

INSTRUCTIONS FOR FILING A PETITION FOR ANNULMENT

In Georgia, if you want to annul your marriage, you must file a Petition for Annulment in the Superior Court. After a court issues an Order of Annulment, legally it will be as if you were never married to that person. You should seek the advice of an attorney when filing legal papers to be sure that your rights are protected and that all procedures are correctly followed particularly if:

- The case is contested and your spouse has a lawyer.
- You cannot locate your spouse to serve him or her with your papers.
- You or your spouse have a house, pension, or large amount of property or income.
- You think you will have difficulty obtaining documents from your spouse.

Common Questions Regarding Annulments:

1. **What is an annulment?** An annulment is a legal order declaring that a marriage never existed. Annulments are rare and only granted in unusual circumstances.

2. **On what grounds can I receive an annulment?** You may receive an annulment if:
 - You and your spouse are related as follows: parent/child, parent/stepchild, grandparent/grandchild, aunt/nephew or uncle/niece.
 - You or your spouse did not have the mental capacity to enter into a contract.
 - You or your spouse were under the age of 16 when you entered into your marriage.
 - You or your spouse were forced to enter into the marriage.
 - You were fraudulently induced to enter into the marriage.
 - Your spouse was married to another living spouse at the time you entered into the marriage.

3. **May I be granted an annulment if I have only been married a short time?**
No. The fact that you and your spouse have only been married a short time is not a proper ground for an annulment. If you do not satisfy one of the conditions listed above, then you must file a petition for divorce to dissolve your marriage.
4. **May I obtain an annulment if I have had or will have children with my current spouse?** O.C.G.A. §19-4-1 states that “annulments may not be granted in instances where children are born or are to be born as a result of the marriage.” If you and your spouse have children together and believe that you satisfy the requirements for an annulment, you should speak with an attorney.
5. **How long does an annulment take?** An order granting an annulment can be issued by a judge 30 days after the other person has been served with a copy of your Petition for Annulment.
6. **May I receive alimony if my marriage is annulled?** You may request an award of temporary alimony. However, you cannot request an award of permanent alimony. Alimony can be awarded only if the dissolution of a valid marriage.
7. **How long do I have to wait before I can get married again?** You can remarry any time after the Court issues a final order granting an annulment.
8. **Why would I ever need to file for an annulment?**
 - If you die prior to having your invalid marriage annulled, then your purported spouse may make a claim against your estate that he/she would otherwise not be eligible to make.
 - You can have a judge divide any joint property or joint debts.
 - You can have your former name restored.

Note: The below form may be used in cases in which the parties have been “married” very briefly, and one or both of them seek annulment only, without additional relief.

HERE ARE THE DETAILED INSTRUCTIONS ON HOW TO FILL OUT THE FORMS:

STEP 1 - COMPLETE THE ATTACHED SAMPLE FORM PETITION FOR ANNULMENT

Page 1: Fill in your name as Petitioner, and your spouse's name as Respondent. Fill in the name of the county this is being filed in. Do not fill in where it says Civil Action File Number. The clerk will assign a number to your case when you file your complaint. Then write your name after the words "My name is".

Paragraph 1: Subject Matter Jurisdiction - Check (a) if you have been a resident of the State of Georgia for at least six months prior to filing your Petition for Annulment. Check (b) if you are not a resident of the State of Georgia, but your spouse has lived in Georgia for at least six months prior to your filing your petition for annulment.

If none of the options applies to you, then you cannot file for an annulment here in Catoosa, Chattooga, Dade or Walker Counties.

Paragraph 2: Venue: When filing a petition, you need to make sure you are filing in the correct county. The general rule is that you file in the county where the opposing party lives.

Write your spouse's name in the space next to "The Respondent's name is".

PLEASE READ ALL THE ANSWER CHOICES BEFORE CHECKING ANY BOXES.

Check box (a) if your spouse is a resident of Catoosa, Chattooga, Dade or Walker County.

Check box (b) if your spouse lives in another county in Georgia but has signed a Waiver of Venue. (This is sometimes included in the Acknowledgment of Service.)

Check box (c) if your spouse lives outside of Georgia, and you live in Catoosa, Chattooga, Dade or Walker County. Then review (1), (2), and (3), and check all that apply.

Paragraph 3: Service - Service is the way the other person will get a copy of your petition.

Check (a) if your spouse has signed an Acknowledgment of Service.

Check (b) if your spouse will be served by the Sheriff's Department (This is the most common type of service.) Enter your spouse's address in the space provided.

Check the next space below if your spouse will need to be served in another county other than Catoosa, Chattooga, Dade or Walker County.

