**Form FL‑5**
 [Rule 12.11(3)(a)

 and Rule 12.121(8)(a)]

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| COURT FILE NUMBER  |      Clerk’s Stamp |
| COURT | COURT OF QUEEN’S BENCH OF ALBERTA |
| JUDICIAL CENTRE |       |
| PLAINTIFF(DEFENDANT BY COUNTERCLAIM) |       |
| DEFENDANT(PLAINTIFF BY COUNTERCLAIM) |       |
| DOCUMENT | **COUNTERCLAIM FOR DIVORCE** |

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| ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT |       |

**NOTICE TO PLAINTIFF**

You are being sued. You are the Defendant by Counterclaim.

Go to the end of this document to see what you can do and when you must do it.

*[This form may be filed in addition to a Statement of Defence (Form FL‑4) or a Demand for Notice (Form 13) and may be used when any of the following has been served on you: a Statement of Claim for Divorce, a Statement of Claim for Divorce and Division of Family Property (with or without an additional claim for unjust enrichment), or a Statement of Claim for Division of Family Property (with or without an additional claim for unjust enrichment).]*

*[For spouses to whom rule 12.121 applies, this form may also be filed in addition to a Statement of Defence (Form FL-4.1) or a Demand for Notice (Form 13) and may be used when any of the following has been served on you: a Statement of Claim for Divorce, a Statement of Claim for Divorce and Division of Matrimonial Property (with or without an additional claim for unjust enrichment), or a Statement of Claim for Division of Matrimonial Property (with or without an additional claim for unjust enrichment).]*

**THE PARTIES**

1 (1) (a) The date of the marriage was:

 (b) The place of the marriage was:

 (2) (a) The parties started to cohabit on:

 (b) The parties ceased cohabiting on:

 (3) Particulars respecting the Defendant:

 Address:

 Date of birth:

 Place of birth:

 Surname at birth:

 Surname at the time of marriage:

 Gender at the time of marriage:

 *(Male/Female/Another gender)*

 Marital status at the time of marriage:

 (4) Particulars respecting the Plaintiff:

 Address:

 Date of birth:

 Place of birth:

 Surname at birth:

 Surname at the time of marriage:

 Gender at the time of marriage:

 *(Male/Female/Another gender)*

 Marital status at the time of marriage:

**RESIDENCE**

2. The Plaintiff or the Defendant has been habitually resident in the Province of Alberta for at least one year immediately preceding the date of this Counterclaim.

**GROUNDS**

3. The Defendant is seeking a divorce on the grounds of the breakdown of the marriage by reason of: (choose those which apply)

|  |  |
| --- | --- |
|   | the parties are now separated and will have been separated for at least one (1) year at the determination of the divorce proceeding; |
|  |
|  |  |
|   | the Plaintiff has, since the celebration of the marriage, committed adultery; |
|  |  |
|   | the Plaintiff has, since the celebration of the marriage, treated the Defendant with physical or mental cruelty of such a kind as to render intolerable the continued cohabitation of the spouses. |
|  |

**RECONCILIATION**

4. There is no possibility of reconciliation.

**BARS TO DIVORCE**

5. (1) There has been no collusion in relation to this divorce action.

 (2) The Defendant has not connived at or condoned the grounds complained of prior to bringing this divorce action. (use only if the grounds are under paragraph 8(2)(b) of the Divorce Act, (Canada))

**CHILDREN**

6. (1) The particulars of each child of the marriage (which includes a child of one spouse to whom the other spouse stands in the place of a parent) are as follows:

 *(List all dependent children involved in this proceeding, even if no claims are being made in relation to those children.)*

 [name], born [date]; and

 [name], born [date]; and

 (2) The Defendant proposes parenting arrangements for each child as follows:

*(Describe the proposed allocation of parenting time and decision-making responsibility between the parties.)*

 (3) If written notice of a change of residence or relocation is required to be given under section 16.8 or 16.9 of the *Divorce Act* (Canada), the Defendant proposes that notice be given as follows:

(a) The Plaintiff will provide written notice to the Defendant by: *(specify how the written notice will be delivered to the Defendant, e.g. by mail, in person, by email, etc.)*

(b) The Defendant will provide written notice to the Plaintiff by: *(specify how the written notice will be delivered to the Plaintiff, e.g. by mail, in person, by email, etc.)*

 (4) The Defendant proposes financial arrangements for each child as follows:

**AGREEMENTS**

7. The parties have made an agreement regarding the parenting arrangements or support of the children or support of each other, as follows:

 [provide date and summarize details of agreement]

**COURT PROCEEDINGS**

8. (1) The details of any other court proceeding in regard to the marriage, parenting arrangements and support of the children or support of the parties are as follows:

[provide details]

 (2) The details of any

(a) court proceedings for a civil or family restraining order or a protection order under the *Protection Against Family Violence Act*,

(b) court proceedings, agreements or measures relating to child protection, or

(c) proceedings, undertakings or recognizances relating to any matter of a criminal nature

involving the parties, and the details of any orders in effect relating to any of these matters, are as follows:

[provide details]

**SPOUSAL SUPPORT**

*[Choose one]*

9. The Defendant is claiming spousal support from the Plaintiff for the following reasons:

**OR**

9. The Defendant is not claiming spousal support from the Plaintiff.

**OR**

9. The Defendant proposes spousal support for the Plaintiff as follows, for the following reasons:

**REMEDY SOUGHT**

10. The Defendant makes the following claims: (choose those which apply)

|  |  |
| --- | --- |
|   | divorce judgment; |
|   | parenting arrangements as proposed above; |
|   | child support as proposed above; |
|   | retroactive child support; |
|   | support for the Defendant; |
|   | support for the Plaintiff; |
|   | retroactive spousal support; |
|   | a restraining order; |
|   | other relief; (specify any other relief being sought) |
|   | costs. |

Statement of Defendant

I, [name], the Defendant, certify to the Court that I am aware of the following duties imposed on me by sections 7.1 to 7.5 of the *Divorce Act* (Canada):

1. I will exercise any parenting time, decision‑making responsibilities or contact with any child(ren) of the marriage in a manner consistent with their best interests.

2. I will protect any child(ren) of the marriage from conflict arising from these legal proceedings, to the best of my ability.

3. I will try to resolve the matters that may be the subject of an order under the Act through a family dispute resolution process, to the extent that it is appropriate to do so.

4. I will provide complete, accurate and up‑to‑date information if required to do so under the Act.

5. If I am subject to an order made under the Act, I will comply with the order until it is no longer in effect.

DATED at [City] Alberta, this [date] day of [month], 20[year].

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Signature of Defendant

Statement of Lawyer

*(where Defendant has a lawyer)*

I, [name], the lawyer for the Defendant, certify to the Court that I have complied with the requirements of section 7.7 of the *Divorce Act* (Canada).

DATED at [City] Alberta, this [date] day of [month], 20[year].

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Lawyer for the Defendant

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| **NOTICE TO THE PLAINTIFF**You only have a short time to do something to defend yourself against this claim:* 20 days if you are served in Alberta
* 1 month if you are served outside Alberta but in Canada
* 2 months if you are served outside Canada

You can respond by filing a Statement of Defence or a Demand for Notice in the office of the clerk of the Court of Queen’s Bench at      , Alberta, AND serving your Statement of Defence or a Demand for Notice on the Defendant’s address for service.**WARNING**If you do not file and serve a Statement of Defence or a Demand for Notice within the time period, you risk losing the ability to have your side heard in the lawsuit. If you do not file, or do not serve, or are late in doing either of these things, a court may grant a Divorce Judgment and other relief to the Defendant in the Counterclaim. |