

CHAPTER

9

THE CLIENT INTERVIEW

KEY TERMS

Financial worksheet	Legal advice
Initial client intake form	Retainer agreement
Initial client interview	Retainer letter
Jurisdictional requirement	

THE PARALEGAL'S ROLE IN THE INITIAL SCREENING PROCESS

The divorce process begins with a potential client contacting the law office for the purpose of obtaining legal representation in the dissolution of their marriage. Clients also seek attorney representation in obtaining some type of postjudgment remedy such as contempt actions and modification proceedings. The client's first contact with the law office will ordinarily be through the telephone. Family law paralegals may often find themselves answering the phone and fielding phone calls from prospective clients.

Use of an **initial client intake form** will help the paralegal obtain important information during the prospective client's first call to the family law office (see Exhibit 9-1). The initial client intake form will aid the paralegal in obtaining data from the client and relaying information to the client. In addition to the prospective client's name, address, and phone number, and reasons for seeking an attorney, the paralegal may:

1. Schedule an appointment for the client with the attorney, and log the appointment in the attorney's master calendar system and in the attorney's individual daily diary.
2. Inform the client of the cost of an initial consultation (which is determined by the attorney). If the initial consultation is free, inform the client of the time limits of this initial meeting.
3. Give the client travel instructions to the office and tell them where to park.
4. If the prospective client was served with legal papers or has received any correspondence regarding possible litigation, tell the client to bring this material to the initial interview.

FIGURE 9-1

Many clients' first contact with a law office will be made via telephone.



PREPARING FOR THE CLIENT INTERVIEW

The next step in the divorce process is the **initial client interview**. The initial interview is the first meeting between the client and the attorney.

The purposes of the initial interview are as follows:

1. To give the client the opportunity to meet the attorney.
2. To give the client some preliminary legal advice regarding his problem.
3. To give the attorney and the attorney's support staff (the attorney's secretary, paralegal, and law clerks) an opportunity to become acquainted with the client.
4. To enable the attorney to establish a relationship of trust and confidence with the client.
5. To give the attorney the opportunity to discuss fees and fee payment arrangements with the client, and to determine and communicate to the client the scope of the attorney's representation.
6. To give the attorney the chance to assess the client's needs and determine whether he or she is willing and able to represent this particular client.
7. To enable the attorney to obtain enough information to commence the client's legal action.

UNDERSTANDING THE EMOTIONAL ASPECTS OF DIVORCE

Before proceeding further with a discussion of the interview process, it is important for the paralegal to comprehend the emotional aspects of divorce. Marriages are entered into with high expectations. They can range from mutual promises to be faithful to each other and stay together forever, to somber resolves to maintain a sober and responsible lifestyle, to undying pledges to always be there for each other to provide emotional support, financial support, intimacy, companionship, love, caring, and mutual respect. When a client is at the threshold of seeking legal representation in a divorce matter, it is important to understand that some of the expectations of marriage have been shattered in one way or another.

An impending divorce signals the rupture of a dream. This event can literally turn a client's life upside down, and start them on an emotional roller coaster. Throughout the process, clients experience everything from anger, jealousy, rage, and hopelessness to depression, frustration, and distrust. Furthermore, the adversarial nature of our legal system and litigious family law practitioners can exacerbate an already volatile situation.

Paralegals will have contact with clients at various stages in the divorce process, either by phone or in person. The paralegal should provide emotional support for a stressed-out client in a professional and limited manner. While a paralegal should acknowledge clients' feelings and give them an opportunity to express themselves, it may be appropriate, in some cases, to refer a client to a therapist or support group. It is not the function of the law office to provide therapeutic services to clients. The law office must remain within the confines of its role to provide legal services efficiently and competently and refer clients to therapists when they are in need of professional mental health services.

DEVELOPING A RELATIONSHIP OF TRUST AND CONFIDENCE

One of the most important goals of the client interview is developing a relationship of trust and confidence with the client. At the beginning of the interview, the client should be assured that all communications with the office are strictly confidential. While the ethical standard of confidentiality applies to any situation where an attorney/client relationship has been established, it is particularly important to verbally explain this duty to a client, especially a family law client. Divorce or family-related matters may present very sensitive issues that a client may be too embarrassed to discuss with an attorney or paralegal. Assure the client that the information will not be disclosed to third parties unless the client has consented or the disclosure is required by one of the exceptions to the confidentiality rule. A thorough knowledge of your state's confidentiality rule is extremely important.

A proficiently managed law office and a competent staff responding to clients' needs also helps inspire trust and confidence. Returning phone calls and following through on promises made to clients is essential. If you have told a client that documents will be forwarded for her review, do so. Take good notes when speaking with a client, either in person or on the telephone. Transfer any tasks to be completed on behalf of the client to your "Things to Do" list. This will ensure that this information will not get lost and that these tasks will be completed. Attorneys are very busy and may also need to be reminded to complete certain tasks or return a client's phone call.

DEVELOPING GOOD LISTENING SKILLS

A good interviewer develops listening skills over time and experience with a variety of clients. There are, however, some techniques that are worth discussing and applying when interviewing a client. One such technique is active listening. When interviewing a client, it is important to pay close attention to what they are saying and to convey to him that you are actually listening. If the interviewer is not engaged in the interview the mind may wander and vital information that could be useful to the client's case will be missed. The following are some guidelines to help you develop active listening skills:

1. *Refrain from passing judgment on your clients.* You will encounter clients with a wide range of life experiences and backgrounds that may conflict with your own values. It is not your function to judge the client, but rather to assist the attorney in the client's representation. You may empathize with the client, if appropriate, but refrain from expressing an opinion on their choices or lifestyle.
2. *Be aware of your body language.* We communicate nonverbally through the use of our bodies. As interviewers, it is important that we maintain eye contact with the client. If you keep looking at the clock, for instance, it may show that you are either bored or in a rush. Maintaining eye contact shows that you are interested in what the client has to say. Another way to show a client that you are engaged in the conversation is to be conscious of your body position. Avoid placing barriers (i.e., a desk) between you and the client. Sit across from the client at a reasonable distance and lean forward to show interest. Clients also com-

municate with body language. There are numerous books on the market which can help you learn how to interpret visual cues and how to respond to them.

3. *Provide feedback.* Repeat some key facts back to the client or summarize a series of events. Politely do this during a break in the conversation. This conveys that you are actually hearing what they are saying and gives the client the opportunity to correct any misunderstandings.
4. *Empathize with your clients.* Be sensitive to your client's emotional needs and acknowledge his feelings. Do not, however, share your personal experiences. Not only is this unprofessional, but getting too personal will disrupt your professional relationships. If you find that interviewing divorce clients raises certain issues in your own life, seek professional help or a support group.

PREINTERVIEW PREPARATIONS

Determine the scope of the interview with your supervisor. Is the client seeking a divorce or is it a postjudgment matter? Next make sure that the interviewing room or area is private, neat, and free from confidential information pertaining to other clients. Facial tissues are also important to have on hand in case the client becomes emotional. You will also need a copy of the preprinted form used by your office, a legal pad for notes, and any releases or other documents necessary.

THE CLIENT INTERVIEW

THE CLIENT'S ARRIVAL

When the client arrives, make sure that you are not interrupted. Greet the client with a smile and a handshake. Introduce yourself and identify your paralegal status. Take the client's coat and engage in small talk in order to put the client at ease. Chatting about the weather or asking if the client had difficulty locating the office are some ways of initiating a conversation. Many offices keep hot and cold beverages for their clients' enjoyment. Offer the client something to drink if this is the procedure in your office.

THE ACTUAL INTERVIEW

Once the client is comfortably seated, explain your role. Tell the client that for her own protection, the ethical rules of the state prohibit you from giving legal advice.

The client's communication level will dictate how you approach the interview. Some clients are more verbal than others. For clients who talk too much, it is important to focus them on the purpose of the interview. Others are very nervous and need to be prompted with a lot of questions. Give the client an overview of the interview process and tell her that it is important that you hear her story and collect the necessary data. Tell the client that you will be taking notes so that you can preserve the information for the file.

Gathering Information

Start with open-ended questions that will illicit more than a one-word response. For instance:

- ▼ “You contacted us about a divorce matter. Could you tell me what is going on in your marriage?”
- ▼ “What can we help you with today?”

These questions will encourage the client to start talking.

Tape recording client interviews is not recommended. When the recorder is on, your mind will relax knowing that you are getting all the information on tape. The problem is that you may not be alert to sections of the interview where you need to ask questions. Focus on the client and listen. Only when you listen can you ask relevant questions. Jot down notes about questions or areas on which you may want the client to elaborate.

Narrowing Issues

Once you have a general idea of the client’s situation, it is time to focus on specific issues. For example:

- ▼ “Can you elaborate on your child’s educational problems?”
- ▼ “You mentioned that your wife was unfaithful during your marriage. Can you be more specific?”

Once you have a general picture of the marriage and the causes of the breakdown it is now time to focus on the preprinted form. Say to the client, “I think I have enough for now. I’d like to go through our questionnaire so that we can take down some important information the attorney will need in order to adequately represent you.”

Concluding the Interview

Tell the client what will happen next: “I’ll pass this information on to Attorney Jones” or “We’ll draft the initial document and send you a copy.” Take care of any documents that need to be signed at this time, such as releases or retainer agreements. (Retainer agreements are discussed later in this chapter.)

Explain to the clients what is expected from them. Do they need to gather additional information? Do they need to perform certain tasks? Ask the clients if they have any questions and tell them to feel free to call the office.

Whenever conducting a client interview, the interviewer must remember to obtain the essential information: where, when, who, what, why, and how. If a client has trouble remembering specific facts such as date, time, and place, it may be helpful to have the client go through his personal calendar, which may jar his memory. In addition to the initial interview, paralegals will often conduct subsequent follow-up interviews with the client during the course of the attorney’s representation of the client. The basic skills of listening, actively asking questions, and gathering information from the client are equally as important in follow-up interviews.

REFERRING CLIENT TO SUPPORT SERVICES

Referring a client to a therapist or support group must be done in a sensitive, diplomatic manner, to avoid insulting or talking down to a client. Fortunately the stigma of consulting a counseling professional or support group has waned in recent years, but it still may be difficult for some clients to accept. A good way to broach the subject is to ask the client if they think it would help them to talk to someone about their feelings. It is also helpful to convey to the client that during periods of extreme stress, many individuals seek the professional help of an objective ear who can provide them with some healing advice.

Encouraging a client to seek counseling can also help the client cope throughout the divorce process, which will have its ups and downs. The client who is getting professional help and has a sounding board will be stronger and better emotionally able to handle the divorce process. This client will rely less on the divorce process to solve their emotional problems. This client will also rely less on the legal staff to address his or her emotional needs, thus allowing the law office to concentrate on the client's legal matter.

A family law paralegal should become familiar with the local services available to clients. Local newspapers, hotline telephone information lines, and hospitals can provide appropriate referrals. A client should also be encouraged to explore her medical insurance coverage to determine whether or not such services are provided under her plan. If insurance will not cover therapy or the client is without insurance and cannot afford to pay a private therapist, the law office can make the client aware of agencies that offer sliding scale counseling services and of community support groups that are free or that charge a nominal fee to help defray the cost of the meeting space.

The paralegal should create a list of resources, updating it regularly, that provides a quick reference for client referrals. The list should include a variety of services for an array of clients needs such as domestic violence services, twelve-step groups, substance abuse counselors, support groups, displaced homemaker services, mental health clinics, pastoral counselors, and private mental health counselors. Clients themselves may also have resources available to them that they have not considered. They may have had a friend who went through a divorce and can recommend either a therapist or support group. Other clients may be in the position to take advantage of employee assistance programs at their place of employment. If a client has religious affiliations, these institutions may also provide services or referrals to the client.

The paralegal should keep the following client information in a Rolodex or other type of filing system:

- ▼ Name of agency,
- ▼ Address,
- ▼ Phone number,
- ▼ Name of contact person, and
- ▼ What services are provided, dates, times, and cost.

Some organizations or professionals may also provide the office with business cards or brochures describing their services, which can be distributed to clients.

REFERRALS FOR CHILDREN

In addition to assisting and encouraging the client to seek professional help, an inquiry should also be made regarding the status of the children. Divorce is devastating for most children and their needs should be addressed, because this stressful event may have long-term effects on them. In addition to information hotlines, schools may also provide resources for children whose parents are going through a divorce.

CONDUCTING THE INITIAL INTERVIEW

No set rule dictates who should conduct the initial client interview. It will depend on the preference of the supervising attorney or, in an emergency situation, who is available. In some offices, the attorney will conduct the initial interview; in others, the paralegal will be the first person with whom the client has contact. The most ideal situation is to have both the attorney and the paralegal available for the client.

The presence of the attorney during the initial client interview is extremely important. Attorneys can perform a function that a paralegal cannot: give **legal advice**. A client seeking a divorce from a spouse will have many questions regarding how the law will impact on *their* particular case and how it will effect *their* family. **Legal advice can only be provided by an attorney.** Giving legal advice means that you are applying the law to a particular client's particular circumstances and either predicting an outcome or advising the client to take a particular course of action. A paralegal may relay legal advice from the lawyer to the client, may provide nonlegal advice, and may give information by describing the law. Once the paralegal has applied the specific facts of the client's case, the paralegal has crossed the line into the unauthorized practice of law. Any paralegal conducting *any* client interview must be very careful to refrain from giving legal advice to the client.

In offices where the attorney conducts the initial interview, the attorney will obtain enough information to commence the representation of the client. This information will then be passed on to the paralegal, who will begin the drafting of the initial pleadings. Sometimes the attorney will introduce the paralegal to the client so they may become acquainted and the role of the paralegal in the representation of the client explained.

