INSTRUCTIONS for UNCONTESTED DIVORCE PACKET WITHOUT MINOR and/or DEPENDENT CHILDREN (For the Island of O‘ahu)

WHO CAN FILE FOR DIVORCE?

In order to file a divorce action in the Family Court of the First Circuit (on O‘ahu), you must file a “Complaint for Divorce; Automatic Restraining Order; and Summons to Answer Complaint.” (The islands are divided into separate circuits.)

In same sex marriage cases, you may file your divorce action on O‘ahu if your resident state does not recognize same sex marriage.

- First Circuit = O‘ahu
- Second Circuit = Maui, Lāna‘i, and Moloka‘i
- Third Circuit = Hawai‘i (Hilo and Kona Divisions)
- Fifth Circuit = Kaua‘i

Contact the Family Court in your circuit to obtain documents to file your divorce or visit the Judiciary’s website at www.courts.state.hi.us.

BEFORE YOU START

Read through this entire instruction packet before you start to fill in the documents. This packet includes instructions, information and forms needed to obtain an uncontested divorce. The instructions tell you which documents need to be completed, when the documents need to be file-stamped by the Court, and what you need to do to place your divorce case on the Court Calendar. The *Uncontested Divorce Without Minor and/or Dependent Children Document Checklist* contains information on how many copies of each document you need to submit and who signs the document. The checklist also helps you see what documents you have completed and which documents you still have to do.

The *Divorce Decree (Without Minor and/or Dependent Children)* in this packet contains provisions that covers most divorce situations. There may be other terms or provisions necessary for your case. You are strongly urged to talk to an attorney to discuss your legal rights and duties.

Most uncontested divorces are done by affidavit, with a Judge reviewing the documents you submit. This means that neither you nor your spouse appear at a Court hearing if your documents are properly completed and all the necessary steps have been followed. Therefore it is very important that you understand which documents are needed



In accordance with the Americans with Disabilities Act, as amended, and other applicable state and federal laws, if you require accommodation for a disability, please contact the ADA Coordinator at the First Circuit Family Court office by telephone at 954-8200, fax 954-8308, or via email at adarequest@courts.hawaii.gov at least ten (10) working days prior to your hearing or appointment date.

*Please call the Family Court Service Center at **954-8290** if you have any questions about forms or procedures.*

and what you must do before the Court will grant your divorce. If the Court has any questions or concerns, you and your spouse may be required to appear at a hearing or submit more documents.

It is important for you to realize that **a divorce takes time**. Most of you will not be able to complete all your divorce documents in one day. Be sure to read each document thoroughly and make sure you understand what the document says. **Do not sign any document you do not agree with or you do not understand.**

IF YOU NEED ASSISTANCE

The clerks of the Court are not allowed to give legal advice or assist you in the completion of the divorce documents. In accordance with the Americans with Disabilities Act, as amended, and other applicable state and federal laws, if you require accommodation for a disability, please contact the ADA Coordinator at the First Circuit Family Court office by telephone at 954-8200, fax 954-8308 or via email at adarequest@courts.hawaii.gov at least ten (10) working days prior to your scheduled hearing or appointment date.

Legal Assistance

If possible, you should seek the assistance of an attorney. Even if you cannot afford to have an attorney to represent you for the whole divorce, you should try at least to talk to an attorney to discuss your legal rights and duties. You can check the Yellow Pages of the telephone book for names of attorneys or you may call the following organization for possible assistance:

HAWAIʻI STATE BAR ASSOCIATION
Lawyer Referral and Information Service
Telephone: 537-9140

The following organizations offer assistance or self-help clinics to persons who fall within certain income brackets:

LEGAL AID SOCIETY OF HAWAIʻI
Honolulu Office
Telephone: 536-4302

AFFORDABLE LAWYERS
(A Project of the Legal Aid Society of Hawaiʻi)
Telephone: 527-8027

VOLUNTEER LEGAL SERVICES HAWAIʻI
Telephone: 528-7046

If there have been incidents of Domestic Abuse, you may want to call the following organization to obtain assistance:

DOMESTIC VIOLENCE ACTION CLEARINGHOUSE
Telephone: 531-3771

Mediation Services

If you and your spouse need mediation services you may refer to the Yellow Pages under mediation/counseling or you may call:

THE MEDIATION CENTER OF THE PACIFIC, INC.
Telephone: 521-6767

The Mediation Center of the Pacific works to help people solve their problems out of court. Trained volunteer mediators sit down with the disputing parties to work out a fair solution, agreeable to all parties. Mediation is available for a nominal administrative fee per party per session.

