**PROVE-UP: DEFAULT, NO CHILDREN**

**Checklist**

|  |  |
| --- | --- |
| **# of Copies** | **Document Name** |
| 5 | Judgment for Dissolution of Marriage |
| 1 | Judge’s Information Sheet |
| 3 | Order for a Free Transcript |
| 2 | Order for Judgment and Transcript (28-Day Order) |
| 1 | Court Reporter’s Information Sheet |
| 2 | Certificate and Motion for Default |
| 2 | Due Diligence Statement |
| 3 | Certificate of Service (for mailing Judgment to Respondent) |
| 1 | Cover Letter to Respondent Enclosing Judgment |

Note: Bring the entire file with you to the Prove-Up, just in case the judge asks to see a document that is not listed above.

**Arriving at Court**

* Find your client and give them a quick rundown of what to expect. (See the Prove-Up section of your training packet for details.) Remind them that they must remain seated and quiet until their case is called.
* Find your line number on the court’s call (usually at the clerk’s desk or posted on the door of the courtroom) and check in with the judge’s clerk.
* Give the clerk 1 copy of each document listed above (except for the Certificate of Service, Due Diligence Statement, and Cover Letter to Respondent), unless s/he specifies otherwise.
* Wait quietly until your case is called.

**After the Prove-Up (But Before Leaving Court)**

* Give the remaining copies of your documents to the clerk to stamp.
* Go to Room 802 with the client, and ask the clerk to certify 2 file-stamped copies of the Judgment. Give both to the client. This should be done the same day as the prove-up, otherwise the client will have to order a certified copy from the court and pay a fee.
* While in Room 802, file the Certificate of Service (for mailing Judgment to Respondent). Keep 3 file-stamped copies: one for the Respondent, one for client, and one for file.
* Mail the Judgment, along with Cover Letter and Certificate of Service to Respondent at last known address.
* Follow steps outlined in training manual to conclude case.

**Prove-Up Script**

Introduction/Finding of Default:

Good morning, your Honor. We are here on line number \_\_\_\_.

My name is \_\_\_\_\_\_\_\_\_\_\_\_, a volunteer attorney with Legal Aid Society and Metropolitan Family Services. I represent the Petitioner, \_\_\_\_\_\_\_\_\_\_\_ in case number \_\_\_\_\_\_\_\_\_\_, In Re: Marriage of \_\_\_\_\_\_\_\_\_\_\_ vs \_\_\_\_\_\_\_\_\_\_\_\_.

Your honor, we also have a CLSP and will be requesting a free transcript.

We are here today asking this court to find the Respondent, \_\_\_\_\_\_\_\_\_\_\_\_, in default in this matter, and for entry of a Judgment for Dissolution of Marriage instanter.

After \_\_\_\_ failed service attempts with <<Cook County Sheriff/other county sheriff/special process server>> The Respondent, \_\_\_\_\_\_\_\_\_\_\_\_\_\_, was served by publication on <<list all dates of publication>>. The Certificate of Publication was filed with the court on <<date of filing>>. [NOTE: IF YOUR METHOD OF SERVICE OF PROCESS DIFFERED FROM THE ABOVE, REVISE THIS PARAGRAPH ACCORDINGLY]

The Petitioner has made every attempt to find an address for the Respondent, but has been unsuccessful after a diligent search. My client memorialized her search efforts in writing with her Due Diligence Statement, attached to the Affidavit for Service by Publication as Exhibit A, which we have tendered to the court. My client will also testify as to her efforts to locate her spouse, if it pleases the court.

[IF JUDGE ASKS FOR CLIENT TESTIMONY REGARDING DUE DILIGENCE STATEMENT/EFFORTS TO LOCATE SPOUSE, THE CLIENT WILL BE SWORN IN AT THIS TIME. ASK THE CLIENT LEADING QUESTIONS TO ELICIT TESTIMONY REGARDING THE DUE DILIGENCE STATEMENT. YOU CAN DO THIS BY GOING THROUGH EACH ITEM IN THE DUE DILIGENCE STATEMENT AND PHRASING IT AS A YES-OR-NO QUESTION. ONCE YOUR CLIENT IS FINISHED TESTIFYING REGARDING THE DUE DILIGENCE, THE JUDGE MAY ASK ADDITIONAL QUESTIONS BEFORE YOU CAN MOVE ON.]