Check (c) if you do not know where your spouse lives and you want to publish notice of the petition in the newspaper. Enter your spouse's last know address in the space provided.

Paragraph 4: Marriage

Enter the date you were married.

Paragraph 5: Separation

Enter the date you and your spouse separated.

Paragraph 6: Children

Review paragraph 6. If you and your spouse have minor children, you cannot use these forms for an annulment. You should speak with an attorney.

Paragraph 7: Jointly Owned Property

Check box (a) if you and your spouse do not have any jointly owned property.

Check box (b) if you and your spouse have already divided your jointly owned property to your mutual satisfaction.

Check box (c) if you and your spouse have property that needs to be divided by the Court. In the space provided write the property to be divided (for example, house, car, bank account, etc.)

If you are serving your spouse by publication, the Court does not have jurisdiction over your spouse to divide the property. ***Check with an attorney for advice on what property the Court can award in your case.

Paragraph 8: Joint Debts

Check (a) if you and your spouse do not have any joint debts.

Check (b) if you and your spouse have already divided your debts.

Check (c) if you and your spouse have joint debts that you want the Court to decide.

If you are serving your spouse by publication, the Court does not have jurisdiction over your spouse to divide the debts.

Paragraph 9: Temporary Alimony

You can request an award of temporary alimony.

Check box (a) if you do not want an award of temporary alimony.

Check box (b) if you want an award of temporary alimony.

Check box (c) if you are serving your spouse by publication and the Court does not have jurisdiction over your spouse to award alimony.

Paragraph 10: Restore Former Name

If you want to be restored to your prior name, check the first space and then, in the next space, write the name you want restored to you.

Paragraph 11: Grounds for Annulment

Write the reason(s) you are requesting this annulment. For example, a reason for an annulment might be that your spouse was married to someone else at the same time your spouse married you. You can list more than one reason. You must be able to prove your grounds for annulment. Speak with an attorney for advice on the grounds for an annulment.

Summary of Requests in Annulment Action:

If you want relief in addition to the annulment (such as division of property, payment of debts, etc.) check (a) and then write everything that you want the court to grant you.

Then print your name, telephone number, and email address in the space provided. If you do not have an email address, you must complete a Certificate of No Email Address. Then sign and date in the space provided.

STEP 2 - VERIFICATION

Complete the Verification form. The Verification is your sworn statement, under oath, that everything you stated in your petition is true and correct. Write your name as Petitioner, and your spouse's name as Respondent.

Do not fill in where it says "Civil Action File No." The clerk will assign a number to your case when you file your complaint.

Then write your name in the space provided.

WAIT TO SIGN THE VERIFICATION FORM IN FRONT OF THE NOTARY PUBLIC.

STEP 3 - OTHER COURT DOCUMENTS

In addition to the Petition for Annulment and Verification form, you will need to attach additional forms to your petition which are either provided in the Family Law Information Center or otherwise as stated such as:

1. Domestic Relations Case Initiation Form
2. Sheriff's Entry of Service Form (available from the Sheriff's Department)

You may also have these forms attached to your petition for annulment (all forms available from FLIC Office):

1. Affidavit of Indigence (if you are low income and eligible to have your filing fee waived because you cannot afford it)
2. Notice of Publication (if your annulment must be served by publication)
3. Acknowledgement of Service and Waiver of Venue and Jurisdiction
4. Financial Affidavit

STEP 4 - FILING FEE

You must pay the fees to the clerk when you file your petition. You may contact the Clerk of Superior Court for fee information. If you cannot pay these fees, you may file an Affidavit of Indigence asking the court to let you file without paying filing fees. Please note that the request is not automatically granted by the judge. You will be asked questions to help with the evaluation of your request.

Follow the Clerk's instructions for e-filing once your papers are completed. The Clerk may have additional documents which are required for filing.

IN THE SUPERIOR COURT OF _____ COUNTY

STATE OF GEORGIA

_____,
Petitioner

_____ ,
Respondent

*
*
* Civil Action
Case Number: _____
*
*
*

PETITION FOR ANNULMENT

My name is _____ and I am representing myself in this ANNULMENT action. In support of my case, I state as follows:

1. **Subject Matter Jurisdiction:** I am the Petitioner in this action and:
[Check only one of the following]

_____(a) I have been a resident of the State of Georgia for six (6) months or more.

_____(b) I am not a resident of the State of Georgia, but the Respondent has been a resident of the State of Georgia for six (6) months or more.

2. **Venue:** The Respondent's name is _____.
[Check only one of the following]

_____(a) The Respondent is a resident of _____ County (Catoosa, Chattooga, Dade or Walker) and is subject to the jurisdiction of this Court.

