

## NOTICE TO THE BAR

### ESSEX VICINAGE DISSOLUTION CASES – ENTRY OF DEFAULT AND UNCONTESTED JUDGMENTS WITHOUT PERSONAL APPEARANCES

The Essex Vicinage Superior Court has instituted procedures permitting the entry of default judgments and uncontested judgments without personal appearances in certain dissolution proceedings. Those two sets of procedures are published with this notice. Participation is voluntary.

For default judgments, these procedures are available in dissolution cases in the Essex Vicinage only in the following situations:

- (1) Where the relief requested is limited to dissolution of the marriage; or
- (2) Where the relief requested is the dissolution of the marriage and the continuation of final orders entered in other proceedings resolving all issues of custody, parenting time, and child support, with no outstanding issues;

In either of these situations, relief may also be requested by the plaintiff to resume any name used before the marriage or to assume any surname, consistent with N.J.S.A. 2A:34-21.

For uncontested judgments, these procedures are available in dissolution cases in the Essex Vicinage only in the following situations:

- (1) Where the relief requested is limited to dissolution of the marriage; or
- (2) Where the relief requested is the dissolution of the marriage and the incorporation of a written Property/Marital Settlement Agreement executed by both parties resolving all issues in the Judgment of Divorce; or
- (3) When the relief requested is the dissolution of the marriage and the continuation of final orders entered in other proceedings resolving all issues of custody, parenting time and support;

In any of these three situations, relief may also be requested by either party to permit that person to resume/assume the use of a prior name or other name, consistent with N.J.S.A. 2A:34-21.

This notice and the appended procedures will also be posted on the Judiciary's website at <https://www.njcourts.gov/courts/vicinages/essex.html>. Questions may be directed to the Essex Family Division Manager's Office 973-776-9300 ext. 56667.

Hon. Sallyanne Floria  
Assignment Judge  
Essex Vicinage

Dated: January 14, 2020

# ESSEX VICINAGE DISSOLUTION CASES – PROCEDURES FOR ENTRY OF DEFAULT JUDGMENTS WITHOUT PERSONAL APPEARANCES

## **PURPOSE**

To provide procedures for the entry of Default Judgments without the requirement of a personal appearance in certain divorce proceedings.

## **SCOPE**

This procedure will be available for the following requests for relief:

1. Dissolution of the marriage;
2. Dissolution of the marriage and the continuation of final orders entered in other proceedings resolving all issues of custody, parenting time, and child support, with no outstanding issues; and
3. A request by the plaintiff to resume any name used before the marriage or assume any surname, consistent with N.J.S.A. 2A:34-21. (See section IV below).

\*The judge, in his/her discretion, may require a court appearance if it is deemed that any relief sought would inappropriately prejudice the defaulting party.

## **PROCEDURES**

The Request to Enter a Default Judgment on the papers shall be made in writing at the same time that the Request to Enter Default is filed. Court staff will review the documents submitted. If the documents are not in order, court staff will send a deficiency notice to plaintiff or plaintiff's counsel requiring that it be corrected. If the deficiencies are not satisfied within ten (10) days, the matter will proceed with the requirement of a court appearance.

If the documents appear to be in order, the file will be forwarded to a judge for review within five (5) days of the submission. If the judge is satisfied, the judgment shall be signed and mailed to the plaintiff or plaintiff's attorney. The court, in its discretion, may choose to schedule the matter for a hearing requiring an appearance. If an appearance is required, the plaintiff or plaintiff's attorney shall be notified in advance.

### **I. Required Documents**

The following documents must be filed with the court pursuant to court rule and statute in order to proceed with dissolution on the papers:

- a. Verified Complaint for Divorce, Annulment, Dissolution of a Civil Union or Domestic Partnership;
- b. Proof of Service of the defendant;
- c. In adultery cases, notice to the alleged adulterer and proof of service, which shall include that the alleged adulterer has not moved to intervene or otherwise respond to the notice;
- d. Request to Enter Default;
- e. Certification of Affidavit of Non-Military Service with proof of the Defense Manpower search;
- f. Certification of Non-Collusion, R. 5:4-2 (c);
- g. Certification or Affidavit of Insurance, R. 5:4-2 (f);
- h. Confidential Litigants Information Sheet (CLIS), R. 5:4-2 (g);
- i. Certification of Divorce Dispute Resolution, R. 5:4-2 (h);
- j. Copy of the marriage certificate;
- k. Certification that the plaintiff signed the complaint and all of the allegations in the complaint are true;
- l. An original and two (2) copies of the Proposed Final Judgment of Divorce, Annulment or Dissolution of a Civil Union or Domestic Partnership that states that the matter was heard on the papers submitted and that the court made no finding on the merits; and
- m. A stamped, self-addressed return envelope.

