

# OBTAINING A DEFAULT



## Packet #11



These forms must not be used to engage in the unauthorized practice of law. The court is not responsible for (1) actions taken by the users of these forms or (2) their reliance upon the instructions or information provided.



## ***What is a Default?***

A default means that the other party did not file a “Response” to the divorce or paternity papers that you “served” within the legal time limit. Therefore, you can ask for a default and a default judgment or decree.

## ***Exactly when can you file?***

The other party has 20 days to file a “Response” if the papers were served in Arizona. They have 30 days to respond if they were served outside of Arizona.

When counting, include weekends and holidays.

But if the last day falls on a Saturday, Sunday, or a legal holiday then DO NOT count that day, count the next workday. Check with the Court Clerk to find out if a response was filed.

If you attended the Conciliation Court for counseling services, then you ***cannot count*** the time that your divorce was on hold.

## ***What are some other responses you need to look for?***

Instead of filing a “Response,” the other party may file other court documents, for example a Motion to Dismiss, or a Motion to Change Venue. If the other party files either of these court documents, then you must file a Response to that document.

If a Response is filed, you are strongly urged to seek the advice of a lawyer. You may not be able to get a Default Decree.

## *Important Reminders*



The symbol (Triangle with an exclamation inside) is a warning.

It could be a warning for you to make sure that something is done.

It could also be a warning that the topic can be confusing, and you may need to talk to an attorney if you need help.

There are lawyers who will help you help yourself. This means that they will only charge you for giving you the help you need, and you can complete the court papers on your own or ask the lawyer for help with your papers.



## ***Family Court Free Legal Clinics***

Arizona Superior Court in Pima County has a program through which free assistance is given to anyone representing themselves in a family court, including anyone seeking a default judgment in a divorce or special paternity case.

At the clinic, someone will review your decrees, child support orders, and income- withholding orders to help ensure these documents are complete and legally correct.

***Making use of the Clinic is in your best interest.*** The judge will not sign any documents that are incorrect or incomplete. In such cases, you will have to leave, correct your documents and then schedule another hearing.

For more information, visit [www.sc.pima.gov/law-library/free-legal-clinics/](http://www.sc.pima.gov/law-library/free-legal-clinics/) or call the Law Library Resource Center, (520) 724-8456.

After your appointment at the clinic, you can call the Superior Court and schedule your default hearing.

## ***University of Arizona Free Family Court Default Clinic***

The University of Arizona James E. Rogers College of Law offers a free clinic to assist individuals representing themselves who are seeking a default decree or judgment, and who have a Family Court case on file at the Pima County Superior Court. The clinic is staffed by students enrolled in the University of Arizona's Bachelor of Arts in Law program, and is supervised by faculty from the College of Law. To schedule an appointment, or for more information, contact the University of Arizona Free Family Court Default Clinic at [law-familydefault@list.arizona.edu](mailto:law-familydefault@list.arizona.edu) or by phone at (520) 344-4958.

# *What are the basic steps for getting a default decree?*

## **Step 1.**

### **The Countdown**

Begin counting the day after the other party is *served* the divorce papers. You cannot begin step two until after your last counted day.

## **Step 2.**

### **Complete the Request for Necessary Forms**

The request for default is called the Application and Affidavit for Default. The form and instructions are in this packet.

If you are seeking spousal maintenance, you must also complete the Default Information for Spousal Maintenance form included in this packet, and attach it to your Application and Affidavit for Default.

You also need to sign the Notice of Hearing for Default Judgment/Decree.

## **Step 3.**

### **Copy, sign, and notarize Application for Default Form**

Make two copies of your Application and Affidavit for Default and, if necessary, attach the Default Information for Spousal Maintenance form. Do not sign original or the two copies. The Clerk of Court will notarize your original and two copies of Application and Affidavit for Default when you file it.

You will also provide the Notice of Hearing for Default Judgment/Decree which will be provided to the assigned judge.



It is very important to fill out the paperwork completely and correctly. Your hearing will NOT be scheduled, and your Judgment or Decree will NOT be entered, until your paperwork has been **properly filled out and submitted**.