_____(b) The Respondent is a resident of Georgia in _____ County, and I live in _____ (Catoosa, Chattooga, Dade or Walker). The Respondent has acknowledged service of process and consented to the jurisdiction and venue of this Court.

_____(c) The Respondent is not a resident of the State of Georgia, but I am a resident of _____ County, (Catoosa, Chattooga, Dade or Walker) Georgia, and:

[Check one of the following]

_____(1) The Respondent has never resided in the State of Georgia and currently resides in the State of _____.

____(2) The Respondent has acknowledged service of process and consented to the jurisdiction and venue of this Court.

____(3) I am a resident of _____County, (Catoosa, Chattooga, Dade or Walker), Georgia, and the Respondent's whereabouts are unknown to me. I am filing my Affidavit of diligent Search with this Petition, and incorporate it here by reference.

3. **Service of Process:** The Respondent shall be served as provided under O.C.G.A. §9-11-4, in the following manner:
[*Check one of the following*]

____(a) The Respondent has acknowledged service of process. I am filing the Acknowledgement of Service (which has been signed by the Respondent) with this Petition.

____(b) The Respondent may be served by the Sheriff's Department at the Respondent's _____home_____work address, which is:

____[*Check only if the Respondent lives outside of Catoosa, Chattooga, Dade or Walker County, Georgia*] The Respondent resides outside of _____County (Catoosa, Chattooga, Dade or Walker), Georgia, and shall therefore be served by second original, as provided under O.C.G.A. §9-10-72. Service shall be made by the sheriff's department of the county where the Respondent resides.

____The Respondent's whereabouts are unknown to me. I am filing my Affidavit of Diligent Search with this Petition. The Respondent shall be served by publication as provided under O.C.G.A. §9-11-4 (e)(1) for those who cannot be found within the State of Georgia. To the best of my knowledge, the Respondent's last known address is:

4. **Date of Marriage:** The Respondent and I entered into a purported marriage on _____.
5. **Date of Separation:** The Respondent and I separated on _____ and have since that date continued to live in a state of separation.
6. The Respondent and I have no children born of this purported marriage.

7. Property:

____ (a) Respondent and I do not have any jointly owned property.

____ (b) Respondent and I have already divided our jointly owned property to our mutual satisfaction.

____ (c) Respondent and I have the following property that needs to be divided by the Court:

8. Debts:

____ (a) Respondent and I do not have any joint debts.

____ (b) Respondent and I have already divided our joint debts to our mutual satisfaction.

____ (c) Respondent and I have the following joint debts that need to be divided by the Court:

9: Alimony:

____ (a) I do not want temporary alimony from Respondent.

____ (b) Respondent should pay me temporary alimony.

____ (c) The Court does not have jurisdiction to decide this because I am serving Respondent by publication.

10: Former name:

_____ I wish to be restored to my former name:

11. Grounds for Annulment: The grounds for annulment of the purported marriage between the Respondent and I are as follows:

FOR THESE REASONS, I REQUEST THE FOLLOWING RELIEF:

[Check all that apply]

_____ (a) That the purported marriage between the Respondent & I be annulled *ab initio*,

_____ (b) That _____

_____ (c) That the Court order any and all other relief that the Court finds appropriate.

Dated: _____

Petitioner, Pro Se (Signature)

Name: _____

Address: _____

Telephone Number: _____

Email: _____

If you do not have an email address, fill out a Certificate of No Email Address

Telephone No.: _____

IN THE SUPERIOR COURT OF _____ COUNTY

STATE OF GEORGIA

*

_____,
Petitioner

*

*

Civil Action
Case Number: _____

*

_____,
Respondent

*

*

VERIFICATION

I, _____, personally appeared before the undersigned notary public and, being duly sworn, state that the facts stated in the foregoing Petition for Annulment are true and correct.

This _____ day of _____, 20_____.

Signature

Name: _____

Address: _____

Email: _____

Sworn to before me this _____ day of _____, 20_____.

Notary Public

IN THE SUPERIOR COURT OF _____ COUNTY

STATE OF GEORGIA

_____,
Petitioner

*

*

*

Civil Action
Case Number: _____

*

_____,
Respondent

*

*

**ACKNOWLEDGEMENT OF SERVICE CONSENT TO JURISDICTION AND VENUE,
AND CONSENT TO PRESENT CASE**

[Check or initial all that apply. Cross out the sections that do not apply]

_____ I am the Respondent in this case. I hereby acknowledge that I have received a copy of the _____ [insert name of document], and the following other documents:

_____.

_____ I am the Defendant/Respondent in this case. I hereby acknowledge that I have received a copy of the _____ [insert name of document], and I consent to both jurisdiction and venue as they are state in the Complaint/Petition. So long as any Judgment in this action incorporates the Settlement Agreement I have signed, then I waive formal process, further notice, my right to trial and, if I am on active duty in the armed forces, I also waive my rights under the Servicemembers Civil Relief Act, 50 USC App. §521. I give my consent for the Court to hear this matter as soon as possible after thirty-one days.