## **II. Proofs**

In addition to the above, appropriate proofs must be submitted to establish the plaintiff's right to the relief requested. If the following proofs are not contained within the Verified Complaint for Divorce, plaintiff shall include them in the form of a sworn statement (affidavit or certification) in support of the request for judgment. The affidavit or certification shall:

- a. Identify all prior and/or pending proceedings between the parties in this or any other jurisdiction. (The statement must indicate the caption, docket number and a brief description of the status of any prior and/or pending proceeding);

- b. If there are no other proceedings, the statement must certify that there are no other prior or pending matters between the parties;
- c. Certify that no property was acquired during the marriage that is subject to equitable distribution; and
- d. Certify that the plaintiff is not seeking alimony, child support, custody, equitable distribution or any other form of relief.

### **III. Continuation of Prior Orders**

If the plaintiff requests the continuation of prior final orders, the complaint or certification must include copies of those order(s) and identify them in the body of the certification.

### **IV. Name Change**

If the plaintiff is requesting a name change, the complaint or certification must include the last 4 digits of the plaintiff's social security number and plaintiff's date of birth. It shall also confirm that the plaintiff:

- a. Has not been convicted of a crime under the name used during the marriage (if this is answered in the affirmative, an appearance and testimony will be required for the name change application);
- b. Is not the subject of any criminal investigation or prosecution;
- c. Is not contemplating the filing of bankruptcy; and
- d. Is not changing the name to avoid creditors.

### **COMMENTS**

This procedure is optional. Court staff will continue to schedule formal hearings requiring court appearances unless this procedure is requested. Appearances will be required when the matter is proceeding based on a Notice of Application for Equitable Distribution, Alimony, Child Support and Other Relief pursuant to R. 5:5-2(e).

This procedure is effective immediately.

# ESSEX VICINAGE DISSOLUTION CASES – PROCEDURES FOR ENTRY OF UNCONTESTED JUDGMENTS WITHOUT PERSONAL APPEARANCES

## **PURPOSE**

To provide procedures for the entry of Uncontested Judgments without the requirement of a personal appearance in certain divorce proceedings. Participation is voluntary.

## **SCOPE**

This procedure will be available for the following requests for relief:

1. Dissolution of the marriage;
2. Dissolution of the marriage and the incorporation of a written Property Settlement Agreement (PSA) or Marital Settlement Agreement (MSA) that will be notarized and executed by both parties resolving all issues;
3. Dissolution of the marriage and the continuation of final orders entered in other proceedings resolving all issues of custody, parenting time, and support, with no outstanding issues; and
4. A request by either party to resume any name used before the marriage or assume any surname, consistent with N.J.S.A 2A:34-21 (See section V below).

\*The Judge, in his/her discretion, may require a court appearance if it is deemed that any relief sought would inappropriately prejudice either party.

## **PROCEDURES**

The request shall be made in writing by both parties. Court staff shall review the file prior to the scheduled hearing date. If the documents are not in order, court staff will send a deficiency notice to the parties or their counsel requiring that it be corrected. If the deficiencies are not satisfied within ten (10) days, the matter will proceed with the requirement of a court appearance.

If the documents appear to be in order, the file will be forwarded to a judge for review within five (5) days of the submission. If the judge is satisfied, the judgment shall be signed and mailed to the parties or their counsel. The court in its discretion may choose to schedule the matter for a hearing requiring an appearance. If an appearance is required, the parties and/or their counsel shall be notified in advance.

