



JC Pretorius Attorneys

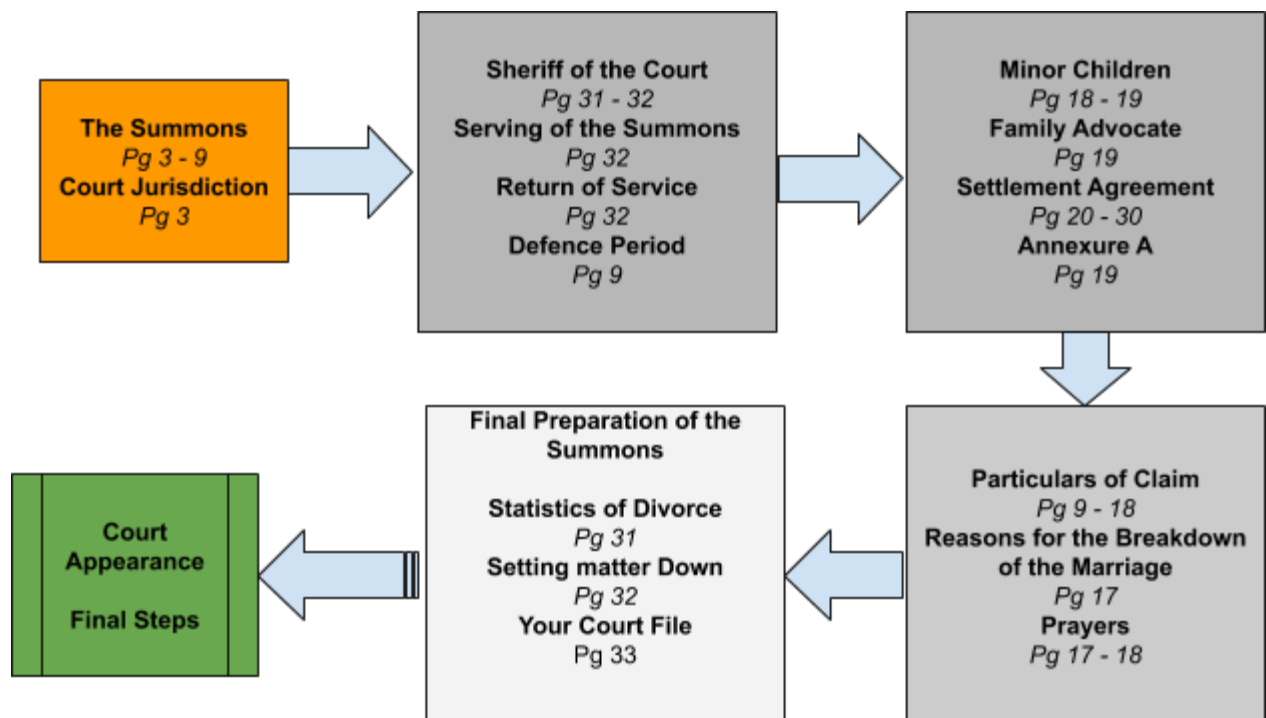
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INTRODUCTION

This Self Help Divorce is designed to assist you through the process of your uncontested divorce whilst representing yourself on an in person basis in the Regional Court as allowed by common-law in South Africa. That means an individual would represent himself/herself in court on the day of the divorce hearing, without the representation of an attorney.

DIVORCE QUICK FLOW





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WE HAVE THREE OPTIONS FOR YOU (Uncontested Local Divorce)

1. You can use this guide to conduct your own divorce in the Regional Court and draft your own court documents by using the examples in this guide.
2. You can use this guide, and instruct us to do the DIY option in the Regional court, we will then draft all your divorce documents to your requirements for **R950.00** you just need to complete the online divorce form at <https://self-help-divorce.co.za/diy-divorce/> you then have to pay in our Trust Account and you will receive your divorce pack within 48 Hours with a step by step process to follow.
3. You will receive the following divorce papers if we do the drafting for you:
 - Combined Summons (Including Particulars of Claim)
 - Deed of Settlement (Including parental plan)
 - Family Advocate Affidavit
 - Statistic Form
 - Step by Step guide

Please take note that these documents are not generic forms but drafted by a divorce attorney to your specific requirements.

4. We can assist you with Attorney Assisted Divorce we will then draft all your divorce documents, and finalise your divorce in the HIGH COURT OF SOUTH AFRICA. You only have to appear in court and will be represented by an Advocate.