_____ I am the Defendant/Respondent in this case. I hereby acknowledge that I have received a copy of the _____ [insert name of document], and I consent to both jurisdiction and venue as they are stated in the Complaint/Petition. I waive formal service of process. If I am on active duty in the armed forces, I also waive my rights under the Servicemembers Civil Relief Act, 50 USC App. §521.

_____ I give my consent for the Court to hear this matter as soon as possible after thirty-one days.

Should further notice be required for any reason, the notice should be mailed to me at the following address:

_____.

Defendant/Respondent, Pro Se (signature)

Name: _____

Address: _____

Email: _____

If you do not have an email address, fill out a Certificate of No Email Address

Telephone No.: _____

Sworn to before me this _____ day of _____, 20_____.

Notary Public

IN THE SUPERIOR COURT OF _____ COUNTY

STATE OF GEORGIA

*

_____,
Petitioner

*

* Civil Action
Case Number: _____

*

_____,
Respondent

*

*

SETTLEMENT AGREEMENT

This is an agreement by and between _____
(hereinafter referred to as "Wife") and _____
(hereinafter referred to as "Husband").

WHEREAS, the parties are married but are currently living in a bona fide state of separation;

WHEREAS, the parties desire to settle between themselves all questions of division of property, alimony, and all other rights and obligations arising out of their marital relationship;

NOW THEREFORE, in consideration of the mutual covenants hereinafter contained, the parties agree as follows:

1.

Separation

The parties shall continue to live separate and apart and each shall be free from interference, molestation, authority and control, direct or indirect, by the other as fully as if sole and unmarried, and each may reside at such place or places as he or she may select.

2.

Alimony (Choose only one: a or b)

_____ (a) The ___ Husband/ ___ Wife shall pay to the ___ Husband/ ___ Wife as alimony the sum of \$ _____ per week/month, to be paid beginning on _____ (date) and to continue thereafter until the ___ Husband/ ___ Wife

4.

Division of Debts (Choose only one: a or b)

_____ (a) The parties acknowledge that they have no outstanding joint debts.

_____ (b) The parties agree to the division of debts as indicated below:

Creditor	Amount	Responsible Party

5.

Name Restoration

The parties request that the wife's name be restored to

_____ [former name].

6.

Binding Agreement

The parties acknowledge that they have entered into this Agreement freely and voluntarily and that it is not the result of any duress or any undue influence. This Agreement constitutes the entire understanding of the parties. There are no representations, warranties, covenants, or undertakings other than those expressly set forth herein.

7.

Agreement Enforceable with or Without Divorce

It is expressly understood that this Agreement does not obligate the parties to continue to

live in a state of separation or to proceed with an action for divorce. However, in the event that either party shall bring or maintain an action for dissolution of the marital relationship, this Agreement shall be presented to the Court and incorporated by reference into any judgment or decree concerning the matters provided herein. Notwithstanding such incorporation, this Agreement shall survive and be enforceable independently of the judgment or decree.

This Agreement is entered into this ____ day of _____, 20_____.

Plaintiff, Pro Se (signature)

Sworn to before me this _____ day of _____, 20_____.

Notary Public

Respondent, Pro Se (signature)

Sworn to before me this _____ day of _____, 20_____.

Notary Public

IN THE SUPERIOR COURT OF _____ COUNTY

STATE OF GEORGIA

_____,
Petitioner,

*

*

*

Civil Action
Case Number: _____

*

_____,
Respondent

*

*

FINAL JUDGMENT AND DECREE

Upon consideration of this case and upon evidence submitted as provided by law, the Court makes the following findings of fact and states the following conclusions of law:

Findings of Fact:

Conclusions of Law:

JUDGMENT

It is the judgment of the Court that the purported marriage between the parties be, and it is hereby, annulled and declared to be void *ab initio* and of no effect. The status of the parties is decreed to be as if said purported marriage had never been contracted and entered into by them.

Costs of this action are to be paid by _____.

This _____ day of _____, 20_____.

JUDGE, Superior Court
Lookout Mountain Judicial Circuit

Presented by:

Plaintiff, pro se