see the Northampton County Civil Fee Schedule on the website at www.northamptoncounty.org

- Give all three packets to the Clerk. The original will be kept; two copies will be returned to you; keep one for your records; serve one on the Defendant (see next section).

SECTION 3-Serving the Defendant by Certified Mail Time deadline of Service

The plaintiff must serve the defendant with the Complaint and the Notice to Defend within thirty (30) days of the date the forms were filed with the Clerk of Civil Division (Prothonotary) or within ninety (90) days if the defendant does not live in the state of Pennsylvania.

Manner of Service:

Certified mail, return receipt requested, **restricted delivery**

Step 1. Preparing the Complaint packet for service

Put the following in an envelope to the defendant:

- one (1) time-stamped Complaint packet containing:

 - Notice to Defendant and Claim Rights

 - Complaint

Step 2. Go to the Post Office

Take the envelope addressed to defendant containing the complaint packet to the post office and send the envelope to defendant by certified mail, restricted delivery, return receipt requested.

NOTE: If you are unsuccessful or unable to serve the Defendant, **then STOP and consult an attorney.**

SECTION 4-Proof of Service

Once you receive the Domestic Return Receipt (green post card) that was signed by the defendant, do the following:

Step 1. Form Preparation

Complete the following forms:

-Affidavit of Service of Complaint (make 1 photocopy)

-Exhibit "A"

Step 2. Signature

Sign and date all copies of the completed forms from Step 1 that require your signature.

Step 3. Attach

Attach the Domestic Return Receipt (green post card), signature side up, to Form Exhibit "A".

Step 4. Photocopy

Make a photocopy of the Form Exhibit "A" that has the green post card attached.

Step 5. Packet Assembly

Assemble into two (2) Proof of Service packets.

One packet for the Clerk of Civil Division (Prothonotary) containing the following completed documents:

Affidavit of Service of Complaint

Exhibit "A" with attached Domestic Return Receipt (green post card).

One packet for your records containing the following Completed documents:

Affidavit of Service of Complaint
Photocopied Exhibit "A"

Step 6. File

File now by taking both Proof of Service packets assembled in Step 5 to the Clerk of Courts-Civil Division (Prothonotary) located on the lower level of Northampton County Courthouse, 669 Washington Street, Easton, Pa.

Give both Proof of Service packets to the Clerk. The original will be kept by the Clerk, the copy will be returned to you for your own records.

SECTION 5-90 Day Waiting Period

If you were able to complete Section 4-Proof of Service, you now have proof that you served the Complaint and Notice to Defend on the defendant.

You must wait ninety (90) days from the date of service before proceeding to the next section. Date of Service is the date the defendant signed the green post card.

Calculate ninety (90) days from date of service. Do not continue to Section 6 until after the 90 day waiting period.

SECTION 6-Wavier of Notice and Affidavit of Consent

Step 1. Form Preparation

Next, you and the defendant must complete each of these forms, but before you complete your Waiver and Affidavit, go to Step 2:

-Waiver of Notice Under 3301 (c)-make 1 photocopy

-Affidavit of Consent-make 1 photocopy

Step 2. Mail

Mail unsigned forms to defendant:

One (1) copy of Waiver of Notice of 3301 (c)

One (1) copy of Affidavit of Consent

One (1) self-addressed stamped return envelope

(Include instructions to sign, date and return these forms back to you in the self-addressed stamped envelope).

Keep a copy of each form for yourself until you receive the defendant's signed copies. Do not sign these copies until you receive the forms back from the defendant.

Step 3. Your Signature

After the defendant returns the signed Waiver of Notice of 3301 (c) and Affidavit of Consent:

Make one (1) copy of each form signed by the defendant

Sign and date your Waiver and Affidavit.

NOTE: You must complete the following Steps 4 and 5 thirty (30) days from the date the defendant signed the Waiver of Notice and Affidavit of Consent

Step 4. Packet Assembly

Assemble into two (2) Waiver and Consent packets.

One packet for the Clerk of Courts-Civil Division containing the following completed forms:

Waiver of Notice
(original signed by Defendant)
(a copy signed by Plaintiff)

Affidavit of Consent
(original signed by Defendant)
(a copy signed by Plaintiff)

One packet for your records containing the following completed forms:

Waiver of Notice
(photocopy of original signed by Defendant)
(a copy signed by Plaintiff)

Affidavit of Consent
(photocopy of original signed by Defendant)
(a copy signed by Plaintiff)

Step 5. File

File now by taking both Waiver and Consent packets assembled in Step 4 to the Clerk of Courts-Civil Division located in the lower level of the Northampton County Courthouse.