Despite our attempts at service and efforts to locate the Respondent, s/he has failed to file an "Appearance" or a "Response.” Notice was sent to him of today's proceedings on \_\_\_\_\_\_\_\_\_\_\_\_\_\_, and he has failed to appear in court. He has made no effort to communicate with our office or the Petitioner.

We are ready to proceed with a default prove-up on the grounds of irreconcilable differences, and request that the Respondent be found in default at this time.

[JUDGE WILL FIND RESPONDENT IN DEFAULT AT THIS TIME. WHEN PROMPTED BY THE JUDGE, PROCEED WITH TESTIMONY REGARDING THE PETITION FOR DISSOLUTION OF MARRIAGE]

Jurisdiction

Please state and spell your name and address for the record.

Are you the Petitioner in this case?

Is your <<husband/wife>>, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, the Respondent?

Did you live in Cook County and the State of Illinois for at least 90 days before filing your Petition for Dissolution of Marriage?

Have you lived in Cook County and Illinois continuously since filing your Petition?

Did you separate from your husband on <<date of separation>>?

Did you have any children as a result of your marriage?

Did you and your husband adopt any children?

Are you currently pregnant?

Grounds

During your marriage, did you and your spouse have differences between the two of you that you couldn't work out?

Did those differences result in the breakdown of the marriage?

Did you and your spouse attempt to reconcile those differences?

Did those attempts at reconciliation fail?

Do you believe that your marriage is irretrievably broken?

Do you think that it's in the best interest of your family to dissolve your marriage?

Are you currently employed as a <<job title>> with <<employer name>>? [OR] You are currently <<unemployed/disabled/retired>>, correct? [IF DISABLED, ASK WHAT DISABILITY AND FOR HOW LONG]

Your income from <<your employer/SSDI/TANF/other>> is \_\_\_\_\_\_\_ per <<pay period>> correct?

Do you have source of income, other than that? [IF YES, ASK ABOUT SOURCE AND AMOUNT USING SAME FORMAT AS ABOVE. OTHER SOURCES OF INCOME MUST BE VERIFIABLE AND INCLUDE: CHILD SUPPORT AND/OR MAINTENANCE FROM PRIOR MARRIAGE/RELATIONSHIP, PENSION/RETIREMENT BENEFITS, LAWSUIT SETTLEMENT, ETC.]

Are you capable of supporting yourself without any help from your spouse?

[IF CLIENT NEEDS MAINTENANCE, ESTABLISH HOW LONG S/HE WILL NEED IT. EX: UNTIL THE YOUNGEST CHILD IS IN SCHOOL FULL TIME, UNTIL CLIENT FINISHES SCHOOL, ETC. **IF CLIENT IS ON PUBLIC AID S/HE CANNOT WAIVE MAINTENANCE. IT MUST BE RESERVED**. IT IS RECOMMENDED THAT IT BE RESERVED UNTIL 6 MONTHS AFTER SHE RECEIVES HER LAST PUBLIC AID CHECK.]

Do you believe that your spouse is capable supporting himself/herself without any help from you?

Property:

Did you acquire any real estate during the marriage?

Did you acquire any other property during the marriage? Did that include <<household furnishings, vehicle, pension, IRA, 401(k), bank accounts, etc.>>

Do you currently have all the property in your possession that you want? If not, what property does your spouse have that you would like?

Debts:

Are the following debts still owed from the time that you and your spouse were together? <<list amount and source of debts>>

[IF NO DEBT, ASK:] Do you and your spouse currently have any outstanding debt from the time that you were married?

To your knowledge, has your spouse taken out any additional debt in either of your names since you separated?

Relief:

Are you asking the court today to dissolve your marriage?

Are you asking that the personal property that is now in your possession be awarded to you?

[IF PARTIES HAVE REAL ESTATE:] Are you asking that the real estate located at <<address>> be awarded to you and that your spouse be ordered to quitclaim all interest in this property to you and that, if he fails to do so, a court of competent jurisdiction be empowered to sign a Judges Deed quitclaiming his interest to you?

[IF PARTIES HAVE OUTSTANDING DEBT:] Are you asking that your spouse be solely responsible for the following marital debts…?

Are you asking that your spouse be solely responsible for any debts s/he has incurred without your knowledge as well as debts s/he has incurred since the date of your separation?

[IF UNAWARE OF SPOUSE’S EMPLOYMENT/INCOME] Are you asking that maintenance for yourself be reserved?

Are you asking this court to bar your spouse from seeking maintenance from you?

Are you asking that you be allowed to resume the use of your maiden name of \_\_\_\_\_\_\_\_\_\_?

Thank you, I have no further questions.