**Step 4. File & Mail**

Hand deliver or mail to the Clerk of the Superior Court at:

**Attn: Clerk of Court**  
**Pima County Arizona Superior Court**  
110 West Congress  
Tucson, Arizona 85701

If you hand deliver, give the Clerk at the filing counter the original and both copies of the Application and Affidavit for Default. Make sure you get both copies back from the Clerk.

Mail or hand-deliver a copy of the Application and Affidavit for Default to the other party. If you don't know where the other party lives, then send a copy to his/her last known address. You can use the ENTRY OF DEFAULT form in this packet.

If you know the other party is represented by an attorney, you must also mail or hand-deliver a copy to their attorney as well.



## Instructions for Completing Application and Affidavit for Default

1. Fill in your name, street address, city, state, ZIP, telephone number in the upper left-hand corner.
2. Clearly print your Superior Court Case Number.
3. Enter your name as the Petitioner.
4. Enter the name of the other party as the Respondent.

### Preparing "APPLICATION FOR DEFAULT" Section

#### Item 2. Service of court papers

Only check one of the two boxes.

- If the other party has signed an "Acceptance of Service" put a check mark in the first box.
- Otherwise put a check mark in the second box.

#### Item 5. Compliance with Arizona family law

Here you show the court that you will deliver a copy of the application for default form to the other party.

- Put a check mark in all the boxes that are true.

### PETITIONER'S CERTIFICATE OF MAILING OR DELIVERY

- Put a check mark in the box that best describes how the form was delivered to the other party
- If you put a check mark in the second box "delivered", then describe in the space provided how and where it was delivered.

Make two copies of your Application and Affidavit for Default. Do not sign original or the two copies. The Clerk of Court will notarize your original and two copies of Application and affidavit for default when you file it.

Person Filing: \_\_\_\_\_  
Address (if not protected): \_\_\_\_\_  
City, State, Zip Code: \_\_\_\_\_  
Telephone: \_\_\_\_\_  
Email Address: \_\_\_\_\_  
ATLAS Number: \_\_\_\_\_  
Lawyer's Bar Number: \_\_\_\_\_  
Representing  Self, without a Lawyer or  
 Attorney for  Petitioner OR  Respondent



## ARIZONA SUPERIOR COURT, PIMA COUNTY

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

\_\_\_\_\_  
Petitioner  
and  
\_\_\_\_\_  
Respondent

### APPLICATION AND AFFIDAVIT FOR DEFAULT

**NOTICE: THIS IS AN IMPORTANT COURT DOCUMENT. When this document is properly completed and filed, Default has been applied for and entered. The Default will be effective ten (10) business days after the filing of this completed document, unless the Respondent files a Response or otherwise defends before the ten-day period passes.**

### APPLICATION AND AFFIDAVIT FOR DEFAULT

1. I am the Petitioner in this action, and I state all these matters under oath. I now give notice that I am requesting an entry of default judgment against the Respondent because no Response has been filed by Respondent as of this time.
2. Service of the court papers on Respondent has been accomplished as follows:  
(check one box)  
 The Respondent has signed an Acceptance of Service, in which he or she has accepted service of the Summons, Petition and other papers, but has failed to answer so that a default may be entered;  

OR

 I have had the Respondent served according to law with the Summons, Petition and other papers and Respondent has failed to plead, appear, answer, or otherwise defend in this court case in the time required by law.
3. The Respondent is either not in the active military service of the United States or has otherwise waived his or her rights under the Uniformed Service Members Civil Relief Act.
4. By completing the Certificate of Mailing or Delivery at the bottom of this form, I certify that I am mailing or delivering a copy of this Application and Affidavit to the Respondent as notice that I have applied for default.



