

**SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF _____**

X

Index No.: _____

Plaintiff

-against-

**AFFIDAVIT OF
PLAINTIFF**

Defendant

X

STATE OF _____ }

ss:

COUNTY OF _____ }

_____ being duly sworn deposes and says:

FIRST: That the parties were over the age of 18 years when this action was commenced.

A) The Plaintiff's address is _____,
and social security number is _____. The Defendant's address is _____,
and social security number is _____.

B) The Plaintiff's
 Defendant's social security number cannot be provided for the following reason(s):

A) **SECOND:** The Plaintiff
 Defendant has resided in New York State for a continuous period in
excess of two years immediately preceding the commencement of this action.

OR

B) The Plaintiff
 Defendant has resided in New York State for a continuous period in excess of one:
year immediately preceding the commencement of this action, **AND:**

a. the parties were married in New York State.

or

b. the Defendant has lived as husband or wife in New York State
with the Plaintiff.

or

c. the cause of action occurred in New York State.

OR

C) The cause of action occurred in New York State and both parties were
residents thereof at the time of the commencement of this action.

THIRD: I married the Defendant on ___ day of _____, _____, in the City, Town or Village of _____, County of _____, State or Country of _____.

Month Year

The marriage was was not performed by a clergyman, minister or by a leader of the Society for Ethical Culture.

A) *To the best of my knowledge I have taken all steps solely within my power to remove any barrier to the Defendant's remarriage.*

=====OR=====

B) *The Defendant has waived in writing the requirements of DRL § 253 (Barriers to Remarriage).*

=====OR=====

C) *I am waiving the requirements of DRL § 253.4 (Barriers to Remarriage) by the Defendant.*

FOURTH: There are no children of the marriage under 21 years of age and none are expected.

FIFTH: Plaintiff seeks a divorce on the following grounds:

- Cruel and Inhuman Treatment [DRL § 170(1)]
- Abandonment [DRL § 170(2)]
- Imprisonment [DRL § 170(3)]
- Adultery [DRL § 170(4)]
- Conversion of Judgment of Separation [DRL § 170(5)]
- Conversion of a Written Agreement of Separation [DRL §170(6)]

The specific allegations are set forth as follows:

Cruel and Inhuman Treatment (DRL §170(1)):

At the following times Defendant committed the following act(s) which endangered the Plaintiff's physical or mental well being and rendered it unsafe or improper for Plaintiff to continue to reside with Defendant.

(Detail in lettered subparagraphs, the acts, behavior, conduct of the Defendant).

A) On or about _____ at or near _____ the Defendant
Date address / place of occurrence

B) On or about _____ at or near _____ the Defendant
Date address / place of occurrence

C) On or about _____ at or near _____ the Defendant
Date address / place of occurrence

Abandonment (DRL 170(2)):

That commencing on or about the ____ day of _____, _____, and continuing for
Month Year
a period of more than one (1) year immediately prior to commencement of this action,
the Defendant left the marital residence of the parties located at _____,
and did not return. Such absence was without cause or justification, and was without
Plaintiff's consent.

That commencing on or about the ____ day of _____, _____, and
Month Year
continuing for a period of more than one (1) year immediately prior to commencement
of this action, the Defendant refused to have sexual relations with the Plaintiff despite
Plaintiff's repeated requests to resume such relations. Defendant does not suffer from
any disability which would prevent her him from engaging in such sexual
relations with Plaintiff. The refusal to engage in sexual relations was without good
cause or justification and occurred at the marital residence located at _____.

That commencing on or about the ____ day of _____, _____, and
Month Year
continuing for a period of more than one (1) year immediately prior to commencement
of this action, the Defendant willfully and without cause or justification abandoned
the Plaintiff, who had been a faithful and dutiful husband wife, by depriving
Plaintiff of access to the marital residence located at _____.

This deprivation of access was without the consent of the Plaintiff and continued for a
period of greater than one year.

Form A-9: AFFIDAVIT OF PLAINTIFF

Imprisonment (DRL §170(3)):

That after the marriage of Plaintiff and Defendant, Defendant was confined in prison for a period of three or more consecutive years, to wit: that Defendant is/was confined in _____ prison on the

_____ day of _____, _____, and remained confined until the

_____ day of _____, _____; **OR** remains confined to this date.

Adultery (DRL §170(4)):

That on the _____ day of _____, _____, at _____

the Defendant voluntarily committed of an act of sexual or deviate sexual intercourse with a person other than the Plaintiff after the marriage of Plaintiff and Defendant; **and** not more than five years elapsed between the date of the discovery of said adultery and the date of commencement of this action.

Conversion of a Judgment of Separation (DRL §170(5)):

That the _____ Court, _____ County, _____ (State or Country) granted a decree or judgment of separation on the _____ day of _____, _____, under Index No. _____; **and** that the parties have lived

separate and apart for a period of one year or longer after the granting of such decree; **and** that the Plaintiff has substantially complied with all the terms and conditions of such decree or judgment.

Conversion of a Written Agreement of Separation (DRL §170(6)):

That the Plaintiff and Defendant entered into a written agreement of separation, which they subscribed and acknowledged on the _____ day of _____, _____, in the form

required to entitle a deed to be recorded; **and** that the agreement memorandum of said agreement was filed on the _____ day of _____, _____ in the Office of

the Clerk of the County of _____, wherein Plaintiff Defendant resided; **and** that the parties have lived separate and apart for a period of one year or longer after the execution of said agreement; **and** that the Plaintiff has substantially complied with all terms and conditions of such agreement.

SIXTH: No decree, judgment or order of divorce, annulment or dissolution of marriage has been granted to either party against the other in any Court of competent jurisdiction of this state or any other state, territory or country, and that there is no other action pending for divorce by either party against the other in any Court.

SEVENTH: The Defendant is in the military service and *has* waived *his*
 has not *her*
rights under the New York State Soldiers' and Sailors' Civil Relief Act.

OR

Defendant is **not** in the active military service of this state, or any other state or this nation. I know this because:

defendant admitted it to *me* on _____
 the process server (date)

OR

I have submitted an affidavit which states that Defendant is not in the active military of this state, or any other state or this nation.

EIGHTH: I *am self supporting and I am not seeking maintenance.*
 am receiving Public Assistance.

To my knowledge the Defendant

- is self supporting and is not receiving Public Assistance.*
 is receiving Public Assistance.

NINTH: *Plaintiff's* former surname (*maiden name*) is: _____
 Defendant's

TENTH: I hereby consent to this action being placed on the uncontested divorce calendar immediately and to be determined by a Justice of the Supreme Court or a Court appointed Referee or a Judicial Hearing Officer.

WHEREFORE, Plaintiff demands judgment against the Defendant as follows: A judgment dissolving the marriage between the parties and

and any other relief the court deems fit and proper.

Signature
 Plaintiff Attorney(s) for Plaintiff

(Print Name)

Subscribed and Sworn to
before me on

NOTARY PUBLIC