In some law offices, both the attorney and paralegal are present at the initial interview. This enables the client to observe the attorney and paralegal as a team working toward the client's representation. The attorney can explain the paralegal's role and allow the client and paralegal to form a professional relationship that will benefit the client. Because family attorneys are often in court representing clients, the client may find the paralegal more accessible. The paralegal will have a considerable amount of contact with the client during the divorce process for purposes of gathering information, drafting documents, answering client phone calls, and relaying messages from the attorney. A client's ability to communicate with the attorney, even through the paralegal, will increase the client's satisfaction and decrease his level of anxiety. A client who has to wait until the attorney gets around to answering his phone calls or attending to his case will be a frustrated and dissatisfied customer.

FIGURE 9-2

A paralegal may conduct the initial interview, but must refrain from ever giving legal advice. That can only be done by the attorney.



In some law offices, the paralegal will conduct the initial interview. In this situation, the paralegal must be ever so careful not to render legal advice in the course of the interview. Even though a paralegal may know the answer to the client's question and be 100% correct, she must resist the temptation. In some instances, either unexpected or planned, the paralegal may be conducting the initial interview alone. For instance, a client will have a scheduled appointment with the attorney and the attorney is delayed in court. If this happens, the paralegal should contact the client to reschedule the appointment. If the client is already en route to the office, the paralegal will have to take over the initial interview. The paralegal should politely explain that the attorney has been delayed and that she will instead obtain all the necessary information, but that the client will be contacted later that day by the attorney who will answer all legal questions.

MAINTAINING A HIGH DEGREE OF PROFESSIONALISM

At all times during *any* client contact, the paralegal should maintain a professional demeanor. It is important that boundaries be set with the client so as to keep the relationship on a professional level at all times. Paralegals should never discuss personal information with the client either about themselves, the attorney, or the law firm. Paralegals should also refrain from making moral judgments about clients and telling them what to do with their lives. The paralegal must always remember that the goal of the law office is to process the client's matter and achieve

the client's ultimate legal goals. Client's other needs should be provided for by mental health professionals or the client's support network.

PREPARING FOR THE CLIENT INTERVIEW

The paralegal should make adequate preparations for the client interview. The actual time and date of the interview will have been set in advance at the time the client made the initial contact with the office. The paralegal should check the office calendar in order to refresh his recollection as to the name of the client and the date and time of the appointment. Steps should be taken to make the interview area neat and tidy and ensure that other client's files and correspondence are kept out of view for confidentiality purposes. The paralegal should also make sure that a box of tissues is readily available for the client's convenience in the event the client becomes emotional.

Upon the client's arrival, they should be greeted as "Mr.____" or "Ms.____." The paralegal should introduce herself and indicate her professional status; for example, "I am Mary Jones, a paralegal with this office." The client may be nervous at the first meeting so the paralegal may want to engage the client in light conversation regarding the weather or compliment a client's outfit and offer the client a beverage to ease the client's anxiety.

FUNDAMENTALS OF CLIENT INTERVIEWING IN THE FAMILY LAW OFFICE

At the outset of the interview, the paralegal should explain his role in the family law office. Some clients will not be familiar with the paralegal profession and will need to be educated on what services the paralegal provides under the supervision of an attorney. The paralegal should also make it clear to the client that he cannot give legal advice. The issues of confidentiality should also be addressed. The client should be ensured that all communications made to any law office personnel are confidential, barring certain exceptions, particular to the jurisdiction's rules of ethics.

It is also important to encourage the client to disclose all information, whether positive or negative, to the attorney and paralegal. Clients will often withhold embarrassing or damaging information for fear of being judged by the interviewer. It is imperative that the client disclose any information that can impact the divorce proceedings. If the attorney is made aware of this information in advance, she will be better equipped to deal with it instead of being surprised on the day of trial, or having the opposing side ambush her in the course of negotiation. Learning about negative information at an advanced stage in the proceedings may be too late, and the attorney may be unable to counteract its effects.

Once the client is comfortably seated, the paralegal may encourage him or her to give a brief synopsis of the problem. At this time, the paralegal should not take notes, because it is important to actively listen and develop a trust relationship with the client. The paralegal should get a general idea of what caused the breakdown of the marriage, the extent of the marital estate, and the number and ages

of the children. Tape recorders should be avoided because the interviewer tends to relax and be less active if he is aware that a machine is preserving the data. This will make him less interactive with the client and he may fail to ask probing questions.

Once some general information has been exchanged, the paralegal should tell the client that he will have to obtain some essential information in order for the office to adequately represent the client. Then the paralegal can use a preprinted form as a guideline for obtaining the necessary information. Moving to the use of a form too quickly may insult a client and give him or her the impression that the office is sterile and uncaring.

OBTAINING ESSENTIAL INFORMATION FROM THE CLIENT

One of the primary purposes of the initial interview is to obtain enough information to commence representation of the client in her family matter. Most family law offices use preprinted initial intake sheets to garner these facts from the client (see Exhibit 9-2). The advantage of a preprinted form is that the paralegal will not miss obtaining any relevant information because the form serves as a guideline. A legal pad should also be kept on hand to jot down other notes in the course of the interview.

Some paralegals may find themselves working for new attorneys or attorneys with very busy schedules that have not had the opportunity to draft preprinted forms. In such a case, the following is an overview of what information the initial interview should elicit about both spouses:

1. *Name.* The names of both the client spouse and the other spouse should be obtained and spelled correctly. The wife's maiden name should also be elicited.
2. *Current address.* Physical address is important for the purpose of personal or abode service. Post office boxes or mailbox services are not sufficient for service, but the client may request that correspondence be forwarded to a P.O. box for security purposes. For example, the client may fear that his correspondence will be intercepted by his spouse or other third party. The office should have a system of alerting any office personnel who happen to pick up the file on any given day that care should be taken in terms of forwarding correspondence to the client, perhaps using a special colored sticker to serve as a "red flag."
3. *Telephone numbers.* Obtain home and work numbers. Sometimes clients cannot receive phone calls at work so you should avoid making calls to their workplace, except in emergency situations. On the other hand, some clients may not be comfortable receiving calls at home if they are still residing with their spouse, especially in cases where domestic violence is a problem. Clients may also request that you leave phone messages with family members or friends, while others will use beepers in this electronic age to keep attorney communications confidential.
4. *Jurisdiction.* How long has the client resided in the state? Each state has a **jurisdictional requirement** indicating how long a party must reside in the state before the state courts have the power to dissolve the marriage.

5. *Social Security numbers.* Social Security numbers are useful for many reasons. Some jurisdictions may require Social Security numbers on initial pleadings. They are also important for tax purposes or when engaging the services of an investigator to conduct asset searches or track down a “deadbeat” parent. Social Security numbers are also useful in debt collection proceedings against delinquent clients.
6. *Military service.* Did either spouse serve in the military? This question is important, because military pensions may qualify as marital property. Also, if a spouse is currently in the military, care must be taken so service of process will be adequate.
7. *Employer.* Where is the client employed? What is the address? What is the client’s occupation? How long has the client been employed in his current position? Similarly, where is the client’s spouse employed and what is her occupation? This information will be helpful for purposes of service, subpoenaing employment records, and obtaining pension information.
8. *Date and place of marriage.* This will establish where and when the marriage took place.

FIGURE 9–3

The initial interview should include a question about military service, because military pensions may qualify as marital property, and knowledge of military service helps ensure proper service of process.

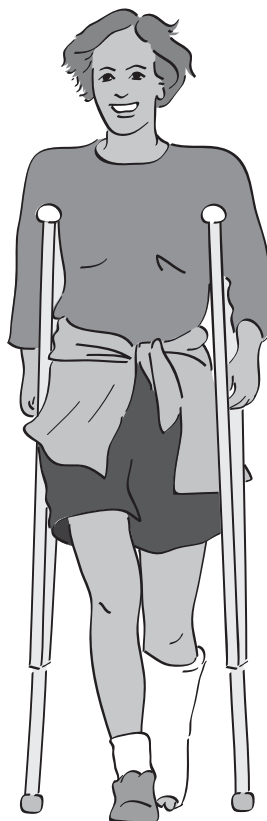


9. *Education, race, and age.* This data may be necessary for statistical information to be made available to the state's bureau of vital statistics. Education will also indicate how far a client has gone through school, which may be relevant in terms of his ability to earn income.
10. *City or state welfare assistance.* Has the state or city welfare system ever provided financial support for the spouse and the children? Many jurisdictions require this information and require that the governmental entity be notified of the proceedings and appear for purposes collecting monies owed to them.
11. *Date of separation.* When did the parties separate and what were the reasons for the separation?
12. *Cause of breakdown of the marriage.* All jurisdictions have adopted some form of no-fault divorce where the grounds for divorce are commonly referred to as irretrievable breakdown or irreconcilable differences. It is still important, however, to illicit the cause of the breakdown of the marriage from the client.
13. *Reconciliation.* Is there any hope of reconciliation? Divorce is a devastating life event, not only for the spouses, but more importantly for the children. It is the ethical responsibility of the attorney or paralegal to make sure that a divorce is what the client wants. Most clients who have made their way to an attorney's office are confident in their decision to dissolve the marriage. A client who is reluctant or may be having second thoughts should be encouraged to seek professional counseling services.
14. *Children.* How many children were born during the marriage? What are their names and dates of birth? Were any children born to the spouses prior to their marriage? Were there any children born to the spouses during the marriage who are not issue of the marriage? Is the wife pregnant? These questions are important to ask for purpose of allocating child support responsibilities and determining the custody and visitation rights of the parents. Paternity may also be at issue if challenged.
15. *Previous marriage(s).* Was either of the parties previously married? How, why, and when did the previous marriage(s) end? Is the spouse currently paying alimony or child support to a former spouse pursuant to a court order? What, if any, orders are in effect?
16. *Prenuptial agreement.* Did the parties sign a prenuptial agreement? If the answer is yes, be sure to obtain a copy from the client. The existence of a prenuptial agreement will raise several issues. Is the agreement valid? What rights did the parties give up? What did they obligate themselves to do?
17. *Was a divorce action previously initiated in the course of this marriage?* If the client tells you that a divorce was previously initiated, the paralegal should review any paperwork the client may have. The paralegal should then follow it up with a review of the court file in the appropriate courthouse where the actions were filed. The client may be surprised to find out that he may already be divorced or that the initial pleadings may have been filed. If the file is still active, a client seeking a divorce may save on filing and sheriff's fees. If this is the case, the filing of responses will be sufficient.

18. *Disability/illness.* The interviewer should ask whether either spouse or children suffer from any disabilities or illnesses. Issues regarding medical care and expenses, insurance coverage, and support may require special attention.
19. *Date of the interview.* When did the interview take place?
20. *Name of the interviewer.* Who conducted the interview?
21. *Source of referral.* Who referred the client to the attorney? This will help track the attorneys advertising dollars and zero in on where business is being generated. Thank you cards or letters should be sent to individuals and organizations who refer business to the office.
22. *Legal fees.* If the attorney is conducting the interview, she will quote the client a fee for her services. If the paralegal is conducting the interview, he cannot quote a fee. Remember that a paralegal cannot set fees; this is the attorney's responsibility. In this instance, inform the client that he can discuss the fee structure with the attorney.
23. *Type of relief.* The interviewer should ask the client what type of legal relief he is seeking as a result of the family action. First and foremost, the attorney must determine the legal cause of action to be filed. Does the client want a dissolution of marriage, legal separation, or annulment? An attorney's legal advice is essential in making this selection. Additional relief includes child custody, child support, property and debt distribution, alimony, and attorney's fees.

FIGURE 9-4

The initial interview should include questions about any disabilities or illnesses from which the spouse or children suffer to ensure that proper attention is paid to any such special circumstances.



24. *Name change.* A wife may seek to resume the use of her maiden name as part of the final divorce decree. It was a long-standing custom for women to assume their husband's surname upon marriage. Some states went as far as requiring women to assume their husband's last names through court decisions. Gender discrimination laws however, prohibit this judicial mandate. The Equal Protection Clause of the U.S. Constitution prohibits states from requiring women to assume the husband's surname since there is no rational basis for women, but not men, to change their last names upon marriage. Today, women are free to follow custom or to retain their own maiden names. Some couples create a new last name using the wife's maiden name and the husband's surname. A married woman's legal name is determined by what she actually calls herself *after* the marriage ceremony. She is basically free to use whatever she pleases as long as her choice is not intended to defraud her creditors or use her name for unlawful purposes. In preparing the initial divorce pleadings, the wife may include restoration of her maiden name in her prayer for relief. The court will automatically grant the wife's wishes despite objections from the husband. Some women choose to retain their husband's surname as a matter of preference. Many women with young children choose to retain their married name until the children have finished school and may later return to court to restore their maiden name. Change of name after the divorce is final is considered a postjudgment matter. The wife must file a petition in the proper state court. A hearing date is scheduled by the court and a notice is published in the legal section of the newspaper. Courts generally allow former spouses to change their names as long as the change is not being made to advance fraudulent or illegal purposes. The wife must then obtain a certified copy of the court's final decree and notify her creditors and the Social Security Administration of the change. The children of the marriage will also assume their biological father's last name. Problems arise when the wife remarries. Sometimes the children develop a close relationship with their new stepfather and wish to take his name. Mother may also push for a change of the children's last names for various reasons. Because the change of names, even for minor children, requires a court hearing, the biological father must be notified of the proceedings. If the parties disagree regarding the children's name change, the court will have to decide. The court will determine whether the name change is in the children's best interest. The court will focus on the wishes of the parents, stepparent, and children, and on the name that has been historically used by the child. While the best interest standard is often applied, many courts still believe that it is in the children's best interest to use their biological father's surname.