5. In compliance with Arizona Rules of Family Law Procedure, Rule 44(A), I will:  
(check all boxes that are true)

Mail a copy of this Application and Affidavit to the Respondent at his/her last known address;

OR

Mail a copy of this Application and Affidavit to the attorney I know is representing my spouse, whom I claim to be in default;

OR

Deliver a copy to Respondent, whom I claim to be in default;

Mail a copy of this Application and Affidavit to the Respondent's last known address because I do not know my spouse's whereabouts and do not believe my spouse is represented by an attorney.

**Note:** If the Respondent fails to file a responsive pleading or otherwise defend in this action within 10 business days of the filing of this Application, a default judgment/decreed may be entered. The Petitioner must generally still attend a default hearing.

\_\_\_\_\_  
Petitioner

SUBSCRIBED AND SWORN to before me on \_\_\_\_\_ by \_\_\_\_\_

My Commission Expires:

\_\_\_\_\_  
Notary Public/Deputy Clerk

**PETITIONER'S CERTIFICATE OF MAILING OR DELIVERY**

A copy of this Application and Affidavit for Default will be (check one box)  mailed postage pre-paid OR  delivered (DESCRIBE HOW AND WHERE DELIVERED) to the Respondent at the following address:

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

\_\_\_\_\_  
Petitioner

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

**Do not write below the line on the next form.  
Just sign it and file it at the same time you file  
your Application and affidavit for default**

Person Filing: \_\_\_\_\_  
Address (if not protected): \_\_\_\_\_  
City, State, Zip Code: \_\_\_\_\_  
Telephone: \_\_\_\_\_  
Email Address: \_\_\_\_\_  
ATLAS Number: \_\_\_\_\_  
Lawyer's Bar Number: \_\_\_\_\_  
Representing  Self, without a Lawyer or  
 Attorney for  Petitioner OR  Respondent



## ARIZONA SUPERIOR COURT, PIMA COUNTY

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

\_\_\_\_\_  
Petitioner  
and  
\_\_\_\_\_  
Respondent

### NOTICE OF HEARING FOR DEFAULT DECREE/JUDGMENT

ASSIGNED TO: \_\_\_\_\_

**Do not write below this line. For Court use only.**

To: \_\_\_\_\_  
 Petitioner  Respondent **OR**  
Attorney for  Petitioner  Respondent

Please take notice that the Rule 44.2 default hearing is scheduled for:

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

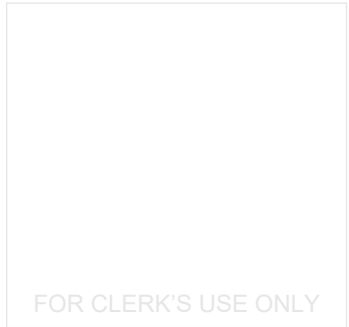
Location: Arizona Superior Court, Pima County Courtroom: \_\_\_\_\_  
110 W. Congress  
Tucson, Arizona 85701  
Judicial Officer: \_\_\_\_\_

Petitioner  Respondent is instructed to call in to \_\_\_\_\_  
\_\_\_\_\_

Petitioner  Respondent is to: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Dated: \_\_\_\_\_  
Petitioner \_\_\_\_\_

Person Filing: \_\_\_\_\_  
Address (if not protected): \_\_\_\_\_  
City, State, Zip Code: \_\_\_\_\_  
Telephone: \_\_\_\_\_  
Email Address: \_\_\_\_\_  
ATLAS Number: \_\_\_\_\_  
Lawyer's Bar Number: \_\_\_\_\_  
Representing  Self, without a Lawyer or  
 Attorney for  Petitioner OR  Respondent



## ARIZONA SUPERIOR COURT, PIMA COUNTY

\_\_\_\_\_  
Petitioner  
and  
\_\_\_\_\_  
Respondent

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

### DEFAULT INFORMATION FOR SPOUSAL MAINTENANCE A.R.F.L.P. Rule 44 (Form 6)

I hereby state the following, under penalty of perjury:

- A. To qualify for spousal maintenance under A.R.S. § 25-319, I provide the following information (check all that apply):
- I lack sufficient property, including property I will be receiving in the dissolution, to provide for my reasonable needs.
  - I am unable to be self-sufficient through appropriate employment.
  - I am unable to earn enough money to support myself.
  - I am the custodian of a child whose age or condition is such that I should not be required to seek employment outside the home.
  - I significantly contributed to the education and/or career of my spouse.
  - My marriage has lasted \_\_\_\_\_ years.
  - I am \_\_\_\_\_ years old.
  - I reduced my income or career opportunities for the benefit of my spouse.
  - There have been excessive or abnormal expenditures, destruction, concealment, or fraudulent disposition of community, joint tenancy, and other property held in common.
  - There are actual damages and judgments from conduct resulting in criminal conviction of either you or your spouse in which the other spouse or child was the victim.

B. If the Court finds you qualify for spousal maintenance, it will need the following information in determining the appropriate amount and duration. To assist the Court, please answer the following:

1. If you have been employed during the marriage, state how and when you have been employed.

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I have not been employed during the marriage.

2. Do you have a physical or emotional condition that limits your ability to work? Describe:

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I do not have a physical or emotional condition that limits my ability to work.

3. Describe any contributions you have made to your spouse's earning ability or how you reduced your income or career opportunities to benefit your spouse.

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Does not apply.

4. If your request for spousal maintenance is granted, will you and the other party be able to contribute to the educational expenses of your children? Describe:

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Does not apply.

5. Why are the financial resources available to you, including property awarded in the decree, not adequate to meet your needs?

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6. Do you think additional education or training would enable you to find employment sufficient to meet your needs? \_\_\_\_\_. Is this education or training readily available? \_\_\_\_\_. How long do you think it will take to complete this education or training? \_\_\_\_\_.
7. How much will it cost you per month to obtain health insurance after the divorce? \_\_\_\_\_. How much will the other party save per month if the insurance changes from a family plan to employee only health insurance? \_\_\_\_\_.
8. What is your spouse's present occupation and monthly income? (If you do not have documentation of your spouse's income, describe how you came to your estimate.)

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9. I request \$\_\_\_\_\_ per month for spousal maintenance for \_\_\_\_\_ years.
10. Can the other party's needs be met if you receive this requested spousal maintenance?

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**Complete the financial statement on the following page.**

**I declare under penalty of perjury that the foregoing and the following financial statement is true and correct.**

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

**Signature:** \_\_\_\_\_

**NECESSARY MONTHLY EXPENSES** (For yourself and minor children who reside with you)

House (mortgage/rent)	\$
Repair/Upkeep	\$
Utilities	
Electricity	\$
Gas	\$
Water & Sewer	\$
Phone	\$
Garbage	\$
Food & Household Supplies	\$
Work/School Lunch	\$
Medical, Dental, Drugs, Supplies	\$
Insurance not deducted from pay	\$
Clothing	\$
Laundry/Dry Cleaning	\$
Childcare/Sitter	\$
Support paid for spouse and/or minor children of prior relationship	\$
Car Repair/Maintenance	\$
Car Insurance	\$
Gas/Oil	\$
Vehicle License	\$
Public Transportation	\$
Other	\$
	\$
<b>Total Monthly Expenses</b>	\$

<b>MONTHLY PAYMENTS/DEBTS</b>		
Creditor	Balance	Payment
_____	\$ _____	\$ _____
_____	\$ _____	\$ _____
_____	\$ _____	\$ _____
<b>Total Monthly Payments</b>		\$ _____
<b>Total Expenses, Payments</b>		\$ _____

**INCOME**

Weekly     Twice/mo.\*

Monthly     Every 2 weeks

\*For example, the 1<sup>st</sup> and 15<sup>th</sup>

Less: Federal Taxes	\$ _____
Less: State Taxes	\$ _____
SS & Medicare	\$ _____
Insurance	\$ _____
Savings, etc.	\$ _____
Other	\$ _____
Other	\$ _____
<b>Total Deductions</b>	\$ _____
<b>Net Paycheck</b>	\$ _____

**OTHER GROSS MONTHLY INCOME**

Pension/Retirement	\$ _____
Social Security/SSI	\$ _____
Dividends/Interest	\$ _____
GA/TANF	\$ _____
Other	\$ _____
<b>Total other gross income</b>	\$ _____

**TOTAL GROSS MONTHLY INCOME \$ \_\_\_\_\_**

## *The Default Decree or Judgment Checklist*



The Default Decree or Judgment Checklist does not need to be filed. It is provided here solely for the purpose of helping parties keep track of what steps they have taken, and what steps they need to take, toward getting a default judgment.