### **I. Required Documents**

The following documents must be filed with the court:

- a. Verified Complaint for Divorce, Annulment, Dissolution of a Civil Union or Domestic Partnership;
- b. Proof of Service of defendant;
- c. In adultery cases, notice to the alleged adulterer and proof of service, which shall include that the alleged adulterer has not moved to intervene or otherwise respond to the notice;
- d. Certification of Non-Collusion, R. 5:4-2 (c);
- e. Certification of Affidavit of Insurance, R. 5:4-2 (f);
- f. Confidential Litigants Information Sheet, R. 5:4-2 (g);
- g. Certification of Divorce Dispute Resolution, R. 5:4-2 (h);
- h. Copy of marriage certificate;
- i. An original and two (2) copies of the Proposed Final Judgment of Divorce, Annulment or Dissolution of a Civil Union or Domestic Partnership that states that the matter was heard on the papers submitted and that the court made no finding on the merits;
- j. Uniform Summary Support Order, if applicable, and,
- k. Child support guidelines worksheet, and if there is a deviation from the guidelines, a statement of reasons for the deviation, if applicable; and
- l. A stamped, self-addressed return envelope.

## **II. Certification of Affidavit**

If there is a PSA or MSA (“Agreement”), a certification by each party must be submitted that sets forth the following:

- a. The Agreement was the result of negotiations between the parties;
- b. The party understands that if they make the Agreement part of the Final Judgment of Divorce, it will be as enforceable as any other court order;
- c. The party has read and understands the Agreement fully and that it is fair and reasonable;
- d. The party understands that the court is not going to make a determination on the merits of the Agreement, only that it finds the Agreement to be fair and reasonable;
- e. The party was not forced or coerced into signing the Agreement;

- f. The party agrees to be bound by the terms of the Agreement and is asking the judge to make the Agreement part of the Final Judgment of Divorce;
- g. The party was not under the influence of any drug or alcohol at the time that he or she negotiated, read and signed the Agreement that would impair their ability to understand the nature of the Agreement;
- h. If alimony is not being paid to a party as part of the Agreement, that said party acknowledges that their lifestyle can be maintained as it was during the marriage or that they understand that their lifestyle cannot be maintained and want to enter into the Agreement knowing that their lifestyle cannot be maintained; and
- i. If alimony is being paid as part of the Agreement, that said party either acknowledges that their lifestyle can be maintained as it was during the marriage or that they understand that their lifestyle will not be maintained and want to enter into the Agreement knowing that their lifestyle cannot be maintained.

### **III. Proofs**

Appropriate proofs must be submitted to establish the plaintiff's right to the relief requested. If the proofs listed below are not contained within the Verified Complaint for Divorce, plaintiff shall include them in the form of a sworn statement (affidavit of certification) in support of the request for judgment. The affidavit or certification, should:

- a. Include a statement identifying all prior pending proceedings in this or any other jurisdiction. (The statement must indicate the caption, docket number and a brief indication of the status of any final and/or pending proceeding);
- b. If there are no other proceedings, the statement must certify that there are no other prior or pending matters between the parties;
- c. If an incorporation of a PSA/MSA is requested, each party must submit a certification or affidavit set forth above in Part II;
- d. In cases where alimony is a relief requested, or where the PSA/MSA contains a provision for alimony, include a "Marital Lifestyle Statement" consistent with Crews v. Crews, 164 NJ 11 (2000), and a Case Information Statement which is less than one year old. In the event that there is disagreement about the standard of living or whether the standard of living can be maintained, a court hearing will be necessary; and
- e. State that parties are aware that they are waiving the right to have the judge decide the issues.

#### **IV. Continuation of Prior Orders**

If the plaintiff requests the continuation of prior final orders, the complaint or certification must include copies of those orders and identify them in the body of the certification.

#### **V. Name Change**

If either spouse is requesting a name change, the verified complaint or certification must include the last 4 digits of the party's social security number and date of birth. It shall also confirm that the party requesting a name change:

- a. Has not been convicted of a crime under the name used during the marriage;
- b. Is not the subject of any criminal investigation or prosecution;
- c. Is not contemplating the filing of a bankruptcy; and
- d. Is not changing the name to avoid creditors.

#### **COMMENTS**

This procedure is optional. Court staff will continue to schedule formal hearings requiring court appearances unless the procedure is requested. Appearances will be required when the matter is proceeding based on a Notice of Application for Equitable Distribution, Alimony, Child Support and Other Relief pursuant to R. 5:5-2(e).

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