Whenever conducting any client interview the interviewer must remember to obtain the essential information: where, when, who, what, why, and how. If a client has trouble remembering specific facts such as date, time, and place, it may be helpful to have the client go through their personal calendar, which may jar their memory. In addition to the initial interview, paralegals will often conduct subsequent follow-up interviews with the client during the course of the attorney's representation of the client. The basic skills of listening, actively asking questions, and gathering information from the client are equally as important in follow-up interviews.

Once the initial interview form has been completed, the attorney or paralegal may give the client a **financial worksheet** to take home and fill out (see Exhibit 9–3). This worksheet should focus on the client's income, expenses, assets, and liabilities, be they joint or separate. The financial worksheet will enable the attorney to begin assessing the extent of the marital estate. The client should also be instructed to write a history of the marriage, which will be helpful in illuminating issues that may be of relevance in the divorce action. The client should be instructed to complete these documents before the next meeting.

If the paralegal has conducted the interview without the attorney present, an appointment should be scheduled for a meeting with the attorney, which will enable the client to obtain legal advice and go over the material obtained by the paralegal at the initial interview. The attorney can also address the legal course of action to be taken and review the fee structure.

If the attorney has conducted the interview with or without the presence of the paralegal, he will now turn over the initial interview form to the paralegal for the purpose of having the paralegal draft the initial pleadings.

REPRESENTING THE DEFENDANT SPOUSE

In a family law practice, the office will either be representing the plaintiff or the defendant spouse. With a plaintiff spouse, the divorce proceedings are basically starting at square one, which requires the drafting and service of the writ, summons, and complaint. When representing the defendant spouse, the paralegal must make sure in initial phone consultation to instruct the client to bring in any papers that were served on her and all correspondence received in conjunction with the divorce matter. At the initial interview he must make sure to photocopy all paperwork the client brings. Determine whether service was properly made either through abode or in-hand service. He may also want to go over the complaint or petition with the client to determine whether the information contained is accurate. This will enable the paralegal to obtain the data necessary to prepare the responsive pleadings.

PREPARING RELEASES

Another task the paralegal may be asked to perform is to prepare a release of information or have the client sign a preprinted release. As explained in Chapter 3, the confidential relationship of the attorney and client, such as the doctor and patient, prohibits the professional from disclosing information without the client's consent. In family matters, an attorney may need a client's consent to communicate with any one of the following:

- ▼ Client's physician or therapist,
- ▼ Children's pediatrician, teachers, or therapists,
- ▼ Client's accountant,
- ▼ Client's employer, and
- ▼ Hospital or treatment centers.

The paralegal should be sure to check the federal and state statutes that concern the release of confidential information, especially when dealing with drug treatment or HIV- and AIDS-related information (see Exhibits 9–4 and 9–5).

FIGURE 9-5

The paralegal should photocopy documents pertaining to the divorce matter that have been provided by the client, especially those papers served on a defendant client by a plaintiff client.



THE RETAINER LETTER

Before the client interview ends, the supervising attorney will review the law office's fee schedule for providing legal services to clients. The law firm's projected costs for handling a dissolution matter or any other related family law matter should be disclosed with realistic figures presented. The client should fully understand the financial obligation he or she is undertaking by retaining the law firm and must be willing to assume this obligation. The client must also feel comfortable in other respects with having that particular law firm provide representation. Similarly, the law firm and the individual attorney who will be in charge of the case must also feel comfortable taking on the client. Sometimes an attorney may have reservations about dealing with a particular client. The attorney may feel that the prospective client may not honor the financial arrangement to be made, or the attorney may sense that the client is not being honest in disclosing information about marital assets, in revealing events leading up to the dissolution, or in revealing events that could cause controversy about the client's fitness as a custodial parent. If, on the other hand, neither the attorney nor the prospective client have such reservations, then the relationship will be formalized. The law office will prepare a retainer letter for the prospective client to sign. Once this document is executed, the law firm will actively begin work on the client file.

A **retainer letter** or **retainer agreement** is a contract between the law firm and the client whereby the law firm agrees to provide specified legal services in exchange for monetary compensation (see Exhibit 9-6). As discussed in an earlier chapter, there are different types of fee arrangements, such as flat fees, contingency fees, and hourly fees assessed for time spent working on the file.

Most of the time, in a complex family matter, firms charge by the hour. When this is the case, the retainer letter will state the firm's hourly rate schedule. There may be one hourly rate specified for work done on the file by a partner, a different and lower hourly rate for work done by associates in the firm, and there will be hourly rates listed for work done by paralegals and law clerks.

The retainer letter will also specify the terms of payment. If interest or late fees are to be charged for tardy payments, that fact will be stated and agreed to. Sometimes a retainer letter will state that if a client defaults on payment of a balance owed, the firm may take legal actions and the client will be responsible for attorney's fees and collection costs. The retainer letter, as a contract, is signed by both parties. Each party has rights and obligations. Like other legal contracts, if either party breaches the agreement by failing to execute their obligations, the injured party may seek relief in the court system.

Retainer letters should not be entered into lightly by either the client or the law firm. The client must consider whether he or she can afford the anticipated cost of representation. The attorney must gauge whether the prospective client actually has the financial means to pay for services. In addition, the attorney must decide whether his or her firm has the legal expertise and technical resources to properly handle a case of the complexity and time the matter requires.

If the prospective client and the law firm agree to go forward with representation of the client, the parties will sign the agreement. When the retainer letter is finalized, the attorney in charge of the file will assign a staff person to prepare the documents that will initiate the court action that is contemplated.

EXHIBIT 9-1

Sample initial telephone interview.

Client Intake Form
Initial Telephone Interview/Family Matters

Date _____

Referred by: ___ Friend/coworker/relative

___ Legal referral source

Interviewed by: _____

___ Yellow Pages

___ Bar association

___ Other: _____

1. Client's Name: _____

Address: _____

City/State/Zip: _____

Phone: Work _____ Home _____

2. Reason for Calling: Dissolution _____ Postjudgment _____

3. Client's Occupation: _____

Employer: _____

Yearly income: _____

4. Length of Marriage: _____ Date Married: _____

5. Number of Children and Ages: _____

6. Brief Description of Assets: _____

7. Are there issues of: ___ adultery ___ alcoholism/drug abuse

___ domestic violence ___ gambling

8. Initial appointment scheduled for: Date: _____ Time: _____

With Attorney: _____

Inform the client of the following:

Directions to the office and parking instructions

Bring the following documents: ___ Marriage certificate

___ Copy of deed

___ Current pay stub

___ Income tax returns

___ Police incident reports

___ List of assets and debts

___ Certified copy of judgment (if postjudgment)

___ Separation agreement (if postjudgment)

EXHIBIT 9-2

Sample preprinted initial client interview form.

**Client Intake Form
Initial Interview/Family Matters**

Date _____

Check one: _____ Dissolution of Marriage
 _____ Legal Separation
 _____ Annulment
 _____ Postjudgment

Representing: _____ Plaintiff
 _____ Defendant
 _____ Third party
 _____ Intervenor

I. General Information:

A. Client's Name: _____

Address: _____

City/State/Zip: _____

Phone: (Home) _____ (Work) _____ Best time to call: _____

DOB _____ Place of birth: _____

SSN _____ Race: _____

Education: _____ Military Service: _____

B. Spouse's Name: _____

Address: _____

City/State/Zip: _____

Phone: (Home) _____ (Work) _____

Best time to call: _____

DOB _____ Place of birth: _____

SSN _____ Race: _____

Education: _____ Military Service: _____

Represented by: _____

II. History of the Marriage:

A. Place of marriage: _____

Date of marriage: _____ Date of separation: _____

Reason for breakdown: _____

EXHIBIT 9-2

Continued

B. Children born of the marriage:

Name	D.O.B.	Birthplace
_____	_____	_____
_____	_____	_____
_____	_____	_____

Is wife currently pregnant? ____ Yes ____ No

C. Public Assistance:

Have you or your spouse ever received public assistance? ____

Are you or your spouse currently receiving public assistance? ____

D. Employment:

Client's Employer: _____

Address: _____

City/State/Zip: _____

Occupation: _____

Years Employed: _____ Salary: _____

Benefits: _____

Spouse's Employer: _____

Address: _____

City/State/Zip: _____

Occupation: _____

Years Employed: _____ Salary: _____

Benefits: _____

E. What would you describe as the cause of the breakdown of your marriage?

Have you or your spouse sought marital counseling?

Is there any hope of reconciliation?

Did you sign a prenuptial agreement?

F. Have you or your spouse had any prior marriages?

EXHIBIT 9-2

Continued

G. Disability/Illness (either spouse/children): _____

H. How long have you resided in this state?

III. *Client Claims:**Pendente lite*

- Alimony
 Child custody
 Child support
 Visitation
 Attorney's fees
 Exclusive possession
of the marital residence
 Restraining order
 Other

Final orders

- Dissolution of marriage
 Legal separation
 Annulment
 Alimony
 Property division
 Child custody Sole
 Joint
 Visitation
 Attorney's fees
 Name change to: _____
 Contempt citation
 Modification
 Other:

IV. *Postjudgment Matters*

Contempt Citations

Date of the original order: _____
Court where order entered: _____
Original order: _____
Date of last payment: _____

Modification:

Date of the original order: _____
Court where order entered: _____
Original order: _____
Modification sought: _____

Specify the substantial change in circumstances since the date of the original order:

EXHIBIT 9-2

Continued

V. *Service of Process*

Where to serve spouse: _____

Best time to serve: _____ a.m./p.m.

Brief description of spouse: _____

Description of spouse's car: _____

VI. *Documents to Prepare*

_____ Summons/complaint

_____ Financial affidavit

_____ *Pendente lite* motions

_____ Lis pendens

_____ Subpoena

_____ Contempt citation

_____ Reopen and modify judgment

_____ Other: _____

VII. *Legal Fees*

Fee quoted: \$ _____

Costs: \$ _____

Initial retainer amount required before services are commenced: \$ _____

Terms of payment: _____

Fee agreement signed? _____ Yes _____ No

VIII. *Referral Source*

_____ Friend/coworker/relative

_____ Legal referral service

_____ Yellow Pages

_____ Bar association

_____ Other _____

EXHIBIT 9-3

Sample financial worksheet to determine assets and liabilities.

Financial Worksheet

Client's name: _____ Date: _____

I. INCOME

(Indicate weekly income and deductions. If paid monthly, divide monthly figure by 4.3 to determine weekly amount.)

A. Gross weekly income:

Salary, wages, commissions: \$ _____

Bonuses _____

Tips _____

Pensions/retirement _____

Public assistance _____

Social Security _____

Unemployment insurance _____

Disability _____

Dividends/interest _____

Rental income _____

Alimony/child support _____

Other: _____

TOTAL GROSS WEEKLY INCOME \$ _____**B. Deductions**

Federal withholding tax \$ _____

State withholding tax _____

F.I.C.A. _____

Medicare _____

Health insurance _____

Union dues _____

Credit union _____

Pension _____

Other: _____

TOTAL WEEKLY DEDUCTIONS \$ _____**TOTAL NET WEEKLY INCOME** \$ _____

(A minus B)

EXHIBIT 9-3

Continued

II. *EXPENSES*

(Indicate weekly expenses. If expenses incurred on a monthly basis, divide monthly figure by 4.3 to determine weekly amount.)

A. Rent/Mortgage/Household

- 1. Rent/mortgage \$ _____
- 2. Homeowner's/renter's insurance _____
- 3. Property taxes _____
- 4. Household repairs _____
- 5. Trash collection _____
- 6. Other: _____
- TOTAL RENT/MORTGAGE/HOUSEHOLD \$ _____

B. Utilities

- 1. Electricity \$ _____
- 2. Heat _____
- 3. Gas _____
- 4. Telephone _____
- 5. Water _____
- 6. Cable TV _____
- 7. Other: _____ \$ _____
- TOTAL UTILITIES \$ _____

C. Groceries \$ _____

D. Clothing \$ _____

E. Dry Cleaning/Laundry \$ _____

F. Transportation

- 1. Car payments \$ _____
- 2. Parking _____
- 3. Tolls _____
- 4. Gas/oil _____
- 5. Repairs _____
- 6. Car taxes _____
- 7. License/registration/emissions _____

EXHIBIT 9-3

Continued

8. Bus	_____
9. Train	_____
10. Car insurance	_____
11. Other: _____	_____
TOTAL TRANSPORTATION	\$ _____
G. Medical (out-of pocket expenses)	
1. Medical insurance	\$ _____
2. Dental insurance	_____
3. Doctor visits	_____
4. Dentist visits	_____
5. Prescriptions/medicine	_____
6. Optometrist	_____
7. Orthodontist	_____
8. Counseling/therapy	_____
9. Other: _____	_____
TOTAL MEDICAL	\$ _____
H. Life Insurance Premium	\$ _____
I. Children's Expenses	
1. School lunches	\$ _____
2. School books/school supplies	_____
3. Tutors	_____
4. School tuition	_____
5. Camps	_____
6. Class trips	_____
7. Lessons (piano, karate, etc.)	_____
8. Allowance	_____
9. Religious instruction	_____
10. Day care/babysitter	_____
TOTAL CHILDREN'S EXPENSES	\$ _____

EXHIBIT 9-3

Continued

J. Payment on Outstanding Debts	
1. Credit cards: _____	\$ _____
_____	_____
_____	_____
_____	_____
2. Student loans	_____
3. Installment contracts	_____
4. Personal loans	_____
TOTAL PAYMENTS ON OUTSTANDING DEBTS	\$ _____
K. Miscellaneous Expenses	
1. Haircuts	\$ _____
2. Newspapers/magazines	_____
3. Eyeglasses	_____
4. Charitable contributions	_____
5. Subscriptions	_____
6. Gifts	_____
7. Bank fees	_____
8. Postage	_____
9. Vacations	_____
10. Entertainment	_____
11. Pet care	_____
12. Cigarettes	_____
13. Toiletries	_____
14. Other: _____	_____
TOTAL MISCELLANEOUS EXPENSES	\$ _____
TOTAL EXPENSES	\$ _____

EXHIBIT 9-3

Continued

III. *ASSETS*

(Provide the following information for each home, vacation home, condominium, farm, or parcel of real estate.)

