

**MOTION AND  
AFFIDAVIT FOR  
DEFAULT  
DECREE  
WITHOUT  
HEARING**

Person Filing: \_\_\_\_\_  
Address (if not protected): \_\_\_\_\_  
City, State, Zip Code: \_\_\_\_\_  
Telephone: \_\_\_\_\_  
Email Address: \_\_\_\_\_  
ATLAS Number: \_\_\_\_\_  
Lawyer's Bar Number: \_\_\_\_\_



Representing  Self, without a Lawyer or  Attorney for  Petitioner OR  Respondent

## SUPERIOR COURT OF ARIZONA IN GRAHAM COUNTY

In the Marriage of

Case No. \_\_\_\_\_

\_\_\_\_\_  
Name of Petitioner  
and

### MOTION AND AFFIDAVIT FOR DEFAULT DECREE WITHOUT HEARING

(in cases without children) for

- DISSOLUTION OF MARRIAGE (Divorce)
- LEGAL SEPARATION
- ANNULMENT

A.R.F.L.P. 44 (B)(1)(b)

\_\_\_\_\_  
Name of Respondent

I am the Petitioner and I am asking the court to enter a ***“Decree of Dissolution of Marriage,”*** ***“Legal Separation,”*** or for ***“Annulment”*** by default without a Court hearing. I have put a check mark in each box in front of the statements below that are true and I understand that if any statement is not true, I cannot get a default decree *without a hearing*.

- I have read this ***“Motion and Affidavit for Default Decree Without a Court Hearing”*** and to the best of my knowledge everything I have said is true.
- I have paid the filing and service fees or the filing and service fees have been waived or deferred. A copy of the receipt showing payment or a copy of the Order showing that the fees have been waived or deferred is attached.
- To the best of my knowledge, both Petitioner and Respondent are competent and sane at this time (even if “legal incompetence” or “insanity” *at the time of the marriage* is listed as a ground for an annulment).
- At least 60 days have passed since the Respondent was served with the dissolution, legal separation, or annulment papers. Service was not done by publication.
- The Respondent has not made an appearance in this matter or filed a ***“Response.”*** I have filed the ***“Application and Affidavit for Default”*** and Default has been entered against the Respondent.
- At the time this action was filed, the Petitioner or the Respondent was domiciled in Arizona or was stationed in Arizona while a member of the United States Armed Forces. If this is an action for dissolution of marriage (divorce) or annulment, the Petitioner or the Respondent was domiciled or stationed in Arizona for more than 90 days.
- Conciliation Services provisions have been met since the filing of the Petition for Dissolution of Marriage or the provisions do not apply. (A.R.S. 25-381.09).

- If for divorce, the marriage is irretrievably broken,  
If for legal separation, the parties desire to live separate and apart, or  
If for annulment, a condition exists which renders the marriage void or voidable.
- There are no minor children common to the parties who were born before or during the marriage, or who were adopted by the parties during the marriage. The wife, to my knowledge, is not pregnant.
- Neither Petitioner nor Respondent has made a claim for spousal maintenance/support. A claim for spousal maintenance/support is deemed waived by both parties.
- All of the allegations, including those concerning property and debts listed in the **"Petition"** were true at the time filed and remain true as of the date of the filing of this motion and affidavit, **OR any changes are explained below:**

\_\_\_\_\_

\_\_\_\_\_

- Everything in the **"Petition for Dissolution of Marriage," "Legal Separation," or for "Annulment,"** concerning who gets the property and who pays the bills/debts is fair and reasonable. If applicable, attorney fees are itemized on the paper attached to this Motion and Affidavit.
- The relief to be awarded in the **"Decree for Dissolution of Marriage," "Legal Separation," or for "Annulment,"** is the same as the relief I requested in the underlying **"Petition,"** OR if the relief to be awarded is different, it has been approved by both parties, as reflected in a notarized statement from the other party, or a **"Decree for Dissolution of Marriage," "Legal Separation," or for "Annulment,"** containing the notarized signatures of both parties.
- My case does not involve a member of the military waiving service OR I have submitted a notarized **"Service Members Civil Relief Act Waiver"** completed by the other party.

**OATH OR AFFIRMATION**

**I swear or affirm that the information on this document is true and correct under penalty of perjury.**

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

STATE OF \_\_\_\_\_

COUNTY OF \_\_\_\_\_

Subscribed and sworn to or affirmed before me this: \_\_\_\_\_ by

(date)

\_\_\_\_\_.