Please visit

<https://self-help-divorce.co.za/attorney-assisted-divorce/>



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Cost:

Our Fee:.....R7 500.00

Adv Fee:..... R1 000.00

Sheriff Fee:..... R250.00

Total R8 750.00

PAYMENT TERMS

You pay a deposit of R4 000.00 and the balance over 3 months, in the amount of **R1 750.00**

The Summons

You will note that the printed document is referred to as a Combined Summons this means that the first four pages are merely the front cover of the summons to which a further document, called the Particulars of Claim is annexed (thus forming a combined document). Firstly we need to find out from which court this summons will be issued (a term called jurisdiction). The court will only hear matters from people over which the court has jurisdiction, which means that a court will adjudicate a matter between the parties if one or both of them is normally resident within the area of the court's jurisdiction.

Jurisdiction - Divorce Act 70 of 1979

(1) A court shall have jurisdiction in a divorce action if the parties are or either of the parties is
(a) domiciled in the area of jurisdiction of the court on the date on which the action is instituted; or
(b) ordinarily resident in the area of jurisdiction of the court on the said date and have or has been ordinarily resident in the Republic for a period of not less than one year immediately prior to that date.



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Use the link <https://www.justice.gov.za/maps/maps.html> to help you locate the courts of South Africa with the address and telephone numbers and the court that would have jurisdiction in your matter.

As a South African resident your domiciled or resident area is regarded as the area in which you live when you started your divorce proceedings.

Non - South African residents are only regarded as a resident of the area in which they lived if they have been resident in South Africa for a period of 12 months or more.

If you have been residing in South Africa for less than 12 months as a Non - South African then the Court will not have jurisdiction to hear your divorce matter.



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Example:

NO 2C - COMBINED SUMMONS (DIVORCE MATTER)	
IN THE REGIONAL COURT FOR THE REGIONAL DIVISION OF WESTERN CAPE HELD AT BELLVILLE	
Case No:	
In the matter between:	
A.M Bloggs (Identity Number: xxxxxxxxxxxxxx)	PLAINTIFF
And	
J.P Bloggs (Identity Number: xxxxxxxxxxxxxx)	DEFENDANT
TO THE SHERIFF OR HIS/HER DEPUTY:	
INFORM J.P Bloggs with Identity Number xxxxxxxxxxxxxx a major Business man by Occupation and currently residing at XXXXX, XXXXXX (Hereinafter referred to as the " <i>Defendant</i> ");	
THAT	
A.M Bloggs , with Identity Number xxxxxxxxxxxxxx a major female Personal assistant and residing at XXXXXX, XXXXX (Hereinafter referred to as the " <i>Plaintiff</i> ");	
Hereby institutes action against him/her in which action the Plaintiff claims the relief and on the grounds set out in the Particulars of Claim annexed hereto.	
INFORM the Defendant further that if defendant disputes the claim and wishes to defend the action he/she shall-	



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- (i) within 10 (ten) days of service upon him or her of this summons file with the registrar of the Bellville **Magistrate's Court, Voortrekker and Landdros Street, Bellville, Cape Town, 7535** notice of his/her intention to defend and serve a copy thereof on the Plaintiff's attorney, which notice shall give an address (not being a post office box or *poste restante*) referred to in rule 19(3) for the service upon the Defendant of all notices and documents in the action;
- (ii) thereafter, and within 20 (twenty) days after filing and serving notice of intention to defend as aforesaid, file with the registrar and serve upon the Plaintiff a plea, exception, notice to strike out, with or without a counterclaim.

INFORM the Defendant further that if he/she fails to file and serve notice as aforesaid judgement as claimed may be given against her without further notice to him/her, or if, having filed and served such notice, he/she fails to plead, except, make application to strike out or strike out or counterclaim, judgment may be given against him/her. And immediately thereafter serve on the Defendant a copy of this summons and return the same to the registrar with whatsoever you have done thereupon.

DATED and SIGNED at _____ on this the _____ day of _____ 2020.

REGISTRAR/ASSISTANT REGISTRAR
REGIONAL COURT
REGIONAL DIVISION WESTERN CAPE

PLAINTIFF
A.M Bloggs
Address xxx
Address xxx
Email: amblogs@youreemail.co.za

The plaintiff is prepared to accept all subsequent documents and notices at the electronic mail address stated herein.

(1) Notice of intention not to Defend

To the Registrar

Kindly take notice that the defendant hereby gives notice that he/s he does not intend to defend the action.

Dated at _____ this _____ day of _____ 2020



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(2) Notice of Intention to Defend

To the Registrar

Kindly take notice that the defendant hereby notifies his or her intention to defend this action

Dated at _____ this ____ day of _____ 2020

Defendant/Defendant's attorney

Address

Postal address

Facsimile (fax) number (where available)

Electronic mail (email) address (where available)

(Give full address for acceptance of service of process or documents within 15 kilometres from the Court – house and also the postal address.)