REFERENCE MATERIALS TO GUIDE YOU

The following materials, located at the Supreme Court Law Library, 417 South King Street, Honolulu, Hawai'i (behind the King Kamehameha Statue), may assist you:

HAWAI'I DIVORCE MANUAL (2005); HAWAI'I DIVORCE MANUAL, 2006 Supplement; HAWAI'I DIVORCE MANUAL, 2007 Supplement; HAWAI'I DIVORCE MANUAL, 2008 Supplement; and HAWAI'I DIVORCE MANUAL, 2009 Supplement (Hawai'i State Bar Association); HAWAI'I DIVORCE MANUAL, 2010 Supplement (Hawai'i State Bar Association)

HAWAI'I REVISED STATUTES

HAWAI'I FAMILY COURT RULES

HAWAI'I COURT RECORDS RULES

ON THE INTERNET

JUDICIARY WEB PAGE (www.courts.state.hi.us)

FILING FEES REQUIRED TO OPEN YOUR DIVORCE CASE (Cash or Personal Check, Money Order/Cashier's Check Payable to: CHIEF CLERK, First Circuit)

Initial Filing Fee:	$100.00	Motions: No filing fee required.
Surcharge:	+ 65.00	
Computer System Surcharge:	+ 50.00	
TOTAL W/O MINOR CHILDREN	**$215.00**	
Parent Education Surcharge: (if either party has minor children from this marriage or any other relationship)	+ 50.00	
TOTAL	**$265.00**	

If you feel you cannot afford the filing fees, you may wish to contact the Legal Aid Society of Hawai'i (ph: 536-4302) or the Volunteer Legal Services Hawai'i (ph: 528-7046) to help you request that the filing fee be waived by the Court. You may also obtain a fee waiver request from the Family Court Service Centers located on the first floor at the Ronald T.Y. Moon Courthouse, 4675 Kapolei Parkway, Kapolei, Hawai'i or on the first floor of the Ka'ahumanu Hale, 777 Punchbowl Street, Honolulu, Hawai'i.

FILE-STAMPING OR FILING YOUR DOCUMENTS:

You will need to get almost all of your documents "filed," or "file-stamped," at the court house. Look at the *Uncontested Divorce (Without Minor and/or Dependent Children) Documents Checklist* for a summary of how many copies, in addition to the original, of each document you will need to submit to Court. Documents are file-stamped by the Court at the following locations and during the following times:

LEGAL DOCUMENTS SECTION

Ronald T.Y. Moon Courthouse
4675 Kapolei Parkway, First Floor
Kapolei, Hawai'i 96707

OR

Ka'ahumanu Hale
777 Punchbowl Street, First Floor
Honolulu, Hawai'i 96813

Hours: 8:00 a.m. to 4:15 p.m., Monday through Friday
Except State Holidays

PLACING YOUR CASE ON THE COURT CALENDAR:

When you have completed and filed all necessary divorce documents reflected in the checklist, your case will be ready to set on the Uncontested Divorce by Affidavit (UDA) calendar. Refer to the *Uncontested Divorce (Without Minor and/or Dependent Children) Documents Checklist* for a summary of which documents are required.

If you do not have an attorney, it is suggested that your documents be reviewed at the Family Court Service Center located on the first floor of the Ronald T.Y. Moon Courthouse, 4675 Kapolei Parkway, Kapolei, Hawai‘i or on the first floor of the Ka‘ahumanu Hale, 777 Punchbowl Street, Honolulu, Hawai‘i. The service center staff will review your documents for completeness and make sure that all necessary documents have been submitted.