Give both Waiver and Consent packets to the Clerk. The original will be kept by the Clerk, the copy will be returned to you for your own records.

SECTION 7-Finalization (This step can be completed with Step 5)

Step 1. Form Preparation

Complete the following forms and make 1 photocopy of each form.

Praeceptum To Transmit Record
Decree

Step 2. Signature

Sign and date all copies of the Praeipice To Transmit Record

DO NOT sign Decree.

Step 3. Packet Assembly

Assemble in two (2) packets

One packet for the Clerk of Courts-Civil Division containing the following completed documents:

Praeipice To Transmit Record
Decree

One packet for your records containing the following completed documents:

Praeipice To Transmit Record
Decree

Step 4. File

Take the following items to the Clerk of Courts-Civil Division located in the lower level of the Northampton County Courthouse.

Both completed packets from Step 3

Cash or money order to cover
Praeipice To Transmit Record fees. No personal
checks will be accepted. For filing fees, see civil
fee schedule at www.nccpa.org

Step 5.

If all the required forms are fill out correctly, filed in correct timeline and the filing is done accordance to the Rules of Court, the Decree is entered, signed by a Judge and mailed to you upon disposition.

**IN THE COURT OF COMMON PLEAS OF
NORTHAMPTON COUNTY, PENNSYLVANIA
CIVIL DIVISION**

	)	DOCKET NO.
Plaintiff)	
)	
vs.)	
	)	IN DIVORCE
)	
Defendant)	

NOTICE TO DEFEND AND CLAIM RIGHTS

You have been sued in court. If you wish to defend against the claims set forth in the following pages, you must take prompt action. You are warned that if you fail to do so, the case may proceed without you and a decree of divorce or annulment may be entered against you by the court. A judgment may also be entered against you for any other claim or relief requested in these papers by the plaintiff. You may lose, money, property or other rights important to you, including custody or visitation of your children.

When the ground for the divorce is indignities or irretrievable breakdown of the marriage, you may request marriage counseling. A list of marriage counselors is available in the Office of the Prothonotary at the Northampton County Courthouse, 1st Floor, 669 Washington Street, Easton, Pennsylvania, 18042.

IF YOU DO NOT FILE A CLAIM FOR ALIMONY, DIVISION OF PROPERTY, LAWYER'S FEES OR EXPENSES BEFORE A DIVORCE OR ANNULMENT IS GRANTED, YOU MAY LOSE THE RIGHT TO CLAIM ANY OF THEM.

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW. THIS OFFICE CAN PROVIDE YOU WITH INFORMATION ABOUT HIRING A LAWYER.

IF YOU CANNOT AFFORD TO HIRE A LAWYER, THIS OFFICE MAY BE ABLE TO PROVIDE YOU WITH INFORMATION ABOUT AGENCIES THAT MAY OFFER LEGAL SERVICES TO ELIGIBLE PERSONS AT A REDUCED FEE OR NO FEE.

LAWYER REFERRAL SERVICE
PO Box 4733
EASTON, PA 18042
(610)258-6333

**IN THE COURT OF COMMON PLEAS OF
NORTHAMPTON COUNTY, PENNSYLVANIA
CIVIL DIVISION**

)	
	)	DOCKET NO.
Plaintiff)	
)	
vs.)	
	)	IN DIVORCE
)	
Defendant)	

COMPLAINT IN DIVORCE
UNDER SECTION 3301(c) OF THE DIVORCE CODE

AND NOW, this _____ day of _____ 20____, comes
the Plaintiff _____, who files this Complaint
in Divorce a statement of which follows:

1. The Plaintiff, _____(name), is an adult
individual residing at _____(address)
_____(City), _____(State/Zip Code)
_____(County).

2. The Defendant, _____(name), is an adult
individual residing at _____(address)
_____(City), _____(State/Zip Code)
_____(County).

3. Plaintiff and Defendant have resided in the Commonwealth of
Pennsylvania for at least six (6) months immediately prior to the filing of this
Complaint.

4. Plaintiff and Defendant were married on _____(date)
in _____(city, state or county).

5. There have been no prior actions for divorce or annulment of the marriage between the parties in this or any other jurisdiction. Except _____
_____.