A. Real Estate:

1. Address: _____

City/State/Zip: _____

2. Date acquired: _____

3. Mortgage institution: _____

4. How is property owned? (specify exact names on deed)

5. Estimated value \$ _____

6. Outstanding mortgage _____

7. Equity _____

TOTAL REAL ESTATE \$ _____

(Include only your one-half undivided interest if property jointly owned.)

B. Bank/Checking Accounts

Name of Bank	Account Number	How Held (Joint or Individual)	Balance
_____	_____	_____	\$ _____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
TOTAL BANK/CHECKING ACCOUNTS			\$ _____

C. Stocks and Bonds

Number of Shares	Company or Fund	Value
_____	_____	\$ _____
_____	_____	\$ _____
_____	_____	\$ _____
TOTAL STOCKS and BONDS		\$ _____

EXHIBIT 9-3

Continued

D. Deferred Compensation (401k, SEP, Keogh, IRA, etc.)

(provide the following information for each plan)

1. Name of company: _____
2. Name of plan: _____
3. Account number: _____
4. Estimated value: _____
5. Name and address of plan administrator: _____

TOTAL DEFERRED COMPENSATION \$ _____

E. Motor Vehicles (provide the following information for each motor vehicle, including boats, airplanes, and motorcycles).

1. Year: _____
2. Model: _____
3. Estimated value \$ _____
4. Loan balance _____
5. Equity _____

TOTAL MOTOR VEHICLES \$ _____

F. Business Interests

1. Name of business: _____
2. Type of business: _____
3. Type of business interest: _____ Sole proprietorship
 _____ Partnership
 _____ Limited liability corporation
 _____ Professional corporation
 _____ Joint venture
 _____ Corporation

4. Estimated value of your interest \$ _____

TOTAL BUSINESS INTERESTS \$ _____

EXHIBIT 9-3

Continued

G. Insurance				
Insured	Company	Beneficiary	Face Value	Cash Surrender Value
_____	_____	_____	\$ _____	\$ _____
_____	_____	_____	\$ _____	\$ _____
_____	_____	_____	\$ _____	\$ _____
TOTAL CASH SURRENDER VALUE (minus loans)				\$ _____
H. Personal Property				
1. Household furniture			\$ _____	
2. Antiques			_____	
3. Jewelry			_____	
4. Artwork			_____	
5. Collectibles			_____	
6. Stereo/electronic equipment			_____	
7. Clothing			_____	
8. Furs			_____	
9. Family heirlooms			_____	
10. Silver			_____	
11. Crystal			_____	
12. Other _____			_____	
_____			_____	
_____			_____	
TOTAL PERSONAL PROPERTY			\$ _____	
TOTAL ASSETS			\$ _____	

EXHIBIT 9-3

Continued

IV. LIABILITIES				
Outstanding Debts				
Date Debt Incurred	Creditor	Incurred by	Monthly Payment	Current Balance
_____	_____	_____	\$ _____	\$ _____
_____	_____	_____	\$ _____	\$ _____
_____	_____	_____	\$ _____	\$ _____
_____	_____	_____	\$ _____	\$ _____
TOTAL LIABILITIES				\$ _____

EXAMPLE 9-4

Sample information release form.

Authorization for Release of Information

I, EVELYN BRONSON, of NEW HAVEN, CONNECTICUT, hereby give permission to DOREEN HUNT, CPA of NEW HAVEN, CONNECTICUT, to allow my attorney, GRACE A. LUPPINO, to review, inspect, and otherwise photocopy any documents or files, or obtain any information pertaining to me currently in my accountant's possession.

Evelyn Bronson

Date

Witness

EXAMPLE 9-5

Sample medical information release form.

Medical Authorization for Release of Information

I, EVELYN BRONSON of NEW HAVEN, CONNECTICUT, hereby give permission to CLAYTON REEVES, M.D., of NEW HAVEN, CONNECTICUT, to permit my attorney, GRACE A. LUPPINO, to review, inspect, and otherwise photocopy my medical records, including laboratory records and reports, all tests of any type and all of my records pertaining to medical care, history, condition, treatment, diagnosis, prognosis, etiology, and expenses.

Evelyn Bronson

Date

Witness

EXAMPLE 9-6

Sample retainer agreement (author unknown).

Retainer Agreement

- A. EVELYN BRONSON ("Client") hereby employs GRACE A. LUPPINO, an attorney licensed to practice law in the State of Connecticut ("Attorney"), to represent her in a dissolution of marriage action: RODNEY BRONSON v. EVELYN BRONSON, Docket No. FA 96-123456.
- B. In consideration of the services rendered, the Client shall pay the Attorney in the following manner:
1. The Attorney shall commence work on the Client's dissolution matter upon receipt of an initial retainer of \$3,000.00 (Three Thousand dollars) from the Client.
 2. The total number of hours expended by the Attorney will be billed at a rate of \$200.00 (Two Hundred dollars) per hour.
 3. Upon expending the initial retainer, the Attorney shall bill the Client for any additional hours expended at a rate of \$200.00 (Two Hundred dollars) per hour.
 4. Upon completion or termination of the Attorney's representation of Client, the Attorney shall return any unearned retainer to the Client.
- C. The Client shall pay for all costs and expenses incurred by the Attorney in the course of representing the Client. Costs and expenses include, but are not limited to, court entry fees, sheriff's fees, process server fees, transcripts, subpoenas, and expert witnesses.
- D. The Client authorizes the Attorney to engage the services of accountants, appraisers, evaluators, investigators, court reporters, sheriffs, experts, and process servers deemed necessary by the Attorney in rendering legal services to the Client. (The Client shall be directly responsible for the fees and bills of these service providers.) The Attorney shall obtain the Client's approval prior to engaging the services of such persons or incurring such costs and expenses.
- E. The Attorney shall bill the Client for all legal fees, costs, and expenses on a monthly basis. Such bill shall be paid by the Client within 30 days from the date of the invoice.
- F. If this Agreement is terminated by the Client prior to completion of the Attorney's services, the Client shall pay any Attorney's fees, costs, and expenses accrued to that date.
- G. The Attorney shall not be required to deliver any reports, investigations, appraisals, evaluations, or other documents prepared by third parties that have not been paid for by the Client.
- H. In the event that the Attorney must enforce this Agreement through any legal collection proceedings, the Attorney shall be entitled to recover reasonable attorney's fees and court costs in conjunction with such proceeding.

The undersigned parties have read the above Agreement and agree to abide by its terms and conditions.

Signed this ____ day of _____, 2001.

Evelyn Bronson, Client

Grace A. Luppino, Esq. Attorney

REVIEW QUESTIONS

1. Explain the purpose of using an initial client intake form.
2. What is the initial interview and what is its purpose?
3. Why is it important for the family law paralegal to comprehend the emotional aspects of divorce?
4. Explain the importance of locating appropriate support services for divorce clients.
5. Describe the community resources and services about which the family law paralegal should be aware.
6. What information should the paralegal keep on file regarding community resources and services?
7. Why are referrals for children important?
8. During the initial interview, how should the paralegal respond to clients' questions regarding the legal status of their cases? Explain.
9. What steps should the paralegal take in preparing for the initial interview?
10. Prepare an overview of the information that will be obtained on both spouses during the initial interview.
11. What is a financial worksheet?

12. Explain the differences between conducting an initial interview with a plaintiff spouse or with a defendant spouse.
13. What is the purpose of a retainer letter?
14. What terms should be specified in the retainer agreement?
15. After the initial interview has been completed and the retainer agreement is signed, what is the next step in the divorce process?

EXERCISES

1. Using the information in given in this chapter, draft an initial client intake form.
2. Go to your local library or use the Internet to find a book or articles on the emotional aspects of divorce and the effects of divorce on children. This exercise will broaden one's understanding and appreciation of what clients experience during this process.
 3. Make a list of community resources that can be used for client referrals.
 4. What resources are available in your community for children of divorce?
 5. Does your jurisdiction require retainer agreements? If so, what provisions does your state require to be included in each retainer agreement?

10

CHAPTER

INITIAL AND RESPONSIVE PLEADINGS

KEY TERMS

Abode	Order to show cause
Affidavit	<i>Pendente lite</i> motion
Affidavit of publication	Petition
Answer	Petitioner
Appearance	Plaintiff spouse
Application for a prejudgment Remedy	Pleading
Body	Prayer for relief
Caption	Pre-return date relief
Complaint	Request for an order attaching Known assets
Contempt	Respondent
Court-entry fee	Return date
Cross-complaint	Rules of court
Default judgment	Service by publication
Defendant spouse	Sheriff's return
Dissipation	Subscription
Filing fee	Summons
Juris number	Temporary restraining order
Motion for disclosure of assets	Verification
Notice to appear for a Deposition to disclose assets	

Following the client interview and the signing of the retainer letter, the supervising attorney on the file will delegate to an appropriate staff member the responsibility of preparing the documents that must be filed with the court to initiate the divorce proceeding or other desired family-related suit.

PROCESSING THE DISSOLUTION ACTION

Every jurisdiction has its own rules for the processing of a dissolution or divorce action. The paralegal must become thoroughly familiar with the jurisdictional procedural rules that govern the preparation and filing of dissolution documents, including the prescribed format for these papers as well as the time frames specified for initiating and responding to each document. This information can be found in the jurisdiction's official publications containing the procedural rules of the jurisdiction, commonly known as the **rules of court**. Additional or supplemental information can also frequently be found in the state's official statutory code.

A dissolution is a civil action. As with all civil lawsuits, the action is commenced when the opposing party is served with a document known as either the **complaint** or the **petition**. Whether this document is called a complaint or a petition depends

FIGURE 10-1
Civil lawsuits begin with the filing of a complaint or petition.



on the jurisdiction's preference for one term or the other. In the state of Connecticut, the initial document in a family action is called the complaint, whereas in New York the same document is called a petition. In jurisdictions where the term *complaint* is used, the party commencing the action is called the **plaintiff** and the party against whom the action is brought is called the **defendant**. In jurisdictions where the term *petition* is used, the commencing party is called the **petitioner** and party against whom the action is being brought is called the **respondent**.

INITIAL PLEADINGS IN A DISSOLUTION ACTION

THE PLEADINGS

The documents that state the plaintiff's claims giving rise to the dissolution action and the defendant's responses or defenses to such claims are documents known as **pleadings**. The pleadings in any litigation matter include a *summons* and *complaint* or *petition*; and an *answer*, *special defenses*, *counterclaims*, and *cross-claims*.

THE COMPLAINT

The initial pleading filed in a dissolution matter is the **complaint**. As mentioned above, sometimes the initial pleading is called the **petition**. However, because the more commonly used term is complaint, that term will be used here. A document known as a **summons** usually accompanies the complaint. In most jurisdictions, the summons is a one-page preprinted form on which the names and addresses of parties and the name and address of the court are inserted (see Exhibit 10-1). The summons directs the defendant to appear in court and answer the allegations in the complaint. The spouse bringing the dissolution of marriage action is designated as the **plaintiff spouse**. The spouse against whom the dissolution proceeding is brought is designated as the **defendant spouse**. The plaintiff spouse will initiate the legal proceeding.

The law firm representing the plaintiff spouse will file the pleading known as the complaint. In this document, the plaintiff spouse will allege that grounds exist for a divorce, recite these grounds, and request that the court grant a divorce and enter orders regarding the distribution of marital property and, when appropriate, orders relating to child custody, alimony, and child support and orders addressing any other form of relief the spouse has requested.

FORM OF THE DISSOLUTION COMPLAINT

A dissolution or divorce complaint has distinct sections. They are the *caption*, the *body*, the *prayer*, and the *subscription* (some jurisdictions also require a *verification*).

The Caption

The **caption** refers to the initial section of the complaint, which contains the names of the parties, the name and division of the court, the return date of the action and the date the complaint was drawn up. The **return date** is a date in the near future by which the complaint must be returned to the court clerk's office and filed with the court, along with a check for whatever filing fee the jurisdiction

requires to process the complaint. A heading is also included to indicate that the document being drafted is a “complaint.”

Caption

RETURN DATE: August 15, 2001 :	SUPERIOR COURT
RODNEY BRONSON :	JUDICIAL DISTRICT OF NEW HAVEN
v. :	AT NEW HAVEN
EVELYN BRONSON :	July 15, 2001

The Body

The **body** of the complaint contains the necessary factual information that establishes the jurisdiction of the court and identifies the grounds on which the divorce is being sought. In addition, other mandatory information in the body of the complaint includes the names and addresses of the parties, their date and place of marriage, and the names of all minor children born during the period of the marriage.

Body

1. The parties intermarried on March 28, 1986, at Woodbridge, Connecticut.
2. The wife’s maiden name was EVELYN CONNER.
3. One of the parties has resided in the state of Connecticut for at least twelve months preceding the filing of the complaint.
4. The marriage of the parties has broken down irretrievably and there is no hope of reconciliation.
5. The parties have two minor children born issue of this marriage:
 - Marlise Bronson D.O.B. June 7, 1987
 - Sydney Bronson D.O.B. August 6, 1988
6. No other minor children have been born to the wife since the date of the marriage.
7. Neither party has been the recipient of any form of public assistance.

Prayer for Relief

The **prayer for relief** section of the complaint contains the plaintiff’s request for a dissolution and for court orders, when appropriate, regarding property distribution, alimony, child custody, support of the minor children, and the wife’s request for restoration of her maiden name. Certain jurisdictions require very specific detail regarding the nature and extent of relief sought while others require a more general statement. In either case, however, it is always a good idea to include a “catch-all” phrase such as “and such other relief as the court deems fair and equitable.”