Drop off your UDA packet of necessary documents noted on the *Documents Checklist* to the Judicial Services Office at Window #5 on the First Floor of the Ronald T.Y. Moon Courthouse, 4675 Kapolei Parkway, Kapolei, Hawai‘i 96707. Packets may be dropped off between 8:00 a.m. and 4:15 p.m., Monday through Friday, except State Holidays.

AFTER THE JUDGE REVIEWS YOUR DOCUMENTS

Once your case is set on the uncontested divorce by affidavit calendar, your documents will be reviewed by the Judge. If the Judge grants your divorce and signs your *Divorce Decree*, you should receive certified copies of the *Divorce Decree* in the mail within four (4) to six (6) weeks after the judge reviews your documents. If you do not receive the documents, it is your responsibility to check the status of your case on the Judiciary's website at www.courts.state.hi.us. The status of your case will not be given out over the telephone. If the disposition calendar says that your divorce was "GRANTED," wait a reasonable time for the *Divorce Decree* to be sent to you in the mail. If your divorce is "DENIED", a copy of the disposition calendar will be mailed to you in the envelope you provided. You must follow the Judge's instructions noted on the disposition calendar before your divorce can be finalized.

STEPS TO OBTAIN AN UNCONTESTED DIVORCE
(Without Minor and/or Dependent Children)

STEP 1: **OPENING YOUR DIVORCE CASE** (If you are the one who is filing for divorce, you are the ***"PLAINTIFF"*** and your spouse is the ***"DEFENDANT."***)

To open or start your divorce case, you must take certain documents to the court house for filing. You will need the following documents to open or start your divorce case:

1. **COMPLAINT FOR DIVORCE; AUTOMATIC RESTRAINING ORDER; SUMMONS TO ANSWER COMPLAINT ("Complaint")**. Pursuant to Act 213 of the 2018 Legislative Session, an Automatic Restraining Order regarding the finances and child(ren), if any, of the parties, is effective as to the Plaintiff upon the filing of the *"Complaint for Divorce; Automatic Restraining Order; Summons to Answer Complaint"* and effective as to the Defendant upon service of the *"Complaint for Divorce; Automatic Restraining Order; Summons to Answer Complaint."*

2. **MATRIMONIAL ACTION INFORMATION ("MAI");**

3. **NOTICE TO ATTEND KIDS FIRST** (If either husband or wife has minor child(ren) from other relationships this form must be completed. You can request to be excused from attending this program by filling out the request form available at the Family Court Service Center. Failure to attend the Kids First Program, if required, may result in denial of your divorce until you comply with this requirement. If you have any questions, please log on to the Kids First website at www.kidsfirsthawaii.com or call the Kids First Program at 954-8280 or leave a message at 954-8281.

If your spouse does not live on O'ahu, you must also submit the following document to obtain the Court's approval before serving your spouse by certified or registered mail:

4. **MOTION AND DECLARATION FOR SERVICE BY MAIL; ORDER FOR SERVICE BY MAIL** (**Note:** Drop this document along with the *"Complaint for Divorce; Automatic Restraining Order; and Summons to Answer Complaint," MAI*, and Notice to Attend Kids First, if applicable, to the Judicial Services at Window #5 on the First Floor of the Ronald T.Y. Moon Courthouse to obtain the Court's approval.)

After completion, take the originals and copies of the above documents along with required court filing fees to the Legal Documents Section (Ronald T.Y. Moon Courthouse, 4675 Kapolei Parkway, First Floor, Kapolei, Hawai'i or Ka'ahumanu Hale, 777 Punchbowl Street, First Floor, Honolulu, Hawai'i) to be filed-stamped by the Court. The Court will assign you a case number which you need to write on all the rest of your documents.

STEP 2: GETTING THE DOCUMENTS TO YOUR SPOUSE: "SERVICE" OF THE COMPLAINT AND SUMMONS AND FILE-STAMPING THE SERVICE DOCUMENT

"Service" means getting a file-stamped copy of the "*Complaint for Divorce; Automatic Restraining Order; and Summons to Answer Complaint"* and *Notice to Attend Kids First,* if applicable, to your spouse (the Defendant) in the correct way. You must provide the court with proof that your spouse was personally served with **a file-stamped** copy of the *"Complaint for Divorce; Automatic Restraining Order; and Summons to Answer Complaint"* before the Court can consider granting your divorce. (**Note:** If your spouse does not file with the Court a written answer or response to the *Complaint for Divorce* and does not contact you in any way within 20 days after receipt of the *Complaint*, see the Uncontested Divorce by Default Section below.)

