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STATE OF MISSISSIPPI

CHANCERY COURT

UNCONTESTED DIVORCE PACKAGE

With ADULT CHILDREN

With or Without Property

Control Number MS-004-D

This packet contains the following:

1. Information about Divorce
2. Form List
3. Form Explanations
4. Instructions and Steps
5. Checklist
6. Access to Law Summary

**You and your spouse must agree to all terms of the divorce to use this packet.
All forms to be filed with the Court must be printed on bond paper.**

INFORMATION ABOUT DIVORCE

1. **WHO MAY USE THESE FORMS:** You may use the forms in this package only when all of the following facts are true:
- (a) Irreconcilable differences between the spouses has caused the irremediable breakdown of the marriage and there is no reasonable expectation of reconciliation;
 - (b) There are no minor children of said marriage, and the wife is not now pregnant. All children of the marriage are over the age of twenty-one (21) and emancipated;
 - (c) You and your spouse agree on all terms of the divorce.

Emancipated as defined by *Miss. Code 93-5-23*, means that the individual has:

- (a) Attained the age of twenty-one (21) years, or
- (b) Married, or
- (c) Discontinued full-time enrollment in school and obtained full-time employment prior to attaining the age of twenty-one (21) years, or
- (d) Voluntarily moved from the home of the custodial parent or guardian and established independent living arrangements and obtained full-time employment prior to attaining the age of twenty-one (21) years.

2. **THE BASICS:** Actions for divorce in the State of Mississippi are filed in the **Chancery Court**. A complaint based upon irreconcilable differences may be filed in the county where either party resides. *Miss. Code 93-5-11*
3. **RESIDENCY REQUIREMENTS:** At least one of the parties to a divorce action in Mississippi must have been an actual bona fide resident of the state for six (6) months prior to the filing of the divorce action.
4. **GROUND FOR DIVORCE:** The no-fault ground upon which a divorce may be granted is “irreconcilable differences.” *Miss. Code 93-5-1*.
5. **WAITING PERIOD:** Complaints for divorce on the ground of irreconcilable differences must have been on file for sixty (60) days before the final hearing.
6. **ALIMONY/SUPPORT:** Because this is an agreed divorce, you will decide issues of spousal “alimony” (also called “spousal support”) -- the periodic payment of money from one spouse to the other on a temporary or permanent basis. The forms in this no-fault divorce package assume that no alimony will be paid and none will be sought-- but you

may add provisions for alimony to the *Separation and Property Settlement Agreement* if you desire. In a contested case, the court might award alimony. A contested divorce is beyond the scope of this divorce package. **You should consult a local attorney regarding the possibilities concerning alimony if you have questions or foresee conflict regarding this issue.** To review additional information, see, *Miss. Code 93-5-23*.

7. **DISTRIBUTION OF PROPERTY:** In a divorce, the property such as land, house, buildings, and items of personal property owned by the couple is divided between the parties. Debts owed are also allocated to one party or the other, or both. This is accomplished by means of a *Separation and Property Settlement Agreement*. You and your spouse must agree to the property and debt division and memorialize your agreement in the *Separation and Property Settlement Agreement*, which will be incorporated by reference into the *Decree of Divorce* that ultimately ends your marriage. You may agree to divide the property any way you like, as long as a basic fairness is maintained, and you both agree. If you cannot agree on any item of this division, the dissolution of marriage transforms into a **contested divorce**. A contested divorce is outside the scope of this packet.

8. **LEGAL SEPARATION:** This package contains form for DIVORCE, not for Legal Separation. This information on Legal Separation is provided for your information only. A legal separation cannot be obtained using the forms in this package.

A legal separation is different than a divorce. A legal separation is a court determination of the rights and responsibilities of a husband and wife arising out of the marital relationship. A decree of legal separation **does not terminate the marriage** of the parties, and the parties are **not** free to marry again. For more information on legal separation, contact a local attorney.

9. **NAME CHANGE:** A spouse may petition the court requesting that upon divorce the court restore the party to the use of a former or maiden name.

For more information, see the Mississippi Divorce Law Summary.

FORMS LIST

The forms included in this package are:

1. Civil Cover Sheet (**MS-AOC-01**)
2. Joint Complaint for Absolute Divorce; (**MS-801D**)
3. Separation and Property Settlement Agreement; (**MS-803D**)
4. Financial Statement; (**MS-805D**)
5. Certificate of Compliance; (**MS-806D**)
6. Notice of Hearing; (**MS-807D**)
7. Final Judgment of Absolute Divorce. (**MS-808D**)

Note: Depending on your County additional forms may be required that are County-specific. These forms will be available from the Clerk.

FORM EXPLANATIONS

All forms included in this package are identified below.

1. **Civil Cover Sheet (MS-AOC-01)** – This form is an information sheet for the court’s use.

2. **Joint Complaint for Divorce (MS-801D)** - The Joint Complaint for Divorce is the document is which you are asking the court to grant your divorce along with any other relief requested.

3. **Separation and Property Settlement Agreement (MS-803D)** - This document provides for the final distribution of any assets and debts of the parties, and any other agreements reached between the parties.

4. **Financial Statement (MS-805D)** – The Financial Statement is use to disclose to the other party the complete financial situation of the party completing the form. Each party must complete a copy of this document.

5. **Certificate of Compliance (MS-806D)** - This document is used by both parties to certify to the Court that the opposing party has received a copy of that party’s Financial Statement. Each party must complete a copy of the Certificate of Compliance and file it with the Court.

6. **Notice of Hearing (MS-807D)** - This form notifies the defendant of the final hearing date.