## DEFAULT DECREE OR JUDGMENT CHECKLIST

(To help determine if you are ready for a Default Decree)

*(Do not file this form)*

1. **Case Number:** \_\_\_\_\_
2. **Case Type:**    Dissolution/Divorce    Legal Separation    Annulment  
                           Paternity                            Grandparent Visit    Other
3.    **Have you served the Respondent and filed proof of service?**
4.   **You must prepare the Decree of Judgment.**  
(Packet 4 for Divorce with Children; Packet 7 for Divorce without Children; Packet 20 for Paternity)
5.   **When the Application and affidavit for default and the Notice of Hearing for Default (Packet 11), and the Decree or Judgment were:**  
**Filed:** \_\_\_\_\_ **Mailed to Respondent:** \_\_\_\_\_
6.   **Have at least 10 Court business days passed since you filed the Application and Affidavit for Default, and mailed it to the Respondent?**    Yes    No  
*If you answer no, you must wait until the time has passed before going forward.*
7.   **Does your case involve children? If so,**  
       Have you filed a Parenting Plan (Packet 9)?  
       Have you filed your Parenting Class Certificate?  
       Have you prepared a Child Support Worksheet? (Packet 8 & Child Support Calculator)  
       Have you prepared a Child Support Order? (Packet 8 & Child Support Calculator)  
       Have you prepared an Income Withholding Order? (Packet 8 & Child Support Calculator)  
       Have you filed an obligor/obligee fact sheet? (Packet 8)
8.   **For Divorce, Legal Separation and Annulment matters only**  
      Is spousal maintenance (alimony) being requested?    Yes    No  
      If yes, you must file the Default Information for Spousal Maintenance. (Included below)
9.   **Is the other party an active member of the United States Military?**  
*If yes, you will need to file a signed & notarized “Service Members Civil Relief Act Waiver.”*
10. **To proceed by motion and no hearing, complete the Motion (included below) and all decree forms, and submit to the assigned Division. **This is the fastest way to finish your case.****  
      If you served the Respondent by publication, you cannot use the Motion, and must request a hearing as set forth below.  
      Your hearing will **NOT** be scheduled, and your Judgment or Decree will **NOT** be entered, until your paperwork has been **properly filled out** and **submitted**.  
       **If you need a hearing, do you need an Interpreter?**  
          *If so, then file a request for Linguistic Accommodations form with the Clerk of the Court, if you have not done so already.*

**DO NOT BRING CHILDREN TO COURT**

**Use the following form only if you wish to proceed with a default WITHOUT a hearing.  
Read the instructions carefully.**



## Instructions for a Default Decree Without a Hearing

If the other party has not responded to the Application and Affidavit for Default ([Packet 11](#)) within ten (10) business days after the filing, and you seek a Decree that is **identical in all terms** to your Petition, you may obtain a Default Decree without a hearing by filing a Motion and Affidavit for Default Decree Without a Hearing.

Step 1: Fill out the following forms:

- Motion and Affidavit for Default Decree Without a Hearing.

ALL boxes must be checked unless otherwise stated. If they are not, the assigned division will be unable to act on this form.

- Decree ([Packet 4](#) if children, or [Packet 7](#) if no children)

- If you asked for spousal maintenance in the Petition, you must fill out a completed form that is substantially similar to Form 6, Default Information for Spousal Maintenance.

If you did not request a specific amount of spousal maintenance in your Petition, you cannot use this form. You must request a hearing before your assigned judge.

- If your case involves children, please also fill out [Packet 8](#) for child support and [Packet 9](#) for a parenting plan.