6. Plaintiff avers that the Defendant is not a member of the armed Services of the United States and so the protections afforded under the Service members Civil Relief Act are not applicable.

7. Plaintiff has been advised of the availability of marriage counseling and that Plaintiff may have the right to request that the Court require the parties to participate in counseling. Plaintiff hereby waives whatever rights he/she may have to request marriage counseling.

8. _____Plaintiff avers that there are no children of the parties under the age of eighteen (18).

_____Plaintiff avers that there is/are child(ren) of the parties under the age of eighteen (18).

Name

Birthdate

9. Plaintiff avers that the marriage is irretrievably broken.

WHEREFORE, Plaintiff requests this Honorable Court to enter a Decree in Divorce upon the following grounds.

Plaintiff avers that the marriage between the parties is irretrievably broken and believes that the Defendant will consent to the entry of a divorce decree under 23 Pa.C.S.A. §3301(c), after at least ninety (90) days have passed from the date of service of the within complaint.

Print Name: _____

Signature: _____

Address:

Telephone: _____

VERIFICATION

I verify that the statements made in this Pleading are true and correct. I understand that false statements herein made subject to the penalties of 18 Pa.C.S.A. §4904 relating to unsworn falsification to authorities.

(Plaintiff's Signature)

(Date)

**IN THE COURT OF COMMON PLEAS OF
NORTHAMPTON COUNTY, PENNSYLVANIA
CIVIL DIVISION**

Plaintiff)
) **DOCKET NO.**
vs.)
)
Defendant) **IN DIVORCE**

AFFIDAVIT OF SERVICE

Attach the Domestic Return Receipt here
(green post card)
Defendant's signature and date of delivery side up.

EXHIBIT "A"

**IN THE COURT OF COMMON PLEAS OF
NORTHAMPTON COUNTY, PENNSYLVANIA
CIVIL DIVISION**

)	
	)	DOCKET NO.
Plaintiff)	
)	
vs.)	
	)	IN DIVORCE
)	
Defendant)	

**WAIVER OF NOTICE OF INTENTION TO REQUEST ENTRY OF A DIVORCE
DECREE UNDER §3301 (C) OF THE DIVORCE CODE**

1. I consent to the entry of a final decree of divorce without notice.
2. I understand that I may lose rights concerning alimony, division of property, lawyer's fees or expense if I do not claim them before a divorce is granted.
3. I understand that I will not be divorced until a divorce decree is entered by the Court and that a copy of the decree will be sent to me immediately after it is filed with the Clerk of Courts-Civil Division.

I verify that the statements made in this affidavit are true and correct. I understand that false statements herein are made subject to the penalties of 18 Pa.C.S.A. §4904 relating to unsworn falsification to authorities.

(Date)

(Plaintiff)

**IN THE COURT OF COMMON PLEAS OF
NORTHAMPTON COUNTY, PENNSYLVANIA
CIVIL DIVISION**

)	
	)	DOCKET NO.
Plaintiff)	
)	
vs.)	
	)	IN DIVORCE
)	
Defendant)	

AFFIDAVIT OF CONSENT

1. A complaint in divorce under §3301 (c) of the Divorce Code was filed on _____(date).
2. The marriage of plaintiff and defendant is irretrievably broken and ninety days have elapsed from the date of filing and service of the Complaint.
3. I consent to the entry of a final decree of divorce after service of notice of intention to request entry of the decree.

I verify that the statements made in this affidavit are true and correct. I understand that false statements herein are made subject to the penalties of 18 Pa.C.S.A. §4904, relating to unsworn falsification to authorities.

(Date)

(Plaintiff)

**IN THE COURT OF COMMON PLEAS OF
NORTHAMPTON COUNTY, PENNSYLVANIA
CIVIL DIVISION**

)	
	)	DOCKET NO.
Plaintiff)	
)	
vs.)	
	)	IN DIVORCE
)	
Defendant)	

**WAIVER OF NOTICE OF INTENTION TO REQUEST ENTRY OF A DIVORCE
DECREE UNDER §3301 (C) OF THE DIVORCE CODE**

1. I consent to the entry of a final decree of divorce without notice.
2. I understand that I may lose rights concerning alimony, division of property, lawyer's fees or expense if I do not claim them before a divorce is granted.
3. I understand that I will not be divorced until a divorce decree is entered by the Court and that a copy of the decree will be sent to me immediately after it is filed with the Clerk of Courts-Civil Division.