Cost if the action is undefended will be as follows



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To the Registrar

Kindly take notice that the defendant hereby notifies his or her intention to defend this action

Dated at _____ this _____ day of _____ 2020

Defendant/Defendant's attorney

Address

Postal address

Facsimile (fax) number (where available)

Electronic mail (email) address (where available)

(Give full address for acceptance of service of process or documents within 15 kilometres from the Court – house and also the postal address.)

Cost if the action is undefended will be as follows

Summons R

Judgment..... R

Attorney's charges..... R

Sheriffs fees..... R

Sheriffs fees on re-issue..... R

Total..... R

The original notice must be filed with the registrar and a copy thereof served on the plaintiff for plaintiff's attorney.



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The Summons

Details of the Plaintiff

The next space on the combined summons makes provision for the name of the plaintiff. This is your details as a person initiating the divorce proceedings. Kindly take note that your full names as well as your surname and identity or passport number must be stated in the space provided together with any previous surnames you may have had as a result of prior marriages or name changes.

Further down on the Combined Summons after the words “(hereinafter called the Defendant)” that the full details of the plaintiff must be inserted stating the Plaintiff’s full names, surname and identity or password number, together with previous surnames as a result of prior marriages or name changes, as well as occupation and residential address.

Details for the Defendant

The Defendant in this action will be your spouse against whom you are instituting action and similarly his or her full names, surname and previous surnames must be provided.



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Second page of the Summons

The Defendant (your spouse) will have a certain amount of days from service of the summons to defend the action. This is known as *dies induciae* days. If your spouse is also resident within the same area meaning that the summons will be served in this area the days are (10) days.

The (10) day period will be extended to (20) days for the defendant to defend the action, if the summons is to be served outside the jurisdictional area of the court. If you are in doubt, rather use the longer time period than the shorter.

The date mentioned at the bottom of the second phase will be completed by the Registrar of the Court and the Registrar will also sign the Summons in the space provided when you attend to his office to have the summons issued. The last details that you need to complete the summons, is to state your address at the bottom of page 2. It is also advisable that you state your telephone number thereon as well as your postal address and email address.

The Particulars of Claim.

The Particulars of Claim differs vastly from person to person, it is not possible to provide a pre-printed form in this regard. Note that the particulars of claim must be typed in black ink on white A4 paper preferably with double spacing. Alternatively various examples of the particulars of claim documents can be downloaded from the Self-Help-Divorce website - self-help-divorce.co.za



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We provided examples of different divorce situations below which will assist you in compiling your Particulars of Claim document.

Example 1:- Both parties are SA Citizens, married in community of property with minor children.

ANNEXURE

PLAINTIFF'S PARTICULARS OF CLAIM

1.

The Plaintiff is, Sanna Bloggs a major female Personal assistant with Identity Number: xxxxxxxxxxxxxx and currently residing at, xxxxxxxx, Cape Town.

2.

The Defendant is, Armon Bloggs, a major male Businessman with Identity Number: xxxxxxxxxxxxxx and currently residing at xxxxxxxx, Cape Town, and whose full and further particulars are to the Plaintiff unknown.

3.

The above Honourable Court has the necessary jurisdiction and authority to preside over this matter as both parties are domiciled and ordinarily resident within its area of jurisdiction.

4.

The parties were married to each other on 06 July 2013 and at Cape Town, in community of property and this marriage still subsists. A copy of the marriage certificate entered into between the parties, is attached hereto marked **Annexure "AB1"**.

5.

There are (2) minor children born of the marriage namely:

5.1 A male called **XXXXXXXX**, presently 9 years of age born on the 28 October 2011.

5.2 A male called **XXXXXXXX**, presently 6 years of age born on the 26 June 2013.



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6.

It is in the best interests of the minor children that the plaintiff and the defendant retain full parental responsibilities and rights in respect of the minor children, as envisaged by sections 18 and 20 of the Children's Act 38 of 2005.

7.

The marriage relationship between the parties have irretrievably broken down and has reached such a state of disintegration that there is no reasonable prospect of the restoration of a normal marriage relationship between them, inter alia as a result of the following:

7.1. There is no meaningful communication between the parties;

7.1. For the past few years the parties could not adjust to each other needs and experienced conflict of interest;

7.2. The parties have on several occasions experienced trouble with their marriage and tried to restore the relationship, without success;

7.3. The parties are no longer interested in the continuation of the marriage relationship;

7.4. The parties do not cohabit as husband and wife.

7.5 The parties no longer share the same interest.

8.

As a result of the aforementioned the parties have lost their affection for each other and are not interested in continuing the marriage relationship.



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9.

In the premises, the marriage between the parties has irretrievably broken down with the meaning of Section 4 of the Divorce Act no 70 of 1979, as amended.

10.

There is no reasonable prospect that the parties might become reconciled whether through marriage guidance, treatment or reflection.

11.