You must provide a parenting plan. Even if you are not asking for child support, you must also provide a Child Support Worksheet and a Child Support Order.

Step 2: Deliver or Mail the completed forms to the Clerk of the Court.

Make two copies and mail the original and the two copies to the Clerk of Superior Court, 110 W. Congress, Tucson, AZ 85701. Please include two self-addressed stamped envelopes one for you and one for the Respondent. After your judge has reviewed the papers, the Clerk will mail the conformed copies to you.

All forms are available to you on the Arizona Superior Court, Pima County Website, <https://www.sc.pima.gov/law-library/forms/>.

Person Filing: \_\_\_\_\_  
Address (if not protected): \_\_\_\_\_  
City, State, Zip Code: \_\_\_\_\_  
Telephone: \_\_\_\_\_  
Email Address: \_\_\_\_\_  
ATLAS Number: \_\_\_\_\_  
Lawyer's Bar Number: \_\_\_\_\_  
Representing  Self, without a Lawyer or  
 Attorney for  Petitioner OR  Respondent



## ARIZONA SUPERIOR COURT, PIMA COUNTY

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

\_\_\_\_\_  
Petitioner  
and  
\_\_\_\_\_  
Respondent

### MOTION AND AFFIDAVIT FOR DEFAULT DECREE WITHOUT A HEARING

- DISSOLUTION OF MARRIAGE
- LEGAL SEPARATION
- ANNULMENT
- MATERNITY/PATERNITY
- ESTABLISH LEGAL  
DECISION-MAKING/PARENTING  
TIME/CHILD SUPPORT

I, \_\_\_\_\_, being duly sworn, states as follows:

Pursuant to Rule 44.1, Arizona Rules of Family Law Procedure, I request the entry of a default decree without a hearing, and state as follows:

#### A. Required Rule 44.1 Statements

- Both parties are competent and sane at this time.
- The requested orders in the default decree are not different from what the petition requested, or for amounts greater than requested in the petition, unless the parties have entered into a written separation agreement under A.R.S. § 25-317.

#### B. Service and Default

- Respondent has not filed a Response, and has not appeared in the case.
- Respondent was not served by publication.
- I have filed an Application and Affidavit for Default, and it has been more than ten (10) business days since my filing of the Application and Affidavit for Default.
- This case does not involve a military member waiving service.

**C. Statements if Requesting Dissolution, Legal Separation, or Annulment**  
**If you are seeking a judgment of maternity/paternity or to establish legal decision-making/parenting time/child support, skip to Section D below.**

- Either one or both parties have resided, or been stationed, in Arizona for more than 90 days before the filing of the petition.
- More than 60 days have elapsed since the Petition for Dissolution, Legal Separation, or Annulment was served.
- The conciliation provisions of A.R.S. § 25-381.09 have been met or do not apply.

Our marriage  is **or**  is not a covenant marriage.

There  is/are **or**  is/are not child(ren) common to the parties. If there are common children, they are as follows:

**Name:**

**Date of Birth:**

_____	_____
_____	_____
_____	_____
_____	_____

- Neither party is pregnant with a child common to the parties.

Choose only one of the following:

- If seeking divorce, the marriage is irretrievably broken with no reasonable prospect of reconciliation.
- If seeking legal separation, the parties desire to live separate and apart.
- If seeking annulment, a condition exists which renders the marriage void or voidable.

**Distribution of Property**

- The distribution in the proposed Decree of community, joint tenancy, and other property (including debts) held in common is reasonable, equitable, and not unfair. The amounts or requests are accurate (to the best of my ability).

**Spousal Maintenance**

Spousal maintenance  has **or**  has not been requested.

- If spousal maintenance is requested, I have asked for a specific amount and duration (including indefinite) in the Petition, and also have attached a completed form that is substantially similar to Form 6, Rule 97, Default Information for Spousal Maintenance.

**D. Statements Regarding Legal Decision-Making, Parenting Time, and Child Support**

If there are children common to the parties, then the following is true and correct:

- The child(ren) has (have) lived in Arizona for at least six (6) months before the filing of the Petition, or is less than six (6) months old and has lived in Arizona since birth.