I verify that the statements made in this affidavit are true and correct. I understand that false statements herein are made subject to the penalties of 18 Pa.C.S.A. §4904 relating to unsworn falsification to authorities.

(Date)

(Defendant)

**IN THE COURT OF COMMON PLEAS OF
NORTHAMPTON COUNTY, PENNSYLVANIA
CIVIL DIVISION**

)	
	)	DOCKET NO.
Plaintiff)	
)	
vs.)	
	)	IN DIVORCE
)	
Defendant)	

AFFIDAVIT OF CONSENT

1. A complaint in divorce under §3301 (c) of the Divorce Code was filed on _____(date).
2. The marriage of plaintiff and defendant is irretrievably broken and ninety days have elapsed from the date of filing and service of the Complaint.
3. I consent to the entry of a final decree of divorce after service of notice of intention to request entry of the decree.

I verify that the statements made in this affidavit are true and correct. I understand that false statements herein are made subject to the penalties of 18 Pa.C.S.A. §4904, relating to unsworn falsification to authorities.

(Date)

(Defendant)

**IN THE COURT OF COMMON PLEAS OF
NORTHAMPTON COUNTY, PENNSYLVANIA
CIVIL DIVISION**

)	
	)	DOCKET NO.
Plaintiff)	
)	
vs.)	
	)	IN DIVORCE
)	
Defendant)	

PRAECIPE TO TRANSMIT RECORD

To The Prothonotary

Transmit the record, together with the following information, to the court for entry

of (check one of the following):

- a divorce decree;
- a divorce decree with marital settlement agreement attached;
- a bifurcated divorce decree with the Court retaining jurisdiction over unresolved ancillary claims; or
- an order approving grounds for divorce with the Court retaining jurisdiction over unresolved ancillary claims.

1. Check the applicable section of the Divorce Code.

Grounds for divorce: irretrievable breakdown under:

- Section 3301(c)(1)
- Section 3301(c)(2)
- Section 3301(d)

2. Service of Complaint:

(a) Date serviced: _____

(b) Manner of service: _____

3. Complete either paragraph (a) or (b).

(a) **Section 3301(c)(1) or (2) of the Divorce Code-** Insert the date each party signed the Affidavit of Consent, and if the ground for divorce is under Section 3302(c)(2) of the Divorce Code, insert the date the spouse was convicted of the personal injury crime identified in 23 Pa.C.S. §3103 next to the appropriate party and Complete (1) and (2).

Plaintiff: _____;

Defendant: _____;

(1) The date the party signed the Affidavit to Establish Presumption of Consent under Section 3301(c)(2) of the Divorce Code _____;

(2) The date of filing and manner of service of the Affidavit to Establish Presumption of Consent under Section 3301(c)(2) of the Divorce Code and a blank Counter affidavit under Section 3301(c)(2) upon the other party _____.

(b) Section 3301(d) of the Divorce Code:

(1) The date of the Affidavit under Section 3301(d) of the Divorce Code was signed: _____

(2) Date of the filing and manner of service of the Affidavit under Section 3301(d) of the Divorce Code and blank Counter Affidavit Under Section 3301(d) of the Divorce Code upon the other Party: _____.

4. Related ancillary claims pending: _____.

5. Complete either (a) or (b).

(a) Notice of Intention to File Praecipe to Transmit Record:

(1) Date served: _____.

(2) Manner of service: _____.

(b) The date of filing of the party's Waiver of Notice of Intention to File the Praecipe to Transmit Record:

(1) Plaintiff's Waiver: _____.

(2) Defendant's Waiver: _____.

(Attorney for)/Plaintiff or Defendant)

**IN THE COURT OF COMMON PLEAS OF
NORTHAMPTON COUNTY, PENNSYLVANIA
CIVIL DIVISION**

)	
	)	DOCKET NO.
Plaintiff)	
)	
vs.)	
	)	IN DIVORCE
)	
Defendant)	

DECREE

AND NOW, this _____ day of _____, 20____, it is
Ordered and decreed that Plaintiff _____(name)
and Defendant _____(name), are divorced
from the bonds of matrimony.

The Court retains jurisdiction of any claims raised by the parties to this
action for which a final order has not yet been entered.

JUDGE