Prayer for Relief

WHEREFORE, the plaintiff claims,

1. A dissolution of marriage
2. Custody of the minor children
3. Child support
4. Alimony
5. An equitable distribution of the marital assets, debts, and liabilities
6. Attorney's fees
7. Such other relief as the court deems fair and equitable.

The Subscription and Verification

The **subscription** and/or **verification** section of the complaint is included to confirm the truth and accuracy of the allegations and to confirm the veracity of the party making these allegations. The subscription contains the signature of the attorney filing the complaint, along with the attorney's address, phone number, and license number, known in some jurisdictions as the **juris number**. When an attorney signs a complaint, the attorney is representing or *subscribing* that to the best of the attorney's knowledge, the facts contained within are true and accurate. In some jurisdictions, the plaintiff bringing the action is also required to sign the complaint and to attest to its veracity. In these instances, the plaintiff will sign a sworn statement, under oath, that the facts contained in the allegations are true. By so doing, the plaintiff is *verifying* that the information is accurate and true. Hence their swearing and signing is termed the verification. A verified complaint used in the state of New York is illustrated in Exhibit 10–2.

Subscription and Verification

THE PLAINTIFF,
RODNEY BRONSON

BY: _____

Justine F. Miller, Esq.
His Attorney
22 Park Place
New Haven, CT 06511
(203) 555-4444
Juris No. 313133

Exhibit 10–3 includes the complaint for dissolution of marriage filed by Lucille Ball against Desi Arnaz on March 3, 1960, in Los Angeles, California.

PREPRINTED COMPLAINT FORM

The computer age has revolutionized the court record-keeping system. Entire court case files are now being kept on disk. This phenomenon has given rise to the creation and use of many preprinted forms in lieu of manuscripted or individually drafted documents. Many jurisdictions are beginning to require that attorneys fit their pleading information into blank portions of uniform preprinted forms which can easily be scanned into the computerized case files in the courthouse. Therefore, the complaint, which is computer compatible now, will contain all of the sections listed above, but these sections will be compressed into the sections of the preprinted complaint form. An example of a preprinted form appears in Exhibit 10–4, which illustrates a complaint for dissolution of marriage in the case of actor Kevin Costner and his former wife Cynthia.

PRE-RETURN DATE RELIEF

Sometimes, a plaintiff spouse needs and may seek immediate relief or court intervention known as **prereturn date relief**. The plaintiff spouse may have serious and real concerns that the act of serving the dissolution complaint on the defendant spouse may cause the defendant spouse to take certain immediate initiatives that will either damage the plaintiff spouse economically or harm the plaintiff physically and/or emotionally.

For instance, when the plaintiff spouse serves a dissolution complaint in which that spouse seeks, as part of the dissolution action, a division of the marital assets and/or alimony and child support, the defendant spouse may attempt to move, hide, or dispose of assets that would be considered assets of the marital union to avoid having to share them or “split” them in their value with the plaintiff spouse.

FIGURE 10–2

Nowadays, pleadings are submitted on preprinted forms that can be easily and quickly scanned into computers at the courthouse.



There may also be assets acquired during the marriage where title rests completely with one partner or the other. For example, title to each family car will usually be in the name of only one spouse. In many jurisdictions, inheritances bequeathed to one spouse or gifts given solely to one spouse are not marital assets. However, practically every other possession acquired during the marriage is a joint asset. The plaintiff spouse may have concerns that the defendant spouse will dispose of bona fide joint property that is not legally registered to both parties. For instance, the defendant spouse may sell an expensive car purchased with marital funds and pocket or bury the money. The defendant spouse who has equal signing power or a joint checking account, a joint savings account, joint CD certificates, or joint stock accounts may attempt to withdraw the contents of these accounts upon being served with divorce papers. To avoid this **dissipation** or squandering of assets, the plaintiff spouse may file along with the dissolution complaint an **application for a prejudgment remedy** to attach marital assets during the **period** pending litigation.

In many jurisdictions, a plaintiff spouse may apply for an attachment of known joint assets. Sometimes the court will grant a temporary attachment until there is a hearing on the matter; at other times the hearing must occur before even a temporary or *pendente lite* order is issued.

Sometimes a defendant spouse owns a business that the plaintiff spouse has had little hands-on involvement with and, hence, does not know the actual value of the business. The plaintiff spouse may also serve on the defendant, along with a **request for an order attaching known assets**, a **motion for disclosure of assets** to be made under oath. If the plaintiff is not satisfied with the disclosure, later in the discovery phase of the dissolution suit, the plaintiff may serve the defendant with a **notice to appear for a deposition to disclose assets**. In this deposition, the defendant spouse will be questioned, under oath, on the previous disclosure to determine whether it completely reveals all of the defendant's assets.

The format, language, and other requirements for drafting attachment documents vary from jurisdiction to jurisdiction. A paralegal must check local court rules to ensure that the proper format is complied with. Sometimes the local rules or the local practice book has an annotated edition that contains sample forms. Otherwise, litigation form books may be available for the particular state family court system where the action is to be filed. These form books will enable the paralegal to tailor the documents to fit the jurisdiction.

TEMPORARY RESTRAINING ORDER

Sometimes when a plaintiff spouse has decided to file a dissolution action, the plaintiff spouse fears that notice of this action will trigger a response in the defendant spouse which includes being physically and verbally abusive to the plaintiff and possibly to the children as well. A plaintiff spouse may be afraid to return to the family home while the defendant continues to reside there.

Under these circumstances, if the fear is justified, the plaintiff may seek pre-return date relief in the form of a court-ordered **temporary restraining order** to restrain the defendant spouse from entering the family home for a significant number of days. In the application for such a restraining order, the plaintiff spouse will in-

clude a signed, sworn statement known as an **affidavit** that certain prior events have occurred and support the plaintiff spouse's belief that a restraining order is needed to keep the spouse safe from grave harm the defendant would otherwise inflict. A set of specific legal documents must be filed with the court in order for the court to consider the plaintiff's request for a restraining order. A paralegal must know what documents are included in this set and be especially careful to include everything needed and to make sure each document is factually and procedurally correct.

Exhibit 10–5 contains a sample set of documents for requesting a temporary restraining order. In addition, Appendix G includes a sample restraining order and affidavit filed by comedienne Roseanne against her former husband Tom Arnold. Again, students should seek model documents from their own jurisdictions to ensure procedural compliance.

SERVICE OF PROCESS OF THE DIVORCE COMPLAINT

Once the law office has prepared the divorce or dissolution summons and complaint, the paralegal may be responsible for seeing that these documents are properly served on the defendant. In most jurisdictions, the divorce complaint, just like the complaint in a regular civil lawsuit, must be served on the defendant named in the action by a statutorily authorized process server. In some jurisdictions, these individuals are called sheriffs or constables, while in other states they are simply referred to as licensed process servers.

A paralegal will contact the office of the sheriff or process server to confirm that the person is available and willing to handle the matter. The paralegal will mail or hand-deliver the papers to be served, or the sheriff, constable, or process server will come to the law office and pick up the papers.

The process server must locate the party to be served and complete service either by delivering the true and attested copies of legal process into the hand of the party known as **personal service** or leaving the papers in the hands of a competent adult at the residence or **abode** of the party to be served. Once service is completed, the sheriff or process server will mail or hand-deliver to the law office the original of the summons and complaint along with his written **sheriff's return** in which he affirms that on a specified date, he served the defendant by leaving with the defendant in his hands, at his abode or by mail, a true and attested copy of the summons and complaint. Exhibit 10–6 illustrates California's Proof of Service of Summons in the Costner divorce. The sheriff's or server's bill for services rendered normally accompanies the return.

After the sheriff or process server returns the summons and complaint to the law office, these documents must be brought to the court and filed, along with a fee, known in most jurisdictions as a **filing fee** or a **court-entry fee**. In addition, an increasing number of jurisdictions now require that accompanying documents be filed at the same time as the complaint. These accompanying documents may include a financial affidavit, a custody affidavit, and stipulations regarding the ir retrievable breakdown of the marriage.

Once a complaint has been filed, the clerk will assign the case a docket number. This number will be used on all further communications from the court. In addition, the parties should now replace the return date category with the case number in the caption section of all future documents filed with the court in this matter.

FIGURE 10-3

A divorce complaint must be served on a defendant by statutorily authorized process server, which is often a sheriff or constable.



RESPONSIVE PLEADINGS TO THE DISSOLUTION COMPLAINT

When a spouse is served with divorce or dissolution papers, the spouse must decide what type of responsive action to take or whether to respond at all. The dissolution summons will command the defendant spouse to appear before the court on or before a certain date, and to do so not by appearing in person, but by filing a written appearance form or by having the defendant spouse's attorney file a written **appearance** on his or her behalf.

If the defendant spouse fails to file an appearance, depending on the court rules of the particular jurisdiction, the judicial system will handle this failure in one of two or three different ways. In many states, the defendant spouse's failure to file an appearance can result ultimately in a **default judgment** being entered against that person. This means that the plaintiff spouse will "win" the dissolution or divorce suit by default, that is, the plaintiff spouse will be granted a divorce. In addition, if the court has personal jurisdiction over the defendant spouse, the court, even in the absence of the defendant, may order both spousal support and child support. In this event, the defendant will be notified by mail of the court's orders. If the defendant

does not make the court-ordered payments and is still within the jurisdiction, the plaintiff spouse may serve the defendant with additional legal papers. These papers, often collectively called an **order to show cause**, will require the defendant to appear under penalty of civil arrest and to show cause or offer a good reason why the defendant should not be penalized or held in **contempt** for not making the court-ordered payments. In this instance, if the defendant spouse again fails to appear in court, the court may and usually will order a *capias*, which is actually an arrest warrant for committing a civil violation, in this case, a violation of a court order.

If a plaintiff spouse seeks a divorce from a spouse who has fled the jurisdiction or who may still be in the jurisdiction but is “whereabouts unknown” as far as a place of abode or place of employment, then the plaintiff spouse may have a sheriff or process server serve the defendant by what is known as **service by publication**. The sheriff will put a legal notice in the legal notices section of a newspaper in the city, town, or general area where the defendant was last known to reside or where the defendant is thought to be residing. This legal notice will, in fact, be a printing of the test of the divorce or dissolution complaint. Once the notice is published and the newspaper sends the sheriff its **affidavit of publication**, the sheriff will make a return noting the service by publication and return the complaint to the law firm for filing in court. Under these circumstances, after the appropriate waiting period, the plaintiff may seek to have the court formally dissolve the marriage. The plaintiff will appear on a certain date, the court will note that the defendant, served by publication, has failed to appear. The defendant spouse will be defaulted and the divorce or dissolution will be granted. However, the court will not have the authority to enter orders for alimony or child support because the court has no personal jurisdiction over the defendant spouse.

The case of the nonappearing spouse is the exception rather than the rule. Most often, the defendant spouse obtains the services of an attorney who files a written appearance on behalf of the defendant spouse, and who also files responsive pleadings to the dissolution complaint. Naturally, the defendant spouse must contact an attorney or a law firm and have an initial interview with the attorney or firm’s officer. The client interview of the defendant spouse will proceed in a manner that is similar to the interview process described for the plaintiff spouse in Chapter 9. If an agreement is reached regarding representation, the defendant spouse will sign a retainer letter with the law office, pay a retainer fee, and the office will begin to draft the responsive pleadings. This task will be delegated to the family law paralegal.

THE APPEARANCE AND THE ANSWER

As mentioned above, the attorney or firm representing the defendant spouse must file an appearance. This appearance is a one-page form that lists the name of the case, the return date, the name of the party being represented, the fact that the party is the defendant in the action, and the name, address, phone number, and juris number of the attorney or law firm. A sample of a typical appearance form is provided in Exhibit 10–7.

The next document to be filed is the **answer**. The answer, like the complaint, will have a caption containing the name of the case and the return date. It will also have a body where each of the allegations contained in the numbered paragraphs in the complaint is responded to. The defendant spouse will either admit or deny each allegation or, in appropriate instances, will state that

he or she lacks the necessary information or knowledge on which to form a response. Exhibit 10–8 illustrates a preprinted answer form.

The next section of the answer is the prayer section. In this section, the defendant spouse will make known his or her requests regarding alimony, child support, child custody, and/or visitation. For instance, a defendant spouse may admit that the marriage has broken down irretrievably in the response to the allegations section. However, in the prayer section, the defendant may signal his or her opposition to the plaintiff spouse's requests by requesting full custody of the minor child or children and by requesting child support and alimony. On the other hand, if the defendant spouse does not object to the plaintiff spouse's request for custody, the defendant spouse will request reasonable visitation rights. If the defendant spouse does not wish any alimony, the defendant will remain silent on this issue and deal with the question of the plaintiff spouse's requests for alimony and child support at a later time in the proceedings. The defendant spouse should always request an equitable division of marital property and should request such other relief as the court deems fair and equitable.

The answer, like the complaint, has a subscription section, which lists the defendant spouse's attorney's name and other identifying information. In some jurisdictions, the defendant spouse, like the plaintiff spouse in the complaint, may have to provide a signed and sworn-to verification of the answer.

THE CROSS-COMPLAINT

In most jurisdictions, the defendant-spouse has the right to file an additional pleading called a **cross-complaint**. In the cross-complaint, the defendant spouse assumes the role of a plaintiff by bringing a cross-action or countersuit for dissolution in which the party makes allegations and asks the court to grant him or her the relief of a dissolution or divorce and orders regarding custody, child support, alimony, and property division. Since the advent of no-fault divorce and the fault-neutral ground of irretrievable marital breakdown, cross-complaints have been rarities. Previously, when divorces were granted only on allegation and proof of a fault-based ground or grounds, the spouse sued for divorce on the grounds of mental cruelty or adultery or another negative ground and was frequently countersued by his or her spouse, who alleged a ground of equally negative conduct. This practice has virtually disappeared except in instances where the divorce is very bitter and where either the marital property is extensive or where the custody of the children is hotly contested. A sample cross-complaint appears in Exhibit 10–9. This form serves the purpose for both complaints and cross-complaints in that it contains virtually the same information. If a cross-complaint is filed, then the original plaintiff spouse must file an answer to this pleading that responds to all allegations and contains its own request for relief.

