

INSTRUCTIONS FOR PREPARING DECREE WHERE DEFENDANT FILES
IRRECONCILABLE DIFFERENCES ANSWER AND ALL ISSUES
HAVE BEEN RESOLVED BY WRITTEN AGREEMENT

Where the defendant has filed an irreconcilable differences answer and all issues are resolved by a written agreement, you can prepare the decree before the hearing and be reasonably sure that it will be correct. These instructions are designed for use with the attached sample decree. This decree is only a sample; you will need to change it to make it fit the facts of your case. It has been designed for use in most relatively simple divorce cases where the parties have reached an agreement, in writing, about all issues and where the defendant has filed an irreconcilable differences answer. If this sample decree does not deal with every issue in your case, you may need to add additional provisions. You are responsible for making sure your decree is appropriate for your case.

STEP 1.

As you prepare your decree, include only those provisions that are relevant to your case. Start off by deleting any parts of the model decree that you do not need. For example, if there are no children, you would delete paragraphs 6, 7, and 8 of the Findings of Fact and Conclusions of Law, and you would delete the paragraphs marked as B, C, D, and E in the next part of the decree (You should not write these letters on your decree. They are on the sample to help show you what to include and not to include.)

<u>IF</u>	<u>THEN DELETE</u>
there are children	5
there are no children	6, 7, 8; B, C, D, E
no injunction is needed	11, F
wife doesn't want maiden/former name	14, H

After you delete the paragraphs that don't apply to you, you will need to re-number the paragraphs of the Findings of Fact and Conclusions of Law on your sample decree.

STEP 2.

Now you will need to follow the circled numbers on your sample decree and fill in the necessary information. These circled numbers are just to help you with the instructions, and you should not include them on your final decree when you type it. Go all the way through the decree, and write down any questions you need to talk with Legal Services about, so you can get them all answered at one time.

- 1 Write in the name of the county where your case is filed.

- 2 Write in your name, as you have on all prior papers.
- 3 Write in your civil action number.
- 4 Write in your spouse's name, as you have on all prior papers.
- 5&6 Write in the date of your hearing, with the day in the first space and the month in the second space (for example, the 6th day of April, 1992).
- 7 Write in your name, just as above.
- 8 If your spouse is not going to be at the hearing, delete everything in these brackets. If your spouse is going to be at the hearing, keep in the words but take out the bracket marks. (In other words, if your spouse is not coming, the first sentence would read "On the *** day of ****, 19**, came the plaintiff, *****, in person, pro se." If your spouse is coming, the first sentence would read "On the *** day of ****, 19**, came the plaintiff, *****, in person, pro se, the defendant, *****, also appearing in person, pro se."
- 9 If you still have this space in your decree, write in your spouse's name, as above.
- 10 If your spouse is not going to be at the hearing, delete the brackets and everything in them. If your spouse is going to attend, delete the bracket marks only.
- 11 Write in the date of your Settlement Agreement.
- 12 Write in the county where you live, if you have been there for a year. If not, ask for help with this part of the decree.
- 13 Write in the county where your spouse lives.
- 14 Write in the state where your spouse lives.
- 15 Write in the county where you were married.
- 16 Write in the state where you were married.
- 17 Write in the date that you were married (month, day & year).
- 18 If you and your spouse have only one child, delete the material in the second set of brackets. If you have more than one child, delete the material in the first set of brackets.
- 19 If you haven't already deleted this, insert the number of children that you and your spouse have.
- 20&21 Insert the names and birthdates for each of your children with your spouse. You will need to add additional spaces if you have more than two children.

- 22 If you have one child, your decree will say "child is" and if you have more than one child, your decree will say "children are".
- 23 If you have the children, write "plaintiff" here; if your spouse does, write "defendant." If some are with you and some are with your spouse, or if the children are not now with the person who will have custody under your agreement, ask Legal Services for help with this paragraph.
- 24A Keep "child" or "children", depending on your situation.
&B
- 25 This sentence may need to be changed if you did not include an amount for child support in your agreement based on the child support formula. If you have questions, contact Legal Services.
- 26 Keep "child" or "children", depending on your situation.
- 27 If your agreement provides that either you or your spouse is to pay alimony, check with Legal Services. Otherwise, this sentence is ok as written.
- 28 Insert the date of your agreement (month, day and year).
- 29 If your agreement provides that your spouse will have an injunction against him or her, leave the word "defendant" here and delete the rest. If the agreement provides that both of you will be enjoined from bothering the other, leave the words "both plaintiff and defendant".
- 30 Delete these words if you have no children. Otherwise, leave them in.
- 31 If you haven't already deleted this paragraph, put "plaintiff" if you want your former name; put defendant if your spouse wants her former name.
- 31A Leave either "maiden" or "former," but not both. A person is allowed to go back to a former married name only if she has a living minor child from that marriage.
- 31B Insert the full name that you or your spouse wants to use.
- 32 Insert your name, as above.
- 33 Insert your spouse's name, as above.
- 34 Insert the date of your marriage (month, date and year).
- 35 If you are to have custody, insert "plaintiff." If your spouse is to have custody insert "defendant."
- 36 Keep "child" or "children, as appropriate.

- 37 If you are to have custody, insert "defendant." If your spouse is to have custody insert "plaintiff."
- 38 If you are to have custody, insert "defendant." If your spouse is to have custody insert "plaintiff."
- 39 If you are to have custody, insert "plaintiff." If your spouse is to have custody insert "defendant."
- 40 Insert the amount of monthly child support from your agreement.
- 41 Keep "child" or "children," as appropriate.
- 42 Keep "child" or "children," as appropriate.
- 43 This paragraph needs to fit with the part of your settlement agreement that dealt with medical support. If only you or your spouse has the responsibility to obtain insurance under your agreement, change this section of the decree to say who has the responsibility. If you or your spouse has the responsibility to obtain insurance even if it isn't available at reasonable cost through work, change this sentence to say "It is ADJUDGED, ORDERED and DECREED that the [plaintiff or defendant] shall obtain and maintain medical and hospitalization insurance on behalf of the minor child or children as an additional form of support."
- 44& Keep "child" or "children," as appropriate.
44A
- 45 Keep the appropriate phrase, according to what is in your agreement.
- 46 Keep the appropriate phrase, depending on whether just your spouse agreed to an injunction against him or her or whether both of you agreed to injunctions against you.
- 47 Delete these words if you have no children. Otherwise, leave them in.
- 48 Insert the month, date and year of your settlement agreement.
- 49 If you are to be restored to a previous name, leave "plaintiff" or if your spouse is to be restored to a previous name, leave "defendant".
- 50 Leave either "maiden" or "former," but not both.
- 51 Insert the full name that you or your spouse wants to use.

STEP 3

Type up your decree well in advance of the hearing, and set up an appointment with one of the lawyers at Legal Services to go over it with you.