There  are **or**  are not proceedings involving the child(ren) that are pending in another court or jurisdiction.

If there are other proceedings, please provide the court name(s) and case number(s) below:

- 
- The domestic relations educational requirements have been met or do not apply.
  - All legal decision-making and parenting time provisions are in the best interest of the child(ren) and are supported by a parenting plan that I have submitted.

If joint legal decision-making is sought, domestic violence  has **or**  has not occurred.

- As to child support, I have filed a financial affidavit, accurate child support worksheet (to the best of my ability) supporting the amount requested, a proposed Child Support Order, and Income Withholding Order, if applicable.

**E. Other Requested Relief**

- If applicable, I have attached an itemized bill for a reasonable amount of attorney fees to support this request.
- I have attached the following document(s), to establish the facts which support the request for:

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**I swear or affirm under penalty of perjury that the contents of this document are true and correct to the best of my knowledge and belief.**

---

Date

---

Signature

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

---

(Notary seal)

---

Deputy Clerk or Notary Public



## What to do when it's time for your default hearing?

While going to court for your default hearing may sound scary, it isn't. The Default Hearing is one of the simplest types of hearing. You are basically going to meet with the judge, give the judge your paperwork, answer a few questions and then you're done.



It is very important to fill out the paperwork completely and correctly. Your hearing will NOT be scheduled, and your Judgment or Decree will NOT be entered, until your paperwork has been **properly filled out** and **submitted**.

If you have taken all the correct steps like "serving" the proper papers to the other party or other parent, you will usually receive your Judgment or Decree by the end of the hearing.

### ***PLEASE READ THE FOLLOWING***

If you have already had a hearing (for example for temporary orders) and the other party appeared in Superior Court, then the other party must have at least (3) days prior notice before your default hearing.

The other party must know the exact day that you are scheduled to ask for a default judgment or decree.



If you want to assure that your paperwork is completed accurately, be sure to use one of the free legal clinics mentioned above.

If your documents are not correct and complete, you will not get your Judgment or Decree and will have to leave the court, correct your paperwork and schedule another hearing.

It is in your best interest to make sure that your paperwork is correct **before** you go to your hearing. You can bring the following instructions with you to court to help you.



## **Check List of things to do for your default hearing**

### **Make 2 Copies of all the paperwork that applies to your case (no double-sided pages please)**

These might include:

- Divorce Decree, Special Paternity Judgment, or other Order (See packets #4, #7, or #20)
- Agreement regarding division of community property, if any
- If minor children,
  - Parenting Plan (See Legal Decision-Making and Parenting Time packet)
  - Child Support Worksheet (See Packet #8 *Child Support*)
  - Child Support Order (See Packet #8 *Child Support*)
  - Income Withholding Order (See Packet #8 *Child Support*)
  - Oblige/Obligor Fact Sheet (See Packet #8 *Child Support*)



### **Assemble the documents**

Attach one copy of everything to both of your copies of the proposed Judgment or Divorce Decree.

You will keep one copy for yourself and send the other copy to the other party.

Attach one copy of everything to the ORIGINAL of the proposed Judgment or Divorce Decree.

This is what you will give the judge at the hearing.



# Review your Order, Judgment, or Divorce Decree

Know what your Order, Judgment, or Decree says and what you are requesting.

The judge will ask you some questions about your Order, Judgment, or Decree, such as how you divided the property and debts, why you asked for a particular type of legal decision-making or parenting time, and where the children will be living, etc.



In general, everything that you are asking for in the proposed Order, Judgment, or Decree *must be the same* as the things you asked for in the Petition. The Petition is the first document you filed.

The only exception to this is if you and the other party have on file with the Court a written agreement with both of your notarized signatures.

