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§3301(c)(2) Divorce

- **Complaint Under §3301(c)(2) of the Divorce Code (2 pages)**
- **Notice to Defend and Claim Rights**
- **Notice**
- **Affidavit of Consent (Plaintiff)**
- **Waiver of Notice of Intention to Request Entry of a Divorce Decree Under §3301(c)(2) of the Divorce Code (Plaintiff)**
- **Notice of Intention to Request Entry of §3301(c)(2) Divorce Decree**
- **Counter-Affidavit Under §3301(c)(2) of the Divorce Code**
- **Affidavit of Service***
- **Affidavit of Service by Mail***
- **Exhibit “B” Sheet (Mailing Receipts Page)***
- **Acceptance of Service***
- **Praecipe to Transmit Record**

NOTE: You will not need to fill out ALL of these forms. Some are conditional and may or may not apply to your situation. The conditional forms are marked with an asterisk (*). Please read your instructional packet carefully to determine which of these forms you will need.

_____, : IN THE COURT OF COMMON PLEAS
Plaintiff :
v. : OF ERIE COUNTY, PENNSYLVANIA
: :
_____, : NO. _____ - 20____
Defendant :

COMPLAINT UNDER §3301(c)(2)
OF THE DIVORCE CODE

1. Plaintiff is _____, who currently resides at _____, _____, Erie County, Pennsylvania _____, since _____.

2. Defendant is _____, who currently resides at _____, _____ County, _____, since _____.

3. Plaintiff has been a bona fide resident in the Commonwealth of Pennsylvania for at least six months immediately previous to the filing of this Complaint.

4. The Plaintiff and Defendant were married on _____, 20____, at _____, _____ County, _____.

5. There have been no prior actions of divorce or for annulment between the parties except: _____.

6. The marriage is irretrievably broken.

7. Defendant has been convicted of committing a personal injury crime against Plaintiff.

8. Plaintiff requests the Court to enter a decree of divorce.

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

Plaintiff

Date: _____

_____, : IN THE COURT OF COMMON PLEAS
 Plaintiff :
 v. : OF ERIE COUNTY, PENNSYLVANIA
 :
 _____, : NO. _____ - 20 ____
 Defendant :

TO: _____

NOTICE TO DEFEND AND CLAIM RIGHTS

YOU HAVE BEEN SUED IN COURT. IF YOU WISH TO DEFEND AGAINST THE CLAIM 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 OR PROPERTY OR OTHER RIGHTS IMPORTANT TO YOU.

WHEN THE GROUND FOR THE DIVORCE IS INDIGNITIES OR IRRETRIEVABLE BREAKDOWN OF THE MARRIAGE, YOU MAY REQUEST MARRIAGE COUNSELING. HOWEVER, THE COURT CANNOT REQUIRE COUNSELING OVER THE OBJECTION OF A PARTY THAT HAS A PROTECTION FROM ABUSE ORDER, OR WHERE THAT PARTY WAS A VICTIM OF A PERSONAL INJURY CRIME FOR WHICH THE OTHER PARTY WAS CONVICTED OR HAS ENTERED INTO AN ACCELERATED REHABILITATIVE DISPOSITION PROGRAM. A LIST OF MARRIAGE COUNSELORS IS AVAILABLE IN THE OFFICE OF THE PROTHONOTARY, ROOM NO. 6, FIRST FLOOR, ERIE COUNTY COURTHOUSE, ERIE, PENNSYLVANIA.

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

YOU ARE ALSO REQUIRED TO ATTEND A SEMINAR ENTITLED "CHILDREN COPE WITH DIVORCE;" SEE ATTACHED INSTRUCTIONS. FAILURE TO REGISTER AND COMPLETE THE PROGRAM WILL BE BROUGHT TO THE ATTENTION OF THE COURT AND MAY RESULT IN A FINDING OF CONTEMPT AND THE IMPOSITION OF SANCTIONS.