Proof that your spouse was properly served can be shown by file-stamping one or more of the following:

1. **APPEARANCE AND WAIVER**: If you and your spouse (the Defendant) have **agreed to** and **signed** the *Divorce Decree*, your spouse must sign an *Appearance and Waiver*. By signing the *Appearance and Waiver*, your spouse is stating that he or she has received a file-stamped copy of the *"Complaint for Divorce; Automatic Restraining Order; and Summons to Answer Complaint*" and that he or she agrees that the Court may grant the divorce without his or her presence in Court. (**Note:** The *Appearance and Waiver* cannot be signed and dated before the *Complaint* is file-stamped by the Court. If it is signed and dated before the *Complaint* was file-stamped, the Court will require that your spouse sign another *Appearance and Waiver* which has been signed and dated after the *Complaint* was file-stamped.)

2. **PROOF OF SERVICE**: If your spouse lives on O'ahu the *"Complaint for Divorce; Automatic Restraining Order; and Summons to Answer Complaint*" and *Notice to Attend Kids First,* if applicable, must be **personally served** on your spouse unless he or she is agreeing to sign the *Divorce Decree* and *Appearance and Waiver*. It cannot be mailed, unless your spouse will sign the *Divorce Decree* and *Appearance and Waiver*. The *"Complaint for Divorce; Automatic Restraining Order; and Summons to Answer Complaint*" and *Notice to Attend Kids First*, if applicable, can be served by a private process server (Note: A list of private process servers may be obtained at the Family Court Service Center in Kapolei or Honolulu) or by any responsible person who is over 18 years old other than yourself. After service is complete, the person who served the *"Complaint for Divorce; Automatic Restraining Order; and Summons to Answer Complaint*" and *Notice to Attend Kids First*, if applicable, on your spouse must complete the *Proof of Service* form. Information regarding the date and time your spouse was served and the place where your spouse was served must be filled in. The person who served the *"Complaint for Divorce; Automatic Restraining Order; and Summons to Answer Complaint"* must also sign the *Proof of Service*. (**Note:** If after service of the "*Complaint for Divorce; Automatic Restraining Order; and Summons to*

Answer Complaint," you and your spouse have agreed to and signed the *Divorce Decree*, your spouse must also sign an *Appearance and Waiver*.)

3. **STATEMENT OF MAILING; EXHIBITS 1 and 2**: If your spouse does not live on O'ahu, you may serve your spouse by **certified or registered mail, restricted delivery**. You must complete the *Motion and Declaration for Service by Mail, Order for Service by Mail* and obtain the Court's approval before serving your spouse by mail. The Receipt for Certified Mail and Domestic Return Receipt or the Receipt for Registered Mail and Return Receipt must be attached to the *Statement of Mailing Exhibits 1 and 2*. The Return Receipt must be signed by your spouse and show the date that your spouse received the document. (**Note**: If after service of the *"Complaint for Divorce; Automatic Restraining Order; and Summons to Answer Complaint,"* you and your spouse have agreed to and signed the *Divorce Decree*, then your spouse must also sign an *Appearance and Waiver*.)

STEP 3: FILE STAMP ALL THE FOLLOWING DOCUMENTS

1. **INCOME AND EXPENSE STATEMENT OF PLAINTIFF** (YOU): Must be signed and dated by you and reflect current income and expenses.

2. **ASSET AND DEBT STATEMENT OF PLAINTIFF** (YOU) OR ***BOTH PARTIES***: Must be signed and dated by you and reflect current assets and debts. If the *Asset and Debt Statement* is for both you and your spouse, both you and your spouse must sign and date this form.

3. **INCOME AND EXPENSE STATEMENT OF DEFENDANT** (YOUR SPOUSE): Must be signed and dated by your spouse. If you are unable to obtain the *Income and Expense Statement* from your spouse, you must explain why in paragraph 10c of the *Affidavit of Plaintiff (for Uncontested Divorce)* form.