## Call to check on your paperwork

After submitting your Notice of Hearing and proposed paperwork, the division assigned to your case will begin checking your paperwork. Upon review of your paperwork, the assigned division will either schedule a hearing on your default, or send you paperwork telling you why they could not schedule a hearing. If there is an error in your paperwork you need to correct, you should receive a notice informing you what is wrong. If the hearing was scheduled, you should receive a Notice of Hearing for Default within the same time frame. If you don't receive anything back from the court, you should call your assigned judicial division to follow up on your paperwork.



## On the day of your hearing...

Follow the instructions on the Notice of Hearing you received from the Court. If the hearing is scheduled to be by phone, call in to the number provided at the time your hearing is scheduled. If the hearing is scheduled to be in person, then appear in person. If you have any questions or are confused about how to appear for your hearing, reach out to your assigned division.



Do dress properly. Wear neat, clean clothing.

Do turn off your cell phones and pagers while you are in the courtroom.

Always refer to the Judge as “Your Honor.”  
You may ask the Judge questions, but the Judge cannot give you legal advice.

Be courteous and quiet while you are in the courtroom waiting for your hearing.

DO NOT wear shorts, cut-offs, sleeveless t-shirts, other overly casual or suggestive clothing.

DO NOT bring drinks or food to court and don't chew gum in the Courtroom.

DO NOT bring your children to court. They are not permitted in the Courtroom.

## What the Judge will do...

The Judge will look at the proposed Judgment or Decree and other documents you have prepared and make a final decision regarding your case.

If the documents are correct and complete, the Judge will sign the Judgment or Decree and any other documents that are needed. On the next few pages are some questions that the Judge may ask during your hearing after you have been sworn in.

If your hearing is in person, you will need to wait in the Courtroom until all the cases have been heard. Then the Clerk will take you back to the Clerk's office. If the Judge signed your Judgment or Decree, the Clerk will stamp all the copies of your Decree. You must mail one copy of the signed Judgment or Decree to your now former spouse within three days.



## General questions that the Judge may ask

What is your name?

How long have you been domiciled (lived) in Arizona?

Were you or your spouse living in Arizona, or were either of you a member of the Armed Forces and stationed in Arizona, for at least 90 days before the Divorce Petition was filed?

Are you or your spouse pregnant?

What was your date of marriage and where were you married?

Do you believe if you went to free marriage counseling you could restore your marriage?

Is your marriage irretrievably broken with no reasonable prospect of reconciliation?

This means that there is no reasonable chance that you and your spouse can continue with your marriage.

Is this a covenant marriage?

A covenant marriage is a special type of marriage in Arizona, and it is different from a normal marriage. If you don't know if you have a covenant marriage, that means you probably don't have a covenant marriage.

Do you want your name restored?

You should answer, "yes," only if you want to return to your maiden or former last name.

Is the relief you are asking for today the same as what you asked for in the Petition of Dissolution or Paternity Judgment?

The answer should be "yes."

Do you think the proposed division of property and debts is fair and equitable?

How did you serve the Petition and other papers on the other party and when was he or she served?

## **The Judge may ask these questions if you served the other party by publication**

What steps did you use to try to find the other party?

Who did you talk to about how to find the other party?

What was the last date you saw the other party, received a letter or phone call?

## **Additional questions that you might be asked if you have children**



Are there any children common to the parties?

How many children do you have from this marriage and what are their ages?

Are the children part of any tribal nation?

Is Arizona the home state of the children?

What type of legal decision-making are you requesting for your minor child(ren)?

What type of parenting time are you requesting for the non-custodial parent?

Do you believe the legal decision making and parenting plan requested are in the best interests of your children?

Are there any orders in any other state or country regarding legal decision making, parenting time, or child support?

Are there any expected problems with parenting time?

Do you think the portions of the proposed Decree/Order dealing with legal decision-making and parenting time are in the best interests of the children?

Who will provide medical/dental insurance for the child(ren)?

Are you or the other parent employed? How much do you both earn?

What are day care costs for the child(ren)?

Who should claim the children as tax exemptions for income tax purposes and in which years?

Is the proposed Child Support according to the Guidelines? If not, why should the Court not follow the guidelines?

Of any children born during the marriage, which are not yours and your spouse's?