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER OR CANNOT AFFORD ONE, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW TO FIND OUT WHERE YOU CAN GET LEGAL HELP:

LAWYERS REFERRAL SERVICE, 302 WEST NINTH STREET, ERIE, PA 16502 – (814) 459-4411

AMERICANS WITH DISABILITIES ACT OF 1990 - The Court of Common Pleas of Erie County is required by law to comply with the Americans with Disabilities Act of 1990. For information about accessible facilities and reasonable accommodations available to disabled individuals having business before the court, please contact the Court's ADA Coordinator at Erie County Court of Common Pleas, 140 W. 6th St., Rm 205, Erie, PA 16501-1030, Phone-(814) 451-6308, TDD-(814) 451-6237, E-mail- courtadacoordinator@eriecountygov.org. Requests should be made as soon as possible or at least three business days prior to any hearing or business before the court.

_____, Plaintiff

NOTICE

Whenever indignities, irretrievable breakdown with mutual consent or irretrievable breakdown of the marriage after a one-year separation are the ground(s) for the divorce under Section 3301 (a), (b), (c) or (d) of the Divorce Code, counseling may be available to the parties upon request. *However*, the Court may not order counseling over the objection of a party that has an enforceable protection from abuse order against the other party, or where the objecting party was a victim of a personal injury crime for which the other party was convicted or has entered into an Accelerated Rehabilitative Disposition program.

Upon request, the Court will provide parties to this action with a list of qualified professionals who provide such counseling services. Should the Court require counseling sessions, the choice of a qualified professional shall be at the option of the parties and such professional need not be selected from the list provided by the Court.

Should you desire a list of qualified professionals who provide counseling services, contact your attorney or the Office of Domestic Relations, 155 W. 8th Street, Erie, Pennsylvania, 16501, (814) 451-6151.

	:	IN THE COURT OF COMMON PLEAS
Plaintiff	:	
v.	:	OF ERIE COUNTY, PENNSYLVANIA
	:	
	:	NO. _____ - 20__
Defendant	:	

AFFIDAVIT OF CONSENT

1. A Complaint in Divorce under §3301(c)(2) of the Divorce Code was filed on _____.
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.
4. I understand that I may lose rights concerning alimony, division of property, lawyer's fees or expenses if I do not claim them before a divorce is granted.

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. §4904 relating to unsworn falsification to authorities.

DATE: _____

Plaintiff

_____	:	IN THE COURT OF COMMON PLEAS
Plaintiff	:	
v.	:	OF ERIE COUNTY, PENNSYLVANIA
	:	
_____	:	NO. _____ - 20__
Defendant	:	

**WAIVER OF NOTICE OF INTENTION TO REQUEST ENTRY OF A DIVORCE
DECREE UNDER §3301(c)(2) 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 expenses 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 Prothonotary.

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. §4904 relating to unsworn falsification to authorities.

DATE: _____

Plaintiff

_____	:	IN THE COURT OF COMMON PLEAS
Plaintiff	:	
v.	:	OF ERIE COUNTY, PENNSYLVANIA
	:	
_____	:	NO. _____ - 20__
Defendant	:	

NOTICE OF INTENTION TO REQUEST ENTRY OF §3301(c)(2) DIVORCE DECREE

TO: _____, Defendant

You have been sued in an action for **divorce**. You have failed to sign an Affidavit of Consent to the Entry of a Divorce Decree and a Waiver of Notice of Intention to Request Entry of a §3301(c)(2) Divorce Decree. Therefore, on or after _____, the other party can request the court to enter a **final decree in divorce**.

If you do not file with the Prothonotary of the Court an answer with your signature notarized or verified or a Counter-Affidavit by the above date, the Court can enter a final Decree in Divorce. A Counter-Affidavit which you may file with the Prothonotary of the Court is attached to this notice.

Unless you have already filed with the Court a written claim for economic relief, you must do so by the date in the paragraph above, or the Court may grant the **divorce** and you will lose forever the right to ask for economic relief. The filing of the form Counter-Affidavit alone does not protect your economic claims.

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 & Information Service
 302 WEST NINTH STREET, ERIE, PA 16502 – (814) 459-4411

DATE: _____

 Plaintiff

	:	IN THE COURT OF COMMON PLEAS
Plaintiff	:	
v.	:	OF ERIE COUNTY, PENNSYLVANIA
	:	
	:	NO. _____ - 20__
Defendant	:	

COUNTER-AFFIDAVIT UNDER §3301(c)(2) OF THE DIVORCE CODE

1. I wish to claim economic relief which may include alimony, division of property, lawyer’s fees or expenses, or other important rights.