Once all of the above-mentioned documents have been filed with the court, the pleadings are closed, and the pleading phase of the dissolution process is over. Even if the parties have no areas of disagreement, there will be a statutory waiting period before the divorce is granted. In the meantime, whether the parties are in agreement or not, there will be hearings to provide for temporary relief to the parties while the divorce is pending. During this pendency period, the court will entertain motions regarding alimony, child support, child custody, and other pertinent issues. These motions are known as *pendente lite* motions and are discussed in the next chapter.

**SUMMONS
FAMILY ACTIONS**

JD-FM-3 Rev. 6-94
C.G.S. 52-45a, Pr. Bk 49

**STATE OF CONNECTICUT
SUPERIOR COURT**

INSTRUCTIONS

1. Prepare on typewriter, sign original summons (top sheet) and conform the copies of the summons (sheets 2 and 3).
2. Attach the original summons to the original complaint, and attach a copy of the summons to each copy of the complaint.
3. After service has been made by proper officer, file original papers and officer's return with the clerk of the court at least six days before the return date.
4. Do not use this form for actions in which an attachment or garnishment is being sought or for petitions for paternity or for support orders, or for actions in which an application for relief from abuse is being sought.

CASE TYPE CODES	
F00	Dissolution of Marriage
F10	Legal Separation
F20	Annulment
F90	All Other

TO: Any proper officer
BY AUTHORITY OF THE STATE OF CONNECTICUT, you are hereby commanded to make due and legal service of this Summons and attached Complaint.

JUDICIAL DISTRICT OF	AT (Town)	RETURN DATE (Mo., day, yr.)
ADDRESS OF COURT (No., Street, City)	CASE TYPE (From code list above) Major _____ Minor _____	PTY NO.
PLAINTIFF'S NAME (Last, First, Middle Initial)	PLAINTIFF'S ADDRESS (No., Street, Town, Zip Code)	01
DEFENDANT'S NAME (Last, First, Middle Initial)	DEFENDANT'S ADDRESS (If known)(No., Street, Town, Zip Code)	50

NOTICE TO THE ABOVE-NAMED DEFENDANT

1. You are being sued.
2. This paper is a Summons in a lawsuit.
3. The Complaint attached to these papers states the claims that the Plaintiff is making against you in this lawsuit.
4. To respond to this Summons, or to be informed of further proceedings, you or your attorney must file a form called an "Appearance" with the Clerk of the above-named Court at the above Court address on or before the second day after the above Return Date.
5. If you or your attorney do not file a written "Appearance" form on time, the Court may enter judgment against you for the relief requested in the Complaint, which may result in temporary or permanent orders without further notice.
6. The "Appearance" form may be obtained at the above Court address.
7. If you have questions about the Summons and Complaint, you should consult an attorney promptly. The Clerk of Court is not permitted to give advice on legal questions.

DATE	SIGNED (Sign and "X" proper box)	<input type="checkbox"/> Comm. of Superior Court <input type="checkbox"/> Assistant Clerk	TYPE IN NAME OF PERSON SIGNING AT LEFT
FOR THE PLAINTIFF Please enter the appearance of.	NAME OF ATTORNEY OR LAW FIRM (If pro se, name of plaintiff)	JURIS NO. (If city, or law firm)	
MAILING ADDRESS (No., Street, Town, Zip Code)	TELEPHONE NUMBER		
SIGNED (Plaintiff, if pro se or attorney for Plaintiff)			

IF THIS SUMMONS IS SIGNED BY A CLERK:

- a. The signing has been done so that the Plaintiff will not be denied access to the courts.
- b. It is the responsibility of the Plaintiff to see that service is made in the manner provided by law.
- c. The clerk is not permitted to give any legal advice in connection with any lawsuit.
- d. The clerk signing this summons at the request of the Plaintiff is not responsible in any way for any errors or omissions in the Summons, any allegations contained in the Complaint, or the service thereof.

FOR COURT USE
FILE DATE
DOCKET NO.

I hereby certify I have read and understand the above.	SIGNED (Plaintiff, if pro se)	DATE SIGNED	DOCKET NO.
--	-------------------------------	-------------	------------

SUMMONS, Family Actions

EXHIBIT 10-2

Sample of a verified complaint.

1 **SUPREME COURT OF THE STATE OF NEW YORK**
COUNTY OF _____
-----X

2 3 Index No.:
Plaintiff,
-against- **VERIFIED COMPLAINT**
Defendant. **ACTION FOR DIVORCE**
-----X

4

5 Plaintiff herein / by _____, complaining of the Defendant,
alleges:

6 **FIRST:** The Plaintiff and the Defendant were married on the date of _____
in the City, Town or Village of _____, in the County of _____,
State of _____.

7 **SECOND:**

- The Plaintiff has lived in New York State for a continuous period in excess of two years immediately preceding the commencement of this action.
- The Defendant has lived in New York State for a continuous period in excess of two years immediately preceding the commencement of this action.
- The Plaintiff has lived in New York State for a continuous period in excess of one year and:
 - a. the parties were married in New York State.
 - b. the Plaintiff has lived as husband and wife in New York State with the Defendant.
 - c. the Defendant also has resided in New York State for a continuous period in excess of one year.
 - d. the cause of action occurred in New York State.
- The Defendant has lived in New York State for a continuous period in excess of one year and:
 - a. the parties were married in New York State.
 - b. the Defendant has lived as husband and wife in New York State with the Plaintiff.
 - c. the cause of action occurred in New York State.
- The cause of action occurred in New York State and both parties were residents thereof at the time of the commencement of this action.

(Form UD-2)

8 **THIRD:** There is (are) _____ child(ren) of the marriage under the age of twenty-one (21), namely:

9	<u>Name and Social Security Number</u>	<u>Date of Birth</u>	<u>Address</u>
	_____	_____	_____
	_____	_____	_____
	_____	_____	_____

10 The Plaintiff's address is _____ and social security number is _____. The Defendant's address is _____, and social security number is _____.

11 The parties are covered by the following group health plans:

Plaintiff

Defendant

Group Health Plan: _____
 Address: _____
 Identification Number: _____
 Plan Administrator: _____
 Type of Coverage: _____

Group Health Plan: _____
 Address: _____
 Identification Number: _____
 Plan Administrator: _____
 Type of Coverage: _____

Group Health Plan: _____
 Address: _____
 Identification Number: _____
 Plan Administrator: _____
 Type of Coverage: _____

Group Health Plan: _____
 Address: _____
 Identification Number: _____
 Plan Administrator: _____
 Type of Coverage: _____

12 **FOURTH:** The grounds for divorce are _____ and are based on the following incidents: _____

13 **FIFTH:** There is no judgment in any court for a divorce in favor of either party and against the other and no other matrimonial action for divorce between the parties is pending in any court of competent jurisdiction.

14 **SIXTH:** The marriage was *not* performed by a clergyman, minister or by a leader of the Society for Ethical Culture.

- *To the best of my knowledge I have taken all steps solely within my power to remove any barrier to the Defendant's marriage.*
- *I will take prior to the entry of final judgment all steps solely within my power to the best of my knowledge to remove any barrier to the Defendant's remarriage.*
- *The Defendant has waived in writing the requirements of DRL §253.*

15 **WHEREFORE**, Plaintiff demands judgment against the Defendant as follows: A judgment dissolving the marriage between the parties and _____

16 Dated: _____

17

Attorney for Plaintiff:

18 STATE OF NEW YORK, COUNTY OF _____ ss:

I am the Plaintiff in the within action for a divorce. I have read the foregoing complaint and know the contents thereof. The contents are true to my own knowledge except as to matters therein stated to be alleged upon information and belief, and as to those matters I believe them to be true.

Sworn to before me on _____, 19____

Plaintiff

EXHIBIT 10-3

Sample complaint for dissolution.

1 GANG, TYRE, RUDIN & BROWN
2 6400 Sunset Building
3 Los Angeles 28, California
4 HOLLYWOOD 3-4863

5 Attorneys for Plaintiff

FILED

MAR 3- 1960
HAROLD J. OSTLY, County Clerk
By *H. J. Ostly*
CLERK

6
7
8 IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
9 IN AND FOR THE COUNTY OF LOS ANGELES

10 LUCILLE BAIL ARNAZ,
11 Plaintiff,
12
13 -vs.-
14 DESIDERIO ALBERTO ARNAZ, III,
15 Defendant.

11 SMD. No. _____
12 COMPLAINT FOR DIVORCE
13 (Extreme Cruelty)
14

16 Plaintiff complains of defendant and alleges:

17 I.

18 Plaintiff and defendant were intermarried in
19 Greenwich, Connecticut on November 30, 1940.

20 II.

21 Plaintiff alleges that she has been a resident of
22 the County of Los Angeles for more than three years, and of
23 the State of California for more than one year next preceding
24 the filing of this complaint.

25 III.

26 Plaintiff alleges the following facts as required
27 by Section 426(a) of the Code of Civil Procedure of the State
28 of California:

29 1. The parties were intermarried in Greenwich,
30 Connecticut.

31 2. The date of said marriage was November 30, 1940.

32 3. The date of separation was February 26, 1960.

1 4. The time elapsing between the date of marriage 1
2 and the date of separation is nineteen years and three months. 7

3 5. There are two children the issue of said 3
4 marriage, to-wit, Lucie Desiree Arnaz, age 8-1/2 years, and 4
5 Desiderio Alberto Arnaz, IV, age 7 years. 5

6 IV. 6

7 Defendant has been guilty of extreme cruelty to 7
8 plaintiff. As a direct result of such cruelty and conduct 8
9 of defendant, defendant has wrongfully inflicted grievous 9
10 mental suffering upon plaintiff. 10

11 V. 11

12 Plaintiff and defendant are owners of community 12
13 property and there is certain separate property owned by both 13
14 plaintiff and defendant. Plaintiff and defendant have ne- 14
15 gotiated, except in certain minor particulars, a Property 15
16 Settlement Agreement with respect to their property rights 16
17 and interests and their marital rights and obligations. If 17
18 said Property Settlement Agreement is executed by the parties 18
19 prior to the trial of the within action, plaintiff believes 19
20 the same will be fair, just and equitable and will submit the 20
21 same to the Court for approval. 21

22 VI. 22

23 Plaintiff is a fit and proper person to have the 23
24 care and custody of minor children of the parties, subject to 24
25 the right of reasonable visitation of said children by de- 25
26 fendant. The Property Settlement Agreement which the parties 26
27 have negotiated, as hereinabove alleged, will contain pro- 27
28 visions with respect to the support, maintenance and education 28
29 of said minor children which plaintiff believes will be fair, 29
30 just and reasonable, but which provisions shall be subject 30
31 to modification by further order of this Court. 31

32 WHEREFORE, plaintiff prays judgment as follows: 32

1 1. That the bonds of matrimony now existing be- 1
2 tween plaintiff and defendant be dissolved. 2

3 2. That the custody of said minor children be 3
4 awarded to plaintiff, subject to the right of reasonable 4
5 visitation by defendant. 5

6 3. That the Property Settlement Agreement, to be 6
7 executed by the parties prior to the trial of this action, be 7
8 approved, confirmed and ratified by the Court and that the 8
9 parties be ordered to comply with the executory terms and 9
10 provisions of such agreement. 10

11 4. That the defendant be directed to pay the 11
12 plaintiff for the support, maintenance and education of the 12
13 children of plaintiff and defendant such sum as the parties 13
14 may agree upon in such Property Settlement Agreement, until 14
15 further order of the Court. 15

16 5. For such other and further relief as the Court 16
17 may deem equitable in the premises. 17

18 GANG, TYRE, RUDIN & BROWN 18

19 By William A. Rudin 19
20 Attorneys for Plaintiff 20

21 21
22 22
23 23
24 24
25 25
26 26
27 27
28 28
29 29
30 30
31 31

EXHIBIT 10-4

Sample preprinted form illustrating a complaint for dissolution of marriage.

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name and Address): GERALD L. FRIEDMAN PROFESSIONAL CORPORATION State Bar No. 033401 11400 W. Olympic Boulevard, Ninth Floor Los Angeles, California 90064-1565 TELEPHONE NO.: (310) 477-5450	FOR COURT USE ONLY <div style="font-size: 24pt; font-weight: bold; margin: 10px 0;">FILED</div> <div style="font-size: 12pt; margin: 5px 0;">LOS ANGELES COUNTY</div> <div style="font-size: 18pt; font-weight: bold; margin: 10px 0;">NOV - 4 1994</div> <div style="font-size: 10pt; margin: 5px 0;">EDWAHU</div> <div style="font-size: 10pt; margin: 5px 0;">BY G. MENDIZABAL, DEPUTY</div>
ATTORNEY FOR (Name): PETITIONER SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES STREET ADDRESS: 111 North Hill Street MAILING ADDRESS: 111 North Hill Street CITY AND ZIP CODE: Los Angeles, California 90012 BRANCH NAME: Central District	CASE NUMBER: <div style="font-size: 18pt; font-weight: bold; margin-top: 10px;">BD203807</div>
MARRIAGE OF PETITIONER: CYNTHIA R. COSTNER RESPONDENT: KEVIN M. COSTNER	
PETITION FOR <input checked="" type="checkbox"/> Dissolution of Marriage <input checked="" type="checkbox"/> And Declaration Under Uniform <input type="checkbox"/> Legal Separation Child Custody Jurisdiction Act <input type="checkbox"/> Nullity of Marriage	

1. RESIDENCE (Dissolution only) Petitioner Respondent has been a resident of this state for at least six months and of this county for at least three months immediately preceding the filing of this Petition for Dissolution of Marriage.