The parties have reached a settlement agreement, which agreement includes, in terms of which the joint estate is already divided between the parties. The settlement agreement is attached hereto marked **Annexure "X"**, the contents of which should be read herewith as if specifically incorporated.

WHEREFORE the Plaintiff prays for an order in the following terms:

- (a) A decree of divorce;
- (b) An order incorporating the settlement agreement annexed hereto marked Annexure **"X"**
- (c) Further and/or alternative relief.

DATED at _____ on this the _____ day of _____ 2020

PLAINTIFF

Sanna Bloggs

xxxxxxxxxx

Cape Town

Email: sanna@youreemail.co.za



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Example 2:- Both parties are SA Citizens, married out of community of property including the accrual with no minor children

ANNEXURE

PLAINTIFF'S PARTICULARS OF CLAIM

1.

The Plaintiff is, Sanna Bloggs a major female Personal assistant with Identity Number: xxxxxxxxxxxxxx and currently residing at, xxxxxxxx, Cape Town.

2.

The Defendant is, Armon Bloggs, a major male Businessman with Identity Number: xxxxxxxxxxxxxx and currently residing at xxxxxxxx, Cape Town, and whose full and further particulars are to the Plaintiff unknown.

3.

The above Honourable Court has the necessary jurisdiction and authority to preside over this matter as both parties are domiciled and ordinarily resident within its area of jurisdiction.

4.

The parties were married to each other on 24 March 2013 and at Cape Town out of community of property with the accrual in terms of an ante – nuptial contract in terms of the Matrimonial Property Act, 1984, a copy of which is annexed hereto marked **Annexure "SB1"** and this marriage still subsists. A copy of the marriage certificate entered into between the parties, is attached hereto marked **Annexure "SB2"**.

5.

There are no minor children born from the marriage.



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6.

The marriage relationship between the parties have irretrievably broken down and has reached such a state of disintegration that there is no reasonable prospect of the restoration of a normal marriage relationship between them, inter alia as a result of the following:

6.1. There is no meaningful communication between the parties;

6.1. For the past few years the parties could not adjust to each other needs and experienced conflict of interest;

6.2. The parties have on several occasions experienced trouble with their marriage and tried to restore the relationship, without success;

6.3. The parties are no longer interested in the continuation of the marriage relationship;

6.4. The parties do not cohabit as husband and wife.

6.5 The parties no longer share the same interest.

7.

As a result of the aforementioned the parties have lost their affection for each other and are not interested in continuing the marriage relationship.

8.

In the premises, the marriage between the parties has irretrievably broken down with the meaning of Section 4 of the Divorce Act no 70 of 1979, as amended.

9.



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There is no reasonable prospect that the parties might become reconciled whether through marriage guidance, treatment or reflection.

10.

The parties have reached a settlement agreement, which agreement includes, in terms of which the joint estate is already divided between the parties. The settlement agreement is attached hereto marked **Annexure "X"**, the contents of which should be read herewith as if specifically incorporated.

WHEREFORE the Plaintiff prays for an order in the following terms:

- (a) A decree of divorce;
- (b) An order incorporating the settlement agreement annexed hereto marked Annexure **"X"**
- (c) Further and/or alternative relief.

DATED at _____ on this the _____ day of _____ 2020

PLAINTIFF

Sanna Bloggs

xxxxxxxxxx

Cape Town

Email: sanna@youreemail.co.za



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Details of the Plaintiff

The description of the Plaintiff must be repeated as on the face of the summons.

Details of the Defendant

The description of the Defendant must be repeated as on the face of the summons.

Jurisdiction

Both parties are domiciled within the jurisdiction of the above Honourable Court.

Description of the Marriage

In the fourth paragraph for a particular currently existing management pieterskraal. it is necessary to name the following details

1. The date of the marriage;
2. Whether the marriage was in or out of community of property;
3. Where the marriage took place;
4. Where the marriage was out of community of property, if the accrual system is applicable or not.

Please note it is extremely important that the allegation be made that the marriage between the parties still subsist.



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Kind of Marriage

1.	<u>Married in Community of Property</u> All assets and liabilities are divided equally upon termination of the marriage, unless otherwise agreed by the parties.
2.	<u>Married Out of Community of Property without the Accrual System</u> Upon termination of the marriage, parties will leave only with what they have personally contributed.
3.	<u>Married Out of Community of Property with the Accrual System</u> At the start of the marriage each party declares either a positive, Null or negative balance to their personal estate.

Reasons that marriage has irretrievably broken down

The main and most frequently used reasons furnished in a divorce summons normally are one or more of the following:

1. The breakdown of communication between the parties;
2. The parties no longer share any common interest, including marital privileges and have become estranged from each other;
3. One party is actively abusing alcohol or drugs;
4. One party has had an extramarital affair;
5. The parties are no longer compatible resulting in a constant state of disharmony;
6. The parties have not lived together as husband and wife;



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7. One party physically or mentally abuses or neglects the other party or the minor children

The reasons for divorce are examples which can be added in your Particulars of Claim Document.

