

MAINE JUDICIAL BRANCH

Plaintiff

DISTRICT COURT

Location (Town):

Docket No.:

V.

Defendant

ANSWER AND COUNTERCLAIM FOR JUDICIAL SEPARATION AND/OR DIVORCE

With minor children No minor children

Title to real estate is involved

19-A M.R.S. §§ 901-954, 1501-1510, 1653, 1843, 2001-2011

A. ANSWER TO COMPLAINT FOR JUDICIAL SEPARATION

- 1. Defendant admits paragraphs # of plaintiff's complaint for judicial separation.
2. Defendant denies paragraphs # of plaintiff's complaint for judicial separation.
3. In further answer to plaintiff's Complaint, Defendant states as follows:

B. COUNTERCLAIM(S)

PLEASE NOTE: In response to the plaintiff's complaint for judicial separation, you have the option to counterclaim. If you choose to do so, you may counterclaim for: (1) judicial separation, (2) divorce, or (3) both. Depending on what you are asking for, please select one or both below. If you would like to file a counterclaim for any of these options, you must answer questions 4 through 17 on this form.

COUNTERCLAIM FOR JUDICIAL SEPARATION

The court has jurisdiction because (check all that apply):

- Defendant has lived apart from the plaintiff for a period in excess of 60 continuous days; or
Defendant desires to live apart from the plaintiff for a period in excess of 60 continuous days.

COUNTERCLAIM FOR DIVORCE

The court has jurisdiction because (check all that apply):

- Plaintiff resided in Maine in good faith for six months before filing the complaint;
Plaintiff is a resident of Maine and the parties were married in Maine;
Plaintiff is a resident of Maine and the parties resided in Maine when the grounds for divorce arose; and/or
Defendant is a resident of Maine.

Defendant lists the following grounds for divorce:

- Irreconcilable marital differences exist between the parties.
Other

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PLEASE NOTE: If either party wishes to keep the address confidential, that party may complete an Affidavit for Confidential Address (FM-057). This form is available at the Clerk's Office or at www.courts.maine.gov.

4. Defendant was lawfully married to plaintiff in (town) _____,
(county) _____, (state) _____, on (mm/dd/yyyy) _____.

5. Defendant now resides in (town) _____, (county) _____,
(state) _____.

Please write "confidential" in the space above if you are filing an Affidavit for Confidential Address.

6. Plaintiff now resides in (town) _____, (county) _____,
(state) _____.

OR

Residence of the Plaintiff is unknown and the defendant has used reasonable efforts and cannot locate the plaintiff.

7. Neither plaintiff nor defendant filed for divorce, judicial separation, or annulment from the other before the underlying complaint, **OR**

A complaint for divorce or annulment was filed before in (court name, town and state of court)

_____ Docket No. _____.

That case: Was dismissed on (mm/dd/yyyy) _____.
 Is still pending.

8. The parties have personal property, **AND**

Either or both parties has/have an interest in real estate, (file and exchange form FM-056).

Neither party has an interest in real estate.

IF THIS CASE DOES NOT INVOLVE MINOR CHILDREN, PLEASE SKIP TO NUMBER 16.

9. Plaintiff and defendant are the parents of the following child(ren):

Full name	Date of birth (mm/dd/yyyy)	Present address(es) (do not list if confidential to other party)
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

10. List below where and with whom the child(ren) have lived within the **past 5 years** in order from the most recent, 19-A M.R.S. § 1753 (attach an additional page if more space is needed):

Name of person child(ren) lived with	Present address of the person that child(ren) lived with (do not list if confidential to other party)	Dates lived with that person (mm/yy) – (mm/yy)	Town/State where child(ren) lived with that person
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

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11. Other possible parents (check one):

The child(ren) do not have any other acknowledged, adjudicated, intended, de facto, or presumed parents.

OR

The child(ren) have another acknowledged, adjudicated, intended, de facto, or presumed parent.

Quick Reference Guide:

An **acknowledged** parent is a person who signed a valid acknowledgment of parentage with the intent to establish parentage. 19-A M.R.S. § 1861.