2. I understand that I must file my economic claims with the Prothonotary in writing and serve them on the other party. If I fail to do so before the date set forth on the Notice of Intention to Request Divorce Decree, the divorce decree may be entered without further notice to me, and I shall be unable thereafter to file any economic claims.

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

DATE: _____

Defendant

_____, : IN THE COURT OF COMMON PLEAS
Plaintiff :
v. : OF ERIE COUNTY, PENNSYLVANIA
: :
_____, : NO. _____ - 20____
Defendant :

AFFIDAVIT OF SERVICE

COMMONWEALTH OF PENNSYLVANIA :
: SS:
COUNTY OF ERIE :

_____, being duly sworn according to law, deposes and says that he/she is a competent adult over 18 years of age; that he/she served a copy of the Notice of Intention to Request Entry of §3301(c)(2) Divorce Decree and the Counter-Affidavit upon the Defendant, _____, by personally handing him/her a true and correct copy thereof and informing him/her of its contents at _____, on _____, 20____, at _____ o'clock ____ .M.

Deponent further avers that at the time of such service, the Defendant identified himself/herself to deponent.

Signature of Deponent

Sworn to and subscribed before me
this ____ day of _____, 20____.

Notary Public

_____, : IN THE COURT OF COMMON PLEAS
Plaintiff :
v. : OF ERIE COUNTY, PENNSYLVANIA
: :
_____, : NO. _____ - 20 ____
Defendant :

AFFIDAVIT OF SERVICE BY MAIL PURSUANT TO PA.R.CIV.P1920.4

COMMONWEALTH OF PENNSYLVANIA :
: SS:
COUNTY OF ERIE :

_____, being duly sworn according to law, deposes and says that he/she representing himself/herself pro se, mailed a copy of the Notice of Intention to Request Entry of §3301(c)(2) Divorce Decree and the Counter-Affidavit filed in this matter by certified mail, return receipt requested, addressee only, to the Defendant at _____, on _____, 20__.

[Check one below]

- The return receipt signed by the Defendant is evidence of delivery to him/her and is attached hereto along with the Certified Mail receipt as Exhibit "B."
- The Defendant refused to sign the receipt. However, Defendant was also served via regular mail and said regular mail was not returned within fifteen (15) days. The Certified Mail receipt and Certificate of Mailing for regular mail is attached hereto as Exhibit "B."

Name: _____
Address: _____

Phone: _____

Sworn to and subscribed before me
this ____ day of _____, 20__.

Notary Public

Docket # _____

EXHIBIT "B"

	:	IN THE COURT OF COMMON PLEAS
v.	:	
Plaintiff	:	OF ERIE COUNTY, PENNSYLVANIA
	:	
	:	NO. _____ - 20__
Defendant	:	

ACCEPTANCE OF SERVICE

I, _____, Defendant in the above action, hereby accept service of the Notice of Intention to Request Entry of §3301(c)(2) Divorce Decree and the Counter-Affidavit in the above-captioned action. I received a true and attested copy of the aforementioned documents on _____.

DATE: _____
Defendant _____

	:	IN THE COURT OF COMMON PLEAS
Plaintiff	:	
v.	:	OF ERIE COUNTY, PENNSYLVANIA
	:	
	:	NO. _____ - 20__
Defendant	:	

PRAECIPE TO TRANSMIT RECORD

To the Prothonotary:

Transmit the record, together with the following information to the Court for entry of a divorce decree:

1. Grounds for divorce: Irretrievable breakdown under §3301(c)(2) of the Divorce Code.

2. Date and Manner of service of Complaint: _____

 _____.

3. Date of execution of the Plaintiff's Affidavit of Consent required by §3301(c)(2) of the Divorce Code: _____.

4. Relating claims pending: _____.

5. Date Plaintiff's Waiver of Notice in §3301(c)(2) Divorce was filed with the Prothonotary: _____.

6. Date and Manner of service of the Notice of Intention to Request Entry of §3301(c)(2) Divorce Decree and the Counter-Affidavit: _____

 _____.

 _____, Plaintiff