Prayers

Bilal all the particulars of claim is where you asked chord to Grant you as a plaintiff legal assistant

the first prayer is normally for a degree of divorce which is the main reason for instituting the action in the first place

Second prayer is where the cord is requested to award custody and control of the minor children to a specific party and ordering the other part to pay maintenance to with minor children in a specific amount per month next paragraph

The third try is a prayer for the division of assets in the joint Estate division of the accrual

Of prizes won the forecast and yeah you can decide where we want to go to the broadcast again the defendant for the action most of which cost will only be relevant when the action is defendant and attorneys get involved with the process

The last prayer is normally the general one where the cord is possible for Wilton 2D shooter caught not be willing to Grant the prizes specifically grateful

The particulars of claim will be ended up in the same manner as the second page of a summons with a date and place with the word such particulars beside together with the plaintiff address and details as on the summons itself

Minor children

This section is only relevant should there be minor children born of the marriage. If there are no minor children born of the marriage, this section can be ignored.



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Due to changes in the Children's Act 38 of 2005, the legal terminology has now been altered. Custody and control has now been replaced with Parental Responsibilities and Rights.

Minor children are defined by law as children who are under the age of 18 years and are still dependent on their parents. Children of 18 years of age or above may also be defined as minor children if they are still dependent on their parents for certain educational, medical or special needs, regarding assistance with their upbringing.

If there are minor children born of the marriage they must be mentioned in the Particulars of Claim document by briefly referring to their full names, gender and age.

Regulation 2 of the Mediation in certain divorce matters Affidavit (Annexure A) forms part of the Summons and be annexed thereto after the Particulars of Claim. Parental responsibilities and rights regarding the minor children forms part of the Settlement Agreement.

The Family Advocate will object to your Settlement Agreement, should it not be in the interest of the minor children. This will normally be followed by consultations between the parties and the Family Advocate.

Once the Family Advocate has approved the arrangement regarding the minor children in the Settlement Agreement, the Family Advocate will stamp an endorsement on the right side or the first page of your Settlement Agreement.

Regulation 3 of the Mediation in certain divorce matters regulations and actually comes into effect when the office of the family advocate does not approve of the arrangements regarding the minor children agreed upon by both parties in the settlement agreement further investigation into the problems which might have impact on the minor children may be required. these problems might include access to the Mater children maintenance issues mental physical and sexual abuse be used for stop both parents and the Minor children who did attend hearings at the office of the family Advocate Next paragraph

Example: Annexure A



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ANNEXURE A (REGULATION 2 OF THE MEDIATION IN CERTAIN DIVORCE MATTERS REGULATIONS, 1990)	
IN THE REGIONAL COURT FOR THE REGIONAL DIVISION OF GAUTENG	
HELD AT _____	CASE NUMBER: _____
IN THE MATTER BETWEEN:-	
Identity Number: _____	PLAINTIFF
AND	
Identity Number: _____	DEFENDANT
ARRANGEMENTS REGARDING DEPENDENT AND MINOR CHILDREN	
PARTICULARS OF PLAINTIFF/APPLICANT:	
POSTAL ADDRESS:	_____

RESIDENTIAL ADDRESS:	_____

TELEPHONE NUMBER:	_____
NAME AND ADDRESS OF EMPLOYER:	_____

The interest of minor children involved in a divorce or protected by the family advocate and also ultimately by the High Court of South Africa as a high court is seen as the Guardian of minor children by law full stop the High Court may alter any arrangements made by the family advocate and two parties regarding minor children should find sufficient reason to do so.

Settlement Agreement

It is always advisable to conclude the settlement agreement between the parties. This will explain and regulate in detail how the parties wish to dispose of their assets and debts and will avoid future complicated legal issues, for example the division of an accrual or division of a joint Estate after the court nearly made and order that the joint estate must be divided. An example of a Settlement Agreement is also annexed hereto as Annexure "X"



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In the settlement agreement the parties must briefly deal with their assets and their liabilities. In the Settlement Agreement the parties can also stipulate who gets custody and control over the minor children the amount of maintenance to be paid as well as the access rights.

Please take note that the Office of the Family Advocate will object to your settlement agreement, should it not be in the best interest of the minor children. This will normally be followed by consultations between the parties to the divorce proceedings and the family advocate and can delay the finalisation of the matter.

The settlement agreement must also be signed by both parties and two witnesses dated and the original must be handed up to court on the day of the hearing.