7. **Final Judgment of Absolute Divorce (MS-808D)** – This document grants the divorce and any other relief requested.

INSTRUCTIONS AND STEPS

Note: If a form contains a space for the signature of a Notary Public, it must be signed by you (and if necessary by your spouse) in front of a Notary Public, who must notarize the document. Prepare an original and several copies of each of your completed documents. Your spouse should have a copy of everything you file, stamped “filed” by the clerk. You should keep copies and the court must have originals.

STEP 1: In cooperation with your spouse, complete the following forms:

Form 1 - *Civil Cover Sheet*

Form 2 - *Joint Complaint for Divorce*

Form 3 - *Separation and Property Settlement Agreement*

Form 4 - *Financial Statement (each party must complete a separate copy)*

Form 5 - *Certificate of Compliance (each party must complete a separate copy)*

Attach the *Separation and Property Settlement Agreement* to the *Joint Complaint*. Label the *Agreement* “Exhibit A” by writing this in large, clear letters in the bottom margin of the first page of the *Agreement*.

Exchange copies of the completed *Financial Statement* with your spouse.

STEP 2: Make at least 4 copies of all completed documents. Call ahead to the clerk’s office and determine the amount of your filing fee and acceptable forms of payment. Go to the court clerk’s office and FILE the originals of all of the above documents, and any needed copies. The clerk will stamp the remaining copies “Filed.” Deliver a stamped “Filed” copy of each document to your spouse. Keep the remaining stamped “Filed” documents for your records. You will need to attach a stamped “Filed” copy of the *Complaint* (with attached *Agreement*) to the *Judgment of Absolute Divorce* in Step 4, below.

STEP 3: Obtain a hearing date from the clerk. The hearing may not be scheduled sooner than the required waiting period of sixty (60) days from the filing of the *Joint Complaint*.

Once the hearing date is obtained, the Defendant must be provided notice of the hearing date. Provide formal notice by completing Form 6- the *Notice of Hearing* and delivering or mailing form to the Defendant.

STEP 4: Before the hearing, complete Form 7 - the *Findings of Fact, Conclusions of Law*

and Judgment of Absolute Divorce. Do this in cooperation with your spouse. Attach a stamped “Filed” copy of your *Complaint* (with the attached *Separation and Property Settlement Agreement*). Label the *Complaint* “Exhibit 1” by writing this in large, clear letter in the bottom margin of the first page of the *Complaint*.

STEP 5: You and your spouse must attend the hearing, with copies of all of your documents, including Form 7 as described above. Present Form 7 to the Judge for review and approval.

STEP 6: When the Judge has signed the *Judgment*, it will be filed with the clerk. Inquire with the clerk as to how you will receive notice of the filing of the *Judgment*, and how to receive a Certified Copy of the *Judgment* for your records. Once the signed *Judgment* is filed, you are divorced.

CHECKLIST

- Complete forms 1-5. Attach the *Separation and Property Settlement Agreement* to the *Complaint* and label the *Agreement* "Exhibit A." File all documents with clerk. Pay filing fee.

- Obtain hearing date form clerk. Hearing date may not be scheduled sooner than 60 days after the filing of your *Complaint*.

- Mail or deliver Form 6- *Notice of Hearing* to your spouse.

- With your spouse's cooperation, complete Form 7- *Findings of Fact, Conclusions of Law, and Judgment of Absolute Divorce*. Attach a stamped "Filed" copy of the *Complaint* (with the *Separation and Property Settlement Agreement* attached), to the *Judgment* and label it "Exhibit 1."

- Attend the hearing. Answer any questions asked by the Judge and present Form 7 to the Judge for review and signature.

- Obtain a certified copy of the *Judgment* once it has been signed by the Judge and filed with the court.

NOTE ABOUT COMPLETING THE FORMS

The forms in this packet may contain “form fields” created using Microsoft Word. “Form fields” facilitate completion of the forms using your computer. They do not limit your ability to print the form “in blank” and complete with a typewriter or by hand.

If you do not see the gray shaded form fields, go to the View menu, click on Toolbars, and then select Forms. This will open the forms toolbar. Look for the button on the forms toolbar that resembles a shaded letter “a”. Click in this button and the form fields will be visible. If they do not become visible, then they were not included in this form package.

To complete the forms click on the gray shaded areas and type. You may also change other words in the document if the document is not locked. The separation agreement is a good example of a document that is not locked and allows you to make modifications outside the gray shaded areas.

Some forms may be locked which means that the content of the forms cannot be changed while the form is locked. You can only fill in the information in the fields. If you need to make any changes in the body of the form, it is necessary for you “unlock” or “unprotect” the form. **IF YOU INTEND TO MAKE CHANGES TO THE CONTENT, DO SO BEFORE YOU BEGIN TO FILL IN THE FIELDS. IF YOU UNLOCK THE DOCUMENT AFTER YOU HAVE BEGUN TO COMPLETE THE FIELDS, WHEN YOU RELOCK, ALL INFORMATION YOU ENTERED WILL BE LOST.** To unlock, click on “Tools” in the Menu bar and then selecting “unprotect document”. You may then be prompted to enter a password. If so, the password is “uslf”. That is uslf **in lower case letters without the quotation marks**. After you make the changes relock the document before you begin to complete the fields. After any required changes re-lock the document, then click on the first form field and enter the required information. You will be able to navigate through the document from form field to form field using your tab key. Tab to a form field and insert your data. If you experience problems, please let us know.

LAW SUMMARY

You may access the law summary for your State by using the link below:

<http://secure.uslegalforms.com/lawsummary/MS/MS-004-D.htm>

DISCLAIMER

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