2. STATISTICAL FACTS

a. Date of Marriage: February 11, 1978
 c. Period between marriage and separation
 Years: 16 Months: 4

b. Date of Separation: June 23, 1994
 d. Petitioner's Social Security No.: To Be Furnished
 e. Respondent's Social Security No.: To Be Furnished

3. DECLARATION REGARDING MINOR CHILDREN OF THIS MARRIAGE FOR WHOM SUPPORT MAY BE ORDERED OR WHO MAY BE SUBJECT TO CUSTODY OR VISITATION ORDERS

a. There are no minor children.

b. The minor children are:

Child's name	Birthdate	Age	Sex
Anne C. Costner	4/15/84	10	F
Lily M. Costner	8/4/86	8	F
Joe T. Costner	1/31/88	6	M

c. IF THERE ARE MINOR CHILDREN, COMPLETE EITHER (1) OR (2)

(1) Each child named in 3b is currently living with petitioner respondent in the following county (specify): **Los Angeles**

During the last five years each child has lived in no state other than California and with no person other than petitioner or respondent or both. Petitioner has not participated in any capacity in any litigation or proceeding in any state concerning custody of any minor child of this marriage. Petitioner has no information of any pending custody proceeding or of any person not a party to this proceeding who has physical custody or claims to have custody or or visitation rights concerning any minor child of this marriage.

(2) A completed Declaration Under Uniform Child Custody Jurisdiction Act is attached.

4. Petitioner requests confirmation as separate assets and obligations the items listed in Attachment 4 below:

Item
Per Agreement of the parties

Each of the parties

Confirm to
 Superior Court
 06 N 06 11/04/94
 027418 5520
 CH

(Continued on reverse)

ORIGINAL

ORIGINAL

MARRIAGE OF (last name, first name of parties): COSTNER, CYNTHIA R. and KEVIN M.	CASE NUMBER:
---	--------------

5. DECLARATION REGARDING COMMUNITY AND QUASI-COMMUNITY ASSETS AND OBLIGATIONS AS CURRENTLY KNOWN

- a. There are no such assets or obligations subject to disposition by the court in this proceeding.
- b. All such assets and obligations have been disposed of by written agreement.
- c. All such assets and obligations are listed in Attachment 5 below (specify):

6. Petitioner requests

- a. Dissolution of the marriage based on
 - (1) irreconcilable differences. FC 2310(a)
 - (2) incurable insanity. FC 2310(b)
- b. Legal separation of the parties based on
 - (1) irreconcilable differences. FC 2310(a)
 - (2) incurable insanity. FC 2310(b)
- c. Nullity of void marriage based on
 - (1) incestuous marriage. FC 2200
 - (2) bigamous marriage. FC 2201
- d. Nullity of voidable marriage based on
 - (1) petitioner's age at time of marriage. FC 2210(a)
 - (2) prior existing marriage. FC 2210(b)
 - (3) unsound mind. FC 2210(c)
 - (4) fraud. FC 2210(d)
 - (5) force. FC 2210(e)
 - (6) physical incapacity. FC 2210(f)

7. Petitioner requests that the court grant the above relief and make injunctive (including restraining) and other orders as follows:

- | | Petitioner | Respondent | Joint | Other |
|--|--------------------------|--------------------------|-------------------------------------|--------------------------|
| a. Legal custody of children to <u>Per Agreement of the parties</u> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| b. Physical custody of children to <u>Per Agreement of the parties</u> ... | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| c. Child visitation be granted to <u>Per Agreement of the parties</u> ... | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| <input type="checkbox"/> supervised as to (specify): | | | | |
| d. Spousal support payable by (wage assignment will be issued)..... | <input type="checkbox"/> | <input type="checkbox"/> | | |
| e. Attorney fees and costs payable by <u>Per Agreement of the parties</u> | <input type="checkbox"/> | <input type="checkbox"/> | | |
| f. <input type="checkbox"/> Terminate the court's jurisdiction (ability) to award spousal support to respondent. | | | | |
| g. <input checked="" type="checkbox"/> Property rights be determined. <u>Per Agreement of the parties</u> | | | | |
| h. <input type="checkbox"/> Wife's former name be restored (specify): | | | | |
| i. <input type="checkbox"/> Other (specify): | | | | |

8. If there are minor children of this marriage, the court will make orders for the support of the children without further notice to either party. A wage assignment will be issued.

9. I have read the restraining orders on the back of the Summons, and I understand that they apply to me when this petition is filed.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date: October 25, 1994


(SIGNATURE OF PETITIONER)

CYNTHIA R. COSTNER

GERALD L. FRIEDMAN
.....
(TYPE OR PRINT NAME OF ATTORNEY)


(SIGNATURE OF ATTORNEY FOR PETITIONER)

NOTICE: Please review your will, insurance policies, retirement benefit plans, credit cards, other credit accounts and credit reports, and other matters you may want to change in view of the dissolution or annulment of your marriage, or your legal separation. However, some changes may require the agreement of your spouse or a court order (see Family Code sections 231-235).

EXHIBIT 10-5

Sample documents requesting a temporary restraining order.


STATE OF CONNECTICUT SUPERIOR COURT		
APPLICATION FOR RELIEF FROM ABUSE JO-FM-78 Rev. 6-89 C.G.S. 46b-15, 52-259		
INSTRUCTIONS TO APPLICANT	1. Prepare on typewriter or print in ink. 2. File completed original with the clerk of court.	
INSTRUCTIONS TO CLERK	1. Assign a hearing date not later than 14 days from filing date. 2. If Ex Parte Order entered, retain original for court file and distribute 5 copies as follows: • One copy to respondent • One copy to Family Division • Two certified copies to applicant • One certified copy to appropriate law enforcement agency WITHIN FORTY-EIGHT (48) HOURS OF ISSUANCE OF THIS ORDER.	
AT (Address of court)		
TO: The Superior Court		
<input type="checkbox"/> "X" here if a Protective Order has been entered affecting any person who is a party to this application.		
PROVIDE NAMES OF ATTORNEYS FOR ANY PARTY CONNECTED WITH THIS ACTION		
NAME OF APPLICANT (Your name)		ADDRESS WHERE MAIL WILL REACH YOU
NAME AND ADDRESS OF RESPONDENT (Person against whom you are bringing this case)		RESPONDENT'S TELEPHONE NO. (If known)
RESPONDENT IS: ("X" all that apply)		
<input type="checkbox"/> my spouse <input type="checkbox"/> my child <input type="checkbox"/> my former spouse <input type="checkbox"/> a person 18 or over related to me by blood or marriage <input type="checkbox"/> parent of my child <input type="checkbox"/> a person 16 or over with whom I reside or with whom I have resided <input type="checkbox"/> my parent <input type="checkbox"/> a caretaker who is providing shelter in his or her residence to a person 60 years of age or older		
AFFIDAVIT		
I, the above-named applicant, represent that the information contained herein is correct and that I have been subjected to a continuous threat of present physical pain or physical injury by the respondent named above. (You must attach an affidavit made under oath which includes a statement of the conditions from which you seek relief. Include specific examples with dates.)		
Wherefore I request that the court enjoin the respondent from:		
<input type="checkbox"/> IMPOSING ANY RESTRAINT ON ME <input type="checkbox"/> ASSAULTING, MOLESTING, SEXUALLY ASSAULTING OR, ATTACKING ME <input type="checkbox"/> ENTERING THE FAMILY DWELLING OR MY CURRENT DWELLING, TO WIT:		
(NOTE: The address provided here will be included on any orders entered by the court. If you do not wish to divulge your address, do not complete this box. However, failure to include this information may limit the protection afforded you by the restraining order.)		
ADDRESS OF DWELLING		
and that the court order the following additional relief:		
<input type="checkbox"/> THAT THE COURT DO THE FOLLOWING: _____ _____ _____ _____		
<input type="checkbox"/> THAT THE RELIEF REQUESTED ABOVE EXTEND TO THE FOLLOWING DEPENDENT CHILDREN AND/OR OTHER PERSONS: (Specify names and relationship to applicant) _____ _____ _____ _____		FOR COURT USE ONLY
		DOCKET NO. _____ FILE DATE _____
(CONTINUED ON REVERSE SIDE)		

EXHIBIT 10-5

Continued

AWARD ME TEMPORARY CUSTODY OF THE FOLLOWING MINOR CHILD(REN) WHO IS (ARE) ALSO THE CHILD(REN) OF THE RESPONDENT:

NAME	DATE OF BIRTH	NAME	DATE OF BIRTH
1.		4.	
2.		5.	
3.		6.	

REQUEST FOR EX PARTE RELIEF

I believe there is an immediate and present physical danger to me and therefore request that relief be ordered immediately. I understand that the court will schedule a hearing no later than 14 days after such order is entered on the question of continuing such temporary order. I also understand that such temporary order is only effective until the time of the hearing to be scheduled and that a postponement of such hearing which is requested and granted will not continue such order except upon agreement of the parties or by order of the court for good cause shown.

I understand that the relief requested, other than relief ordered ex parte, may be ordered for a period of up to 90 days but that such order may, upon motion be extended beyond 90 days by the court.

SIGNED (Applicant)	Subscribed and sworn to before me: <i>(Judge, Asst. Clerk, Notary, Comm. Sup. Ct.)</i>	ON (Date)
--------------------	---	-----------

ORDER FOR HEARING AND NOTICE

The foregoing application having been presented to the court, it is hereby ordered that a hearing be held thereon at the court location shown below, and that the applicant give notice to the respondent of this application and order and of the date and time set for the hearing not less than five days before the date of the hearing.

JUDICIAL DISTRICT OF	ADDRESS OF COURT (Number, street and town)	DATE AND TIME OF HEARING
DATE AT (Town)	ON (Date)	SIGNED (Assistant Clerk)
BY ORDER OF THE COURT:		

TO ANY PROPER OFFICER,

By authority of the State of Connecticut you are hereby commanded to serve a true and attested copy of the foregoing application and order upon the respondent according to law not less than five days before the hearing date shown above.

DATED AT (Town)	ON (Date)	SIGNED (Asst. Clerk, Comm. of Sup. Ct.)
-----------------	-----------	---

NOTICE TO RESPONDENT

A hearing on this application for relief from abuse has been scheduled by the court. At this hearing, the court may order relief as requested in this application. If you wish to be heard concerning this application, you should appear at the above court location on the date and time shown above.

EX PARTE RESTRAINING ORDER

Having considered the application for relief from abuse and affidavit filed by the applicant named herein, it is hereby ordered effective immediately:

- 1. That the respondent refrain from imposing any restraint on the applicant.
- 2. That the respondent refrain from assaulting, molesting, sexually assaulting or attacking the applicant.
- 3. That the respondent refrain from entering the dwelling of the applicant.

ADDRESS OF DWELLING _____

- 4. That the custody of the minor child(ren) who is/are issue of the applicant and the respondent, specifically:

NAME(S) OF CHILD(REN) _____

is granted to _____ subject to visitation rights granted to

_____ as follows: _____

- 5. And it is further ordered: _____

An EX PARTE ORDER is only effective until the hearing date unless extended by agreement of the parties or by order of the court for good cause shown.

This order may be extended by the court beyond 90 days. In accordance with General Statute section 53a-107, entering or remaining in a building or any other premises in violation of this order constitutes criminal trespass in the first degree. This is a criminal offense punishable by a term of imprisonment of not more than one year, a fine of not more than one thousand dollars or both.

SIGNED (Judge)	DATE	DATE OF HEARING
_____	_____	_____

CERTIFICATION

STATE OF CONNECTICUT

Judicial District of _____ ss. _____

I hereby certify that the foregoing is a true copy of the application, order for hearing and notice and ex parte restraining order in the herein-named cause, as on file and of record appears.

In witness whereof, I have hereunto set my hand and the seal

of said court on _____

Clerk of the Superior Court

EXHIBIT 10-5

Continued

RETURN OF SERVICE

STATE OF CONNECTICUT

JUDICIAL DISTRICT OF _____ SS. _____	NAME OF RESPONDENT _____	DATE _____
---	--------------------------	------------

Then and there by virtue of the foregoing, I left with and in the hands of the above-named respondent a true and attested copy of the original application, order for hearing and notice and ex parte restraining order.

The within and foregoing is the original application, order for hearing and notice and ex parte restraining order with my doings thereon endorsed.

Attest _____
(Name and Title)

FEEES
COPY _____
ENDORSEMENT _____
SERVICE _____
TRAVEL _____

TOTAL

EXHIBIT 10-6

Sample proof of service document.

MARRIAGE OF (last name, first name of parties): COSTNER, Cynthia R. and Kevin M.	CASE NUMBER: BD 203 807
--	-----------------------------------

Serve a copy of the documents on the person to be served. Complete the proof of service. Attach it to the original documents. File them with the court.