Example: Settlement Agreement



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IN THE REGIONAL DIVISION OF THE WESTERN CAPE HELD AT BELLVILLE

CASE NUMBER:

In the matter between:

ANNA MARIA BLOGGS

(ID Number: XXXXXXXXXXXXX)

Plaintiff

and

IAN BLOGGS

(ID Number: XXXXXXXXXXXXX)

Defendant

(Collectively referred to hereinafter as "the parties")

SETTLEMENT AGREEMENT

HEREAS

it is common cause between the parties that the marriage relationship between them has irretrievably broken down and has reached such a state of disintegration that no reasonable prospect for the restoration of a normal marriage relationship between the parties exist;

AND WHEREAS

the Plaintiff intends issuing and serving summons against the Defendant for a Decree of Divorce and other ancillary relief;



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AND WHEREAS

the parties are desirous of settling the patrimonial aspects of their marriage relationship, which has irretrievably broken down as aforesaid, on certain terms and conditions, subject to the approval of the above Honourable Court, in which event the parties wish to incorporate the terms of this Settlement Agreement marked **Annexure "X"** into the Court Order, dissolving and confirming that the marriage relationship between the parties is dissolved in the action to be instituted by the Plaintiff against the Defendant

AND WHEREAS

the parties are desirous to have this matter resolved on an amicable basis;

NOW THEREFORE

the parties record the terms of the settlement to be the following:

SECTION A

1. MINOR CHILDREN

There are one (1) minor child born of the marriage between the parties, namely:

- 1.1 Susan Bloggs**, a female currently 7 years old with date of birth being 25 of October 2012.

2. PARENTAL RIGHTS AND RESPONSIBILITIES

- 2.1.** The parties agree that both parties shall have full parental rights and



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responsibilities with regard to the care of the minor child as contemplated in Section 18(2)(a),(c),(d) of the Children's Act 38 of 2005,

2.2. Permanent Residency of the minor child be awarded to the Plaintiff.

2.3. The parties further agree that the Defendant will have rights of contact to the minor child, as contemplated in Section 18(2)(b) of the Children's Act 38 of 2005, which contact rights will be awarded to the Defendant in the following manner;

2.3.1 The Defendant is entitled to contact with removal rights:

2.3.1.1 Contact with removal rights every alternative weekend from a Friday 17H00 to a Sunday 17H00. Contact with removal rights on every alternative, rotating short holiday and every alternative, rotating half of the long school holidays, Christmas and New Year to rotate between the parties;

2.3.1.2 Regular daily telephonic contact will be allowed and both parties will provide each other with contact telephone numbers, e-mail addresses at all relevant times and ensure that the minor child is available for such telephonic contact when in their care;

2.3.1.3 In respect of either parent's birthday, the minor child will have the right to see either parent on their respective birthdays subject to her scholastic requirements;

2.3.1.4 Should either parent not be able to care for their child during holidays as a result of work commitments, then both parents will arrange for a children care facility by mutual agreement;



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2.3.1.5 Contact for the weekend of Father's Day, irrespective of whose weekend it may be, and in this regard the parties agree that the Plaintiff will have contact with the minor child for the weekend of Mother's Day, irrespective if that weekend is scheduled for the Defendant;

2.4 The parties undertake to comply with the requirements of Section 6(5) and (10) of the Children's Act 38 of 2005, taking into consideration the age, maturity and stage of development of the minor children, and the minor child shall be informed of any actions and/ or decisions taken in a manner concerning him in this regard.

2.5 The parties further agree that both parties shall remain co-holders of guardianship over the minor child as stipulated in Section 18(2)(c) and 18 (3) of the Children's Act 38 of 2005, be awarded to the parties.

2.6 Both parties shall have access to academic and medical records and any other important information relating to the minor child. In this regard the parties undertake to ensure that the minor child attend to his educational and scholastic responsibilities whilst the child is in that parties' care.

2.7 All decisions pertaining to the minor child school, medical treatment, religion, sport and other important matters will be discussed between the parties, and neither party shall make any decision regarding these important matters in a unilateral manner, unless in the case of a real emergency.

2.8 The parties agree that neither party shall remove the minor child from the Republic of South Africa without prior written consent of the other party, which written consent neither party shall unreasonably withhold.



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2.9 The parties further specifically agree that should either party not be able to take care of the minor child overnight, such party will immediately advise the other party to determine if the other parent will be able to take the place of the unavailable parent prior to making any other alternative arrangements for the care of the child.

3. MAINTENANCE

3.1 The parties agree and understand that they have a duty and responsibility to assist each other with regards to the maintenance of the minor child, considering the minor child's needs and both parties earning capacity;

3.2 The Defendant will pay a cash component of R5, 000.00 (Five Thousand Rand) per month for the minor child, which amount will be paid directly into the banking account of the Plaintiff by no later than the 1st day of each month, for the reasonable maintenance requirements of the minor child, including but not limited to his accommodation, food, clothing, water and electricity, entertainment and the like.