4. **ASSET AND DEBT STATEMENT OF DEFENDANT** (YOUR SPOUSE): Must be signed and dated by your spouse. If you are unable to obtain the *Asset and Debt Statement* from your spouse, you must explain why in paragraph 10c of the *Affidavit of Plaintiff (for Uncontested Divorce)* form. (NOTE: If you and your spouse completed an *Asset and Debt Statement for Both Parties* there is no need to prepare a separate *Asset and Debt Statement* for the Defendant.)

5. **AFFIDAVIT OF PLAINTIFF (FOR UNCONTESTED DIVORCE)**: If applicable, you must have attended or have been excused from attending the Kids First Program, and all your documents, including the *Divorce Decree* must be completed before this document can be filled in. This document should be completely filled in or the Court may not grant your divorce. After completion, this document needs to be signed by you in front of a notary public.

STEP 4: OTHER REQUIRED DOCUMENTS

1. **DIVORCE DECREE (WITHOUT MINOR and/or DEPENDENT CHILDREN)**: Fill in each section of the *Divorce Decree* after you and your spouse have come to an agreement as to what will be contained in your *Divorce Decree*. You and your spouse must sign and date the last page of the *Divorce Decree* and fill in your that last four digits of your Social Security Numbers and your addresses. This document does not get file-stamped until the Judge has reviewed all of your documents and approved and signed the *Divorce Decree*.

2. **TWO SELF-ADDRESSED, STAMPED ENVELOPES (at least 9-1/2" x 4-1/4" in size):** One envelope should be addressed to you and one addressed to your spouse. After the *Divorce Decree (Without Minor and /or Dependent Children)* is file-stamped by the Court, copies will be mailed to you and your spouse. Provide enough postage to cover mailing these documents to you and your spouse.

STEP 5: PLACE YOUR CASE ON THE CALENDAR (See page 4 above.)

UNCONTESTED DIVORCE BY DEFAULT

You can proceed with your divorce by default if your spouse has not filed a written answer or response with the Court and has not contacted you within 20 days after receipt of the *"Complaint for Divorce; Automatic Restraining Order; and Summons to Answer Complaint*." Default may be granted when a Defendant does not come forward in any way to defend himself or herself against the divorce. To get your divorce by default, the following steps must be followed after the *Proof of Service* or the *Statement of Mailing; Exhibits 1 and 2* has been file-stamped by the Court:

STEP 1: ADDITIONAL DOCUMENTS YOU NEED TO COMPLETE AND FILE-STAMP

1. **INCOME AND EXPENSE STATEMENT OF PLAINTIFF** (YOU): Must be signed and dated by you and reflect current income and expenses.

2. **ASSET AND DEBT STATEMENT OF PLAINTIFF:** Must be signed and dated by you and reflect current assets and debts.

3. **AFFIDAVIT OF PLAINTIFF (FOR UNCONTESTED DIVORCE)**: You must have attended or have been excused from attending the Kids First Program, and all your documents, including the *Divorce Decree* must be completed before this document can be filled in. This document should be completely filled in or the Court may not grant your divorce. After completion, this document needs to be signed by you in front of a notary public.

STEP 2: OTHER REQUIRED DOCUMENTS

1. **DIVORCE DECREE (WITHOUT MINOR and/or DEPENDENT CHILDREN)**: Fill in each section of the *Divorce Decree*. You must sign and date the last page of the *Divorce Decree*. You must also fill in information of your and your spouse's Social Security Numbers, addresses, and employers' name and address. This document does not get file-stamped until the Judge has reviewed all of your documents and approved and signed the *Divorce Decree*.

2. **TWO SELF-ADDRESSED, STAMPED ENVELOPES (at least 9-1/2" x 4-1/4" in size):** One envelope should be addressed to you and one addressed to your spouse. After the *Divorce Decree (Without Children)* is file-stamped by the Court, copies will be mailed to you and your spouse. Provide enough postage to cover mailing these documents to you and your spouse.

STEP 3: PLACE YOUR CASE ON THE CALENDAR

See page 5 above.