(notary seal)

\_\_\_\_\_  
Deputy Clerk or Notary Public

**SELF-SERVICE CENTER**  
**PROCEDURES FOR GETTING A DEFAULT DECREE**  
**WITHOUT A HEARING**

**IN FAMILY COURT CASES THAT DO NOT INVOLVE MINOR CHILDREN**

## **REQUIREMENTS**

Sometimes a court hearing is not required to get a default decree. This procedure may be used if you meet the following requirements:

- ✓ Husband and wife **both must** be legally competent and sane.
- ✓ There are **no** minor children common to the parties **or** adopted by the parties during the marriage.
- ✓ Wife is **not** pregnant with husband's child.
- ✓ Neither husband nor wife is making a claim for spousal maintenance/support (alimony).

**YOU CANNOT USE THIS PROCEDURE IF . . .**

- the responding party was served by publication,
- if the other party is insane or incompetent, or
- if the other party has filed a response.

For a list of requirements, read the "*Motion and Affidavit for a Default Without a Hearing*".

## **PROCEDURES**

1. **BEFORE YOU REQUEST A DEFAULT DECREE WITHOUT A HEARING, CHECK TO BE SURE THAT YOU HAVE:**
  - Properly served the other party and filed the proof of service. (Service cannot be done by publication), **AND**
  - Completed and filed the "*Application and Affidavit for Default*," and mailed a copy to the other party; **AND**
  - Completed and notarized "*Service Member Civil Relief Act Waiver*" if the other party is on active duty in the United State Military, **AND**
  - Waited at least **61** days **after** the completion of service.
2. **COMPLETE** the "*Motion and Affidavit for Default Decree Without a Hearing*" and make one copy.
3. **FILE YOUR MOTION:** Hand the original "*Motion and Affidavit for Default Decree Without a Hearing*" and the copy to the Clerk at the filing counter. The Clerk will keep the original, date stamp the copy and return the copy to you.
4. **HAND-DELIVER OR MAIL THE FOLLOWING DOCUMENTS AS INDICATED BELOW:**
  - **One** (1) file stamped copy of the "*Motion and Affidavit for Default Decree Without a Hearing*"
  - The **original** and **two (2) copies** of the "*Decree*" for signature by the Judge;
  - **Two** (2) 9" x 12" envelopes, **with sufficient postage**, one addressed to you, and one addressed to the other party.

**GRAHAM COUNTY CLERK OF THE COURT**  
**800 WEST MAIN STREET**  
**SAFFORD, ARIZONA 85546**

**5. THERE IS A REVIEW PROCESS** upon receipt of your paperwork. This process can take as long as 4-6 weeks. You can call **(928) 428-3100** between the hours of 8:00 a.m. and 5:00 p.m. to check on the status of your case. Please wait at least four (4) weeks before checking the status.

The Judicial Officer will review your file and the documents you have submitted. If the Judicial Officer determines that everything is in order they will sign the final decree. The Courtroom Clerk will file stamp your copies and they will be mailed to you and the other party in the envelopes you have provided.

If the Judicial Officer finds any deficiencies in your court file or paperwork, your documents will be returned to you in the envelope you have provided along with a coversheet describing the deficiency and in most cases how it can be corrected. Below is a list of the most common reasons why your paperwork might be returned to you unsigned:

- The **“Decree”** was not fully completed and not all applicable boxes were marked.
- Items asked for in the **“Decree”** were not the same as the items asked for in the **“Petition.”**
- The original **“Decree”** and copies were not submitted with the **“Motion and Affidavit for Default Decree Without Hearing”**.
- Did not mark all boxes on the **“Motion and Affidavit for Default Decree Without Hearing”** as true statements.
- Did not provide a notarized **“Service Members Civil Relief Act Waiver”**

**Arizona Rules of Family Law Procedure (ARFLP), Rule 44(B)1(b), allows for application for a default decree *without hearing* in Family Court cases not involving minor children, for divorce, legal separation, and annulment, but be WARNED:**

- **There are special legal requirements involved in qualifying for an annulment.**
- **If your court papers do not fully explain how you meet those requirements, it could result in your case being delayed or dismissed.**
- **Consulting an experienced attorney about whether your situation *and your papers* indicate you qualify for an annulment may help you to avoid unnecessary expense, delay, and disappointment.**