3.3 Any extra expenses incurred by the minor child including school fees shall be paid on the following basis:

3.3.1 The Defendant 50%; and

3.3.2 The Plaintiff 50%

3.3.3 Abovementioned expenses shall be communicated between the parties by way of e-mail and must be approved by both parties before the payments are made.



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3.4 The parties agree that the maintenance payable in terms of clause 3.2 above by the Defendant will escalate with 8% per annum, with the first increase to be made on 01st November 2020, and annually thereafter;

3.5 The Plaintiff will retain the minor child on her medical aid as beneficiary;

3.6 The Defendant shall be responsible for 100% of all medical cost of the minor child which is not covered by the medical aid of the minor child;

3.7 The parties agree that either party may approach the maintenance court for a variation in the maintenance payable by the parties at any time after the granting of a decree of divorce without proving any changed circumstances. It is however the undertaking by the parties that they will do their best to revise the maintenance payable by the parties annually, before approaching the maintenance court.

4. MAINTENANCE FOR THE DEFENDANT

4.1 The Plaintiff hereby abandons her claim for maintenance against the Defendant.



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SECTION B

PROPRIETARY ASSETS

5. IMMOVEABLE PROPERTY

5.1 Portion 0, ERF Number xxx, Township: xxx

5.1.1 It is recorded that the parties are the joint registered owners of Portion x, ERF Number xxxx, Township: xxxx Gauteng Province, and the Defendant is currently paying the mortgage bond payments and the interest thereon, municipal rates and taxes and all costs in respect of the property;

5.1.2 The parties agree that the defendant shall keep on paying the bond municipal rates and taxes and all cost in respect of the property as long as he is occupying same, any arrears will be deducted from his portion of the profit.

5.1.3 The parties agree that the property described in 5.1.1 will be sold in the open market at market value, the defendant will have the first option to buy the property and the profit will be divided 50/50 between the parties within 90 days after the divorce order has been granted and in addition all monies paid by each party toward the property will be reimbursed to the respective party.

5.1.4 Both parties undertake to do all things necessary and to sign all documents necessary to give effect to paragraph 5.1.3 above, and should any party be



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in default of signing any documentation to give effect thereto when so requested, the parties nominate the Sheriff, to sign all such documents on behalf of the party who is in default, the costs thereof to be for the account of the defaulting party;

6. MOVEABLE PROPERTY AND HOUSEHOLD ASSETS

6.1 The Parties agree that all moveable household assets have already been divided between the parties.

6.2 Any and all monies standing to the credit of the parties, in their own banking accounts, shall be that party's sole and exclusive property.

6.3 Each party shall retain their own motor vehicle and shall be liable for the installment payments, upkeep and insurance payments of same motor vehicles.

7. BANK ACCOUNTS, PENSION FUNDS / RETIREMENT ANNUITIES, INVESTMENTS, CASH POLICIES, TIME SHARE, SHARES, MEMBERSHIP INTEREST, LOAN ACCOUNTS, BENEFICIAL INTEREST

Any movable property mentioned in the heading of 7 or not specifically covered in the Settlement Agreement, shall vest in the party whom is the rightful and *bona fide* holder thereof, from the date of the Court granting the divorce order incorporation this Settlement Agreement.



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8. DEBTS

8.2 Each party shall be liable for their own personal debt, credit cards, accounts at various clothing stores, etc.

8.2 The parties hereby indemnify one another from payment of any other debts not stated herein, registered in such parties' name.

SECTION C

9. GENERAL

9.1. This agreement is binding on the estate of both parties.

9.2. Both parties acknowledge that this Settlement Agreement sets out the full and final settlement of all disputes between them, and that the parties will have no further claim against each other of any kind whatsoever, save for the rights and obligations acquired herein.

9.3. No variations and/ or amendments hereto shall be of any force and/ or affect, unless reduced to in writing and signed by both parties.

10. COSTS

Each party shall be responsible for their own legal costs.



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11. FINALISATION OF THE MATTER

The parties agree that immediately after date of signature hereof, the Plaintiff will have summons issued and served upon the Defendant, where after the Plaintiff shall set the matter down on the first available unopposed date and request the Honorable Court to grant a Decree of Divorce incorporating this Settlement Agreement.

THUS DONE AND SIGNED BY THE PLAINTIFF ON THIS THE __ DAY OF _____ 2019 IN THE PRESENCE OF THE UNDERSIGNED

WITNESSES:

AS WITNESSES:

1. _____
PLAINTIFF

2. _____

THUS DONE AND SIGNED BY THE DEFENDANT ON THIS THE __ DAY OF _____ 2019 IN THE PRESENCE OF THE UNDERSIGNED

WITNESSES:

AS WITNESSES:

1. _____
DEFENDANT

2. _____



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Statistic of Divorce Form

Upon issuing the Summons a statistics form must also be completed and this form is obtainable from the registered office. Alternatively, a statistics of divorce form has been included in this pack. This document is for statistical purposes only and is not relevant to the court proceeding itself.