An **adjudicated** parent is a person determined to be a parent of the child by a court order. 19-A M.R.S. § 1832(2).

A **presumed** parent is a person who was married to the other parent when the child was conceived or born; or a person that resided in the same household with the child and openly held out the child as that person’s own from the time the child was born or adopted and for a period of at least 2 years thereafter and assumed personal, financial, or custodial responsibilities for the child. 19-A M.R.S. § 1881.

A **biological** parent is a person who is the genetic parent of the child.

A **de facto** parent is a person who is recognized as a parent of the child. A person seeking to be adjudicated a de facto parent of a child must complete and file **FM-232** (instead of this filing) with an affidavit alleging under oath specific facts to support the existence of a de facto parent relationship with the child. 19-A M.R.S. § 1891.

An **intended** parent is a person married or unmarried, who manifests the intent to be legally bound as the parent of a child resulting from assisted reproduction or a gestational carrier agreement. In the case of a married couple, any reference to an intended parent includes both spouses. 19-A M.R.S. §§ 1921-1939.

12. No one other than the plaintiff or defendant has physical custody of the child(ren), or claims to have custody or visitation rights with respect to the child(ren), except as follows:

13. Defendant has not been involved in any way in, and has no information about, another court case in Maine or in any other state concerning custody of the child(ren) except as follows:

Protection from Abuse (provide docket number): _____

Probate matter (provide docket number): _____

Other (describe what kind of other case and provide docket number): _____

14. If you are asking that the court change the child(ren)’s names, please explain why there is good cause to do so (19-A M.R.S. § 1843(3)). If this does not apply, please leave blank:

15. No public assistance benefits (MaineCare or TANF) have ever been received for the child(ren).

OR

Public assistance benefits (MaineCare or TANF) have been, are now, or will be received for the child(ren).

AND

The Department of Health and Human Services **has** issued a child support order regarding the child(ren). (If such an order has issued, a copy of the order must be attached to this Answer and Counterclaim.)

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16. DEFENDANT REQUESTS that a judicial separation divorce be granted and that the court (check all that apply):

Set apart the non-marital property to each party and divide the marital property (file and exchange form FM-043);

Order that spousal support be paid to defendant by plaintiff (file and exchange form FM-043);

Award reasonable attorney fees to defendant's attorney (file and exchange form FM-043);

Change defendant's name to: _____; and

If the parties have minor children:

Determine parental rights and responsibilities for the minor child(ren) pursuant to 19-A M.R.S. §1653, including child support (file and exchange FM-050); and/or

Change the child(ren)'s names as follows:

A. The child's name is _____. I ask that the child's name be changed to _____.

B. The child's name is _____. I ask that the child's name be changed to _____.

C. The child's name is _____. I ask that the child's name be changed to _____.

D. The child's name is _____. I ask that the child's name be changed to _____.

E. The child's name is _____. I ask that the child's name be changed to _____.

F. The child's name is _____. I ask that the child's name be changed to _____.

If this is a counterclaim for divorce:

Change defendant's name to: _____.

I swear under penalty of perjury that the above statements are true and correct. I understand that these statements are made for use as evidence in court and that I am subject to prosecution for perjury punishable by up to 5 years in prison and a fine of up to \$5,000 if I give false information to the court.

Date (mm/dd/yyyy): _____



Defendant's Signature

Defendant's Attorney: _____

Maine Bar No.: _____

Mailing Address: _____

Phone: _____

Email: _____

Defendant: _____

Address is confidential (if so, leave blank below)

Mailing Address: _____

Home phone: _____

Cell phone: _____

Email: _____

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STATE OF MAINE

_____ County

Personally appeared the above named defendant, _____, and made oath that the foregoing statements are true under penalty of perjury.

Before me,

Date (mm/dd/yyyy): _____



 Attorney at Law Notary Public Clerk

PLEASE NOTE: Plaintiff has 21 days after being served with this Answer and Counterclaim to file an answer with the court and must provide copies of all filings to other party.

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