PROOF OF SERVICE OF SUMMONS (Family Law)

1. I served the Summons with Standard Restraining Orders (Family Law), blank Response, and Petition (Family Law) on respondent (name): **Kevin M. Costner**

- a. with (1) blank Confidential Counseling Statement (4) ~~completed and~~ blank Income and Expense Declarations
- (2) Order to Show Cause and Application (5) completed and blank Property Declarations
- (3) blank Responsive Declaration (6) Other (specify): **Certificate of Assignment**

b. By leaving copies with (name and title or relationship to person served):

c. By delivery at home business

(1) Date of: (3) Address:
(2) Time of:

d. By mailing (1) Date of: **11/7/94** (2) Place of: **Los Angeles, CA**

2. Manner of service: (Check proper box)

- a. Personal service. By personally delivering copies to the person served. (CCP 415.10)
- b. Substituted service on natural person, minor, incompetent. By leaving copies at the dwelling house, usual place of abode, or usual place of business of the person served in the presence of a competent member of the household or a person apparently in charge of the office or place of business, at least 18 years of age, who was informed of the general nature of the papers, and thereafter mailing (by first-class mail, postage prepaid) copies to the person served at the place where the copies were left. (CCP 415.20(b)) (Attach separate declaration stating acts relied on to establish reasonable diligence in first attempting personal service.)
- c. Mail and acknowledge service. By mailing (by first-class mail or airmail) copies to the person served, together with two copies of the form of notice and acknowledgment and a return envelope, postage prepaid, addressed to the sender. (CCP 415.30) (Attach completed acknowledgment of receipt.)
- d. Certified or registered mail service. By mailing to address outside California (by registered or certified airmail with return receipt requested) copies to the person served. (CCP 415.40) (Attach signed return receipt or other evidence of actual delivery to the person served.)
- e. Other (specify code section):
 Additional page is attached.

3. The NOTICE TO THE PERSON SERVED on the summons was completed as follows (CCP 412.30, 415.10, and 474):

- a. as an individual
- b. on behalf of Respondent under CCP 416.90 (Individual) CCP 416.70 (Ward or Conservatee) CCP 416.60 (Minor) Other (specify):
- c. by personal delivery on (date):

4. At the time of service I was at least 18 years of age and not a party to this action.

5. Fee for service: \$ **-0-**

6. Person serving:

- a. Not a registered California process server.
- b. Registered California process server.
- c. Employee or independent contractor of a registered California process server.
- d. Exempt from registration under Bus. & Prof. Code section 22350(b).
- e. California sheriff, marshal, or constable.

f. Name, address, and telephone number and, if applicable, county of registration and number:
Gerald L. Friedman
11400 W. Olympic Blvd., 9th Fl.
Los Angeles, CA 90064-1565
(310) 477-5450

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date: **4-26-95**


(SIGNATURE)

(For California sheriff, marshal, or constable use only)
I certify that the foregoing is true and correct.

Date:

(SIGNATURE)

Form Adopted by Rule 1283.5
Judicial Council of California
1283.5 (New January 1, 1991)

PROOF OF SERVICE OF SUMMONS
(Family Law)

1283.5

RD10R

APPEARANCE

JD-CL-12 Rev. 6-98
Pr. Bk. §§ 3-1 thru 3-6, 3-8

**STATE OF CONNECTICUT
SUPERIOR COURT
INSTRUCTIONS**

- Judicial District Court Locations:** In any action returnable to a Judicial District court location, file only the original with the clerk. In criminal actions see instruction #3.
- Geographical Area Locations:** In any action returnable to a Geographical Area court location, except criminal actions, file original and sufficient copies for each party to the action with the clerk. In criminal actions see instruction #3.
- In Criminal and Motor Vehicle Actions (Pr. Bk. Secs. 3-4, 3-5):** Mail or deliver a copy of the appearance to the prosecuting authority, complete the certification at bottom and file original with the clerk.
- In Summary Process Actions:** In addition to instruction #1 or #2 above, mail a copy to the attorney for the plaintiff, or if there is no such attorney, to the plaintiff and complete the certification below.
- For "In-lieu-of" Appearances (Pr. Bk. Sec. 3-8):** Complete the certification below.
- Pursuant to Pr. Bk. Sec. 17-20, if a party who has been defaulted for failure to appear files an appearance prior to the entry of judgment after default, the default shall automatically be set aside by the clerk.
- In Juvenile Matters:** Do not use this form. Use form JD-JM-13 Appearance, Juvenile Matters.

DOCKET NO.
RETURN DATE

NAME OF CASE (FIRST-NAMED PLAINTIFF VS. FIRST-NAMED DEFENDANT)

<input type="checkbox"/> Judicial District	<input type="checkbox"/> Housing Session	<input type="checkbox"/> G.A. No. _____	ADDRESS OF COURT (No., street, town and zip code)
--	--	---	---

PLEASE ENTER THE APPEARANCE OF

NAME OF OFFICIAL, FIRM, PROFESSIONAL CORP., INDIVIDUAL ATTY., OR PRO SE PARTY (See "Notice to Pro Se Parties" at bottom)

MAILING ADDRESS (No., street, P.O. Box)

JURIS NO. (if applicable)

CITY/TOWN

STATE ZIP CODE

TELEPHONE NO.

FAX NO.

in the above-entitled case for: ("X" one of the following)

- The Plaintiff.
- All Plaintiffs
- The following Plaintiff(s) only: _____
- The Defendant.
- The Defendant for the purpose of the bail hearing only (in criminal and motor vehicle cases only).
- All Defendants.
- The following Defendant(s) only: _____

Note: If other counsel have already appeared for the party or parties indicated above, state whether this appearance is:

- In lieu of appearance of attorney or firm _____ already on file (P.B. Sec. 3-8) OR
- In addition to appearance already on file. (Name)

SIGNED (Individual attorney or pro se party)

NAME OF PERSON SIGNING AT LEFT (Print or type)

DATE SIGNED

X

CERTIFICATION

FOR COURT USE ONLY

This certification must be completed in summary process cases (Pr. Bk. Sec. 3-5(a)); for "in lieu of" appearances (Pr. Bk. Sec. 3-8); and in criminal cases (Pr. Bk. Sec. 3-5(d)).

I hereby certify that a copy of the above was mailed/delivered to:

- All counsel and pro se parties of record. (For summary process and criminal actions)
- Counsel or the party whose appearance is to be replaced. (For "in lieu of" appearances)

SIGNED (Individual attorney or pro se party)

DATE COPY(IES) MAILED OR DELIVERED

X

NAME OF EACH PARTY SERVED *

ADDRESS AT WHICH SERVICE WAS MADE

* If necessary, attach additional sheet with names of each party served and the address at which service was made.

NOTICE TO PRO SE PARTIES

A pro se party is a person who represents himself or herself. It is your responsibility to inform the Clerk's Office if you have a change of address.

APPEARANCE

EXHIBIT 10-9
Sample cross-complaint.

STATE OF CONNECTICUT
SUPERIOR COURT

CROSS COMPLAINT CODE ONLY
CRSCMP

**DIVORCE (DISSOLUTION OF MARRIAGE)
COMPLAINT/CROSS COMPLAINT**

JD-FM-159 New 10-87
C.G.S. §46b-40, et seq.
P.B. § 1201, et seq.

- Complaint: Complete this form. Attach a completed Summons (JD-FM-3) and Notice of Automatic Court Orders (JD-FM-158).*
- Cross Complaint: Complete this form and attach to the Answer (JD-FM-160) unless it is already filed.*

JUDICIAL DISTRICT OF		AT (Town)	RETURN DATE (Month, day, year)
PLAINTIFF'S NAME (Last, First, Middle Initial)		DEFENDANT'S NAME (Last, First, Middle Initial)	
1. WIFE'S BIRTH NAME (First, Middle Initial, Last)		2. HUSBAND'S NAME (First, Middle Initial, Last)	
3. DATE OF MARRIAGE	4. TOWN AND STATE, OR COUNTRY WHERE MARRIAGE TOOK PLACE		

5. (Check all that apply)

- The husband or the wife has lived in Connecticut for at least twelve months before the filing of this divorce complaint or before the divorce will become final.
- The husband or the wife lived in Connecticut at the time of the marriage, moved away, and then returned to Connecticut, planning to live here permanently.
- The marriage broke down after the wife or the husband moved to Connecticut.

6. A divorce is being sought because: (Check all that apply)

- This marriage has broken down irretrievably and there is no possibility of getting back together. (No fault divorce)
- Other (must be reason(s) listed in Connecticut General Statute § 46b-40(c)):

Check and complete all that apply for items 7-13. Attach additional sheets if needed.

7. No children were born to the wife after the date of this marriage.
8. The following children have been born to the wife before, on or after the date of this marriage and the husband is the father. (List only children under 18 years old or 18 and still in high school.)

NAME OF CHILD (First, middle, last)	DATE OF BIRTH (Month, day, year)

9. The following children were born to the wife after the date of the marriage and the husband is not the father. (List only children under 18 years old or 18 and still in high school.)

NAME OF CHILD (First, middle, last)	DATE OF BIRTH (Month, day, year)

(OVER)

EXHIBIT 10-9

Continued

10. The wife is pregnant with a child due to be born on (date) _____.

The father of this unborn child is (check one) the husband not the husband unknown.

11. If there is a court order about any child listed above, name the child(ren) below and the person or agency awarded custody or providing support:

CHILD'S NAME	NAME OF PERSON OR AGENCY
CHILD'S NAME	NAME OF PERSON OR AGENCY
CHILD'S NAME	NAME OF PERSON OR AGENCY

12. The husband, the wife, or any of the children listed above has received financial support from the State of Connecticut. (Check one) Yes No Do not know

If yes, send a copy of this Complaint and the Notice of Automatic Court Orders to the Assistant Attorney General, 55 Elm Street, Hartford, CT 06106.

13. The husband, the wife, or any of the children listed above has received financial support from a city or town in Connecticut. (Check one) Yes (State city or town: _____) No Do not know

The Court is asked to order: (Check all that apply)

- A divorce (dissolution of marriage) Name change to _____
- A fair division of property and debts Sole custody
- Alimony Joint legal custody:
- Child Support Shared residence
- Visitation Primary residence with: _____

And anything else the Court thinks is fair.

SIGNATURE	PRINT NAME OF PERSON SIGNING	DATE SIGNED
ADDRESS		TELEPHONE

*** IF THIS IS A COMPLAINT, ATTACH A COPY OF THE AUTOMATIC COURT ORDERS BEFORE SERVING A COPY ON THE DEFENDANT.**

*** IF THIS IS A CROSS COMPLAINT, YOU MUST MAIL OR DELIVER A COPY TO ANYONE WHO HAS FILED AN APPEARANCE AND YOU MUST COMPLETE THE CERTIFICATION BELOW.**

I certify the following:

DATE COPY MAILED OR DELIVERED	SIGNATURE
NAME OF EACH PERSON SERVED*	ADDRESS WHERE SERVICE WAS MADE (No., street, town, zip code)*

*If necessary, attach additional sheet with names of each party served and the address at which service was made.

REVIEW QUESTIONS

1. What are procedural rules?
2. What are the rules of court?
3. How is a dissolution or divorce proceeding commenced?
4. Define the terms *plaintiff* and *defendant* and discuss how and to whom these terms apply in a family law proceeding.
5. Name each of the pleadings filed in a dissolution or divorce proceeding and identify which party files each of the pleadings.
6. What is a summons?
7. List the sections of a dissolution or divorce complaint.
8. What is a return date?
9. Define the term *filing fee*.
10. What is the name of the complaint section that lists the relief the plaintiff seeks?
11. What does the family law attorney represent to the court when she signs the complaint? What is the signing called and where does it occur in the complaint?
12. What is the verification section of the complaint?
13. What is meant by pre-return date relief?
14. List three types of pre-return date relief that a plaintiff might request.
15. Give three examples of assets that either party might wish to hide or dispose of when served with divorce papers.
16. What is an application for a prejudgment remedy?
17. Describe a motion for disclosure of assets. Which party usually files this document?
18. What is a deposition to disclose assets and under what circumstances might a party use this procedure?
19. What can the plaintiff spouse do to protect him- or herself from any physical or verbal abuse that the defendant spouse might attempt to inflict on the plaintiff spouse?
20. What are the paralegal's responsibilities for arranging service of the dissolution or divorce complaint?
21. What information should the paralegal provide to the sheriff or constable to ensure that the divorce or dissolution complaint will be served in a proper and timely manner?
22. What is the difference between *personal service* and *abode service*?
23. What does a sheriff include on his return?
24. What is a court appearance form and what information must be included on it?
25. What happens in a dissolution proceeding if a defendant fails to file an appearance?
26. What is service by publication and when is this form of service used in a dissolution or divorce action?
27. What are the disadvantages for the plaintiff spouse who obtains a divorce decree in a proceeding where the defendant spouse has failed to enter an appearance?
28. Name and describe the pleading that the appearing defendant spouse files in response to the dissolution or divorce complaint. In which section of this pleading does the respondent spouse make his or her request for relief?
29. What is a cross-complaint, when is it filed, and who files it?
30. Describe how matters such as child support, child custody, and alimony are handled between the time the dissolution or divorce complaint is served and the time the court enters a final decree of dissolution or divorce.

EXERCISES

1. Locate a copy of the rules of court for your jurisdiction. Find the section of procedural rules for family matters. List the section numbers that govern the filing of the dissolution complaint and the answer to the complaint. Also, locate the sections that deal with service of the complaint, service of the answer, and time limits for the respondent to file an appearance and answer. Summarize each section.
2. In the family matters section of the rules of court for your jurisdiction, see if the topic of the return date is addressed. If so, list the section number and summarize it. If not, look in the book's index for the section that contains the rules for proceedings in the civil division of the court. Find the approximate section number on return dates; list and summarize this section.

3. In your state's statutes, locate the title or chapter dealing with family matters. List and summarize the statutory sections that deal with the filing and serving of the complaint and answer.

4. In your state's statutes family matters section, find, list, and summarize the sections that address when and where the family court has the jurisdiction to hear a matter and what conditions are needed for a family law court to have jurisdiction over a respondent spouse.

5. In your local law library, find the forms or form books that contain sample complaints and answers

as they appear in your state or jurisdiction. Prepare a complaint and answer using these forms as a model.

6. Using your state's statutes, your state's rules of court, and any helpful form books, prepare all the documents needed to file an application for a prejudgment remedy in a family matter in your jurisdiction.

7. Prepare an affidavit to be used in applying for a temporary restraining order (TRO) in a family law matter. Be sure to include sufficient compelling facts to ensure that the TRO will be granted.