Example: Statistic of Divorce Form

 Statistics South Africa 																																										
your leading partner in quality statistics																																										
STATISTICS OF DIVORCES																																										
CASE NO.		FORM 07-04																																								
Implementation date: 01/01/12																																										
EXPLANATORY NOTES: SECTIONS 1 - 4 TO BE COMPLETED FOR <u>BOTH</u> HUSBAND AND WIFE. SECTIONS 5 - 11 TO BE COMPLETED BY THE PLAINTIFF.																																										
¹ Mark applicable block with a cross (x)																																										
1. IDENTITY	Husband / Spouse 1	Wife / Spouse 2																																								
1.1 Name and surname																																								
1.2 Current address (for last known address)																																								
1.3 Identity number	<table border="1"><tr><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td></tr></table>																					<table border="1"><tr><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td></tr></table>																				
1.4 Population group ¹	<input type="checkbox"/> African/Black <input type="checkbox"/> Coloured <input type="checkbox"/> White <input type="checkbox"/> Indian/Asian <input type="checkbox"/> Other (Specify):.....	<input type="checkbox"/> African/Black <input type="checkbox"/> Coloured <input type="checkbox"/> White <input type="checkbox"/> Indian/Asian <input type="checkbox"/> Other (Specify):.....																																								
1.5 Occupation at time of divorce																																								
1.6 Industry																																								
2. MARITAL STATUS AT TIME OF MARRIAGE¹	<input type="checkbox"/> Never married <input type="checkbox"/> Widower <input type="checkbox"/> Divorcee	<input type="checkbox"/> Never married <input type="checkbox"/> Widow <input type="checkbox"/> Divorcee																																								
3. NUMBER OF TIMES MARRIED (including current marriage)	<table border="1"><tr><td></td><td></td></tr></table>			<table border="1"><tr><td></td><td></td></tr></table>																																						
4. TYPE OF MARRIAGE	<input type="checkbox"/> Civil marriage <input type="checkbox"/> Customary marriage <input type="checkbox"/> Civil union <input type="checkbox"/> Other (Specify).....																																									



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The Sheriff of the Court

Next step is to deliver the original summons together with a copy they're off to the Sheriff of High Court working in the area where the summons has to be served it is advisable that you have company your spouse with the relevant documentation to a sheriff's office for the purpose of serving this document upon your spouse as it will be more cost effective and quicker to do it in this way as a sheriff does not need to travel to serve the document and run the risk of not being able to serve the document personally upon your spouse.

Due to the large number of sheriffs or the High Court and the service area areas we are unable to supply a complete list of shares however by using the unique activation key suppliers in the book you will be able to serve the Sheriff of the High Court in area by logging into the auditor's website alternative you may contact the thunder will gladly assist you with the language of High Court.

Return of service

After service of the Summons, the Sheriff will provide you with a document (called a Return of Service) stating the time and place where the Combined Summons was served personally upon the Defendant. The Sheriff will also inform the defendant of the Defence period or *dies induciae* days. This document must be attached to the original Summons. The copy of the Sheriff's Return off service must be kept by you for reference purposes.

Setting the matter down



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Now that the defence period has passed and if there has been no notifications of the Defendant's intention to defend the action, you must return to the register or the Regional Court's office to formally set the matter down for trial.

Before you can do this you need to complete and sign the Filing notice which has been included in this pack. This Filing Notice is necessary when removing or adding documents into your court file. Please make yourself a copy as well. You can now proceed to The Register, along with your original file. Please discuss the procedure of placing your divorce on the roll with the register as each Court has its own day of hearing of unopposed divorce actions and documents to be completed. Please ensure that your divorced is placed on the unopposed motion roll. It is also recommended that you keep track of the dates that your documents were filed.

Recommends that you ensure that your Court file contains all the necessary original documents. Please find a check list below:

	The original Statistics form	
	The Combined Summons	
	The Particulars of Claim	
	The Settlement Agreement	
	A Copy of your Marriage Certificate	
	The Return of Service	

Final Steps



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When you have been successful in obtaining the Court's final order on the date of the hearing, your divorce will be finalised.

The court file, containing the original documentation will be sent to the typist at the Registrar's office who will attend to the typing of your final order of divorce, this document can be obtained from the Registrar's office approximately two weeks after the date of the hearing. This is your formal document containing the details of the divorce order and must be kept in a safe place.

Please update your Will and Testament to reflect your new status and situation.

Contact

KINDLY CONTACT US IF YOU NEED ANY ASSISTENCE.