

**IN THE COURT OF QUEEN'S BENCH OF NEW BRUNSWICK
FAMILY DIVISION
JUDICIAL DISTRICT OF _____**



PETITIONER

-and-

RESPONDENT



ANSWER AND COUNTER-PETITION (FORM 72F)

ANSWER *(as in Form 72D)*

COUNTER PETITION

(Strike out portions that are not applicable.)

CLAIM

1 The respondent claims:

- (a) a divorce;
- (b) under the *Divorce Act*
 - (i)
 - (ii)
 - (iii)
- (c) under the *Marital Property Act*
 - (i)
 - (ii)
 - (iii)

(State precisely everything you want the Court to include in the divorce judgment. Everything you want to include must have been agreed to by both spouses. If child support is sought, set out the number of children under the age of majority, the number of children over the age of majority and the nature and amount of any special expenses. If you want to include provisions of a domestic contract, separation agreement, minutes of settlement, previous court order or any other document in the divorce judgment, attach a copy of the document and refer to the specific provisions to be included.)

GROUND

2 (a) There has been a breakdown of the marriage by reason that:
(Check appropriate box or boxes.)

- (i) the spouses have lived separate and apart since the ___ day of _____ and are now living separate and apart.
- (ii) the petitioner, on or about the ___ day of _____, 20___, committed adultery with _____.

[] (iii) the petitioner has, since celebration of the marriage, treated the respondent with physical or mental cruelty of such a kind as to render intolerable the continued cohabitation of the spouses.

(b) The particulars of the grounds for the divorce are:

(Set forth fully but concisely all the material facts relied on but not the evidence by which they may be proved.)

RECONCILIATION 

3(a) There is no possibility of reconciliation of the spouses.

(b) (Where applicable) The following efforts to reconcile have been made:

PARTICULARS OF MARRIAGE 

(Attach a marriage certificate or explain its absence.)

4 (a) The petitioner and the respondent were married on the _____ day of _____, at _____
(place of marriage)

(b) The petitioner's surname at birth was _____.

(c) The respondent's surname at birth was _____.

(d) The marital status of the petitioner and the respondent at the time of the marriage was:
petitioner _____, respondent _____.

(e) The petitioner was born on the _____ day of _____, _____.

(f) The respondent was born on the _____ day of _____, _____.

RESIDENCE AND JURISDICTION 

5 (a) The petitioner resides at _____, in the Province of _____.

(b) The respondent resides at _____, in the Province of _____.

(c) (Check the appropriate box)

The petitioner has been

The respondent has been

Both the petitioner and the respondent have been

ordinarily resident in the Province of New Brunswick for at least one year immediately preceding the date of the commencement of this proceeding

CAPACITY

6 Both the petitioner and the respondent are of the full age of 19 years and neither of them suffers from any legal disability.

CHILDREN 

7 (a) The following are all the living children of the marriage as defined by the *Divorce Act*.

Full name	Birth date	School and grade or year	Person(s) with whom child lives and length of time child has lived there
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

The children ordinarily reside in *(municipality and province, state or country)*

(b) The respondent seeks an order for custody or joint custody of the following children on the following terms: *(Be sure that this claim agrees with the claim under clause 1(b).)*

Name of child	Terms of the order
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

agrees
The petitioner does not agree with the above terms.

(c) The respondent is not seeking an order for custody and

is content that a previous court order for custody continue in force, or
 is attempting to obtain an order for custody in another proceeding, full particulars of which are as follows: *(Give name of court, court file number and particulars of the order or proceedings.)*

(d) The respondent seeks an order for access (a visiting arrangement) and it content that the petitioner have an order for custody of the following children on the following terms: *(Be sure that this paragraph agrees with the claim under clause 1(b).)*

Name of child

Terms of the order

<hr/>	<hr/>
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The petitioner

- agrees
- does not agree with the above terms.

(e) The following is the existing access (visiting arrangement) for the spouse who does not have the children living with him or her. *(Give details such as days of the week, hours of visit and place of access.)*

(f) The above access (visiting arrangement) is

satisfactory

not satisfactory

(If not satisfactory, give reasons and describe how access should be changed.)

(g) The order sought in clause (b) or (d) is in the best interests of the children for the following reasons:

(h) The following changes in the circumstances of the spouses are expected to affect the children, their custody and the access (visiting arrangement) in the future:

(i) The existing arrangements between the spouses for support for the children are as follows:

Amount Paid	Time period (weekly, monthly, etc)	Paid by (petitioner or respondent)	Paid for (name of child)
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

(j) The existing support arrangements

- are being honoured
- are not being honoured

(If not being honoured, specify how much is unpaid and for how long. If you are agreed on an order for payment of part or all of the unpaid amount, be sure to include it in the claim under clause 1(b).)

(k) The respondent proposes that the support arrangements for the children should be as follows: *(Be sure that this claim agrees with the claim under clause 1(b).)*

Amount to be paid	Time period (weekly, monthly, etc)	Paid by (petitioner or respondent)	Paid for (name of child)
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

(k.1) The nature and amount of any special expenses are as follows:

Nature of special expense	Amount to be paid	Time period (weekly, monthly, etc.)	To be paid by (petitioner or respondent)	To be paid for (name of child)
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____

(l) The educational needs of the children

- are being met
- are not being met.

(If not being met, give particulars.)

OTHER COURT PROCEEDINGS 

8 The following are all other court proceedings with reference to the marriage or any child of the marriage: *(Give the name of the court, the court file number, the kind of order the court was asked to make and what order, if any, the court made. If the proceeding is not yet completed, give its current status.)*



DOMESTIC CONTRACTS, SEPARATION AGREEMENTS, MINUTES OF SETTLEMENT OR OTHER FINANCIAL ARRANGEMENTS

9 The spouses have entered into the following domestic contracts, separation agreements, minutes of settlement or other written or oral financial arrangements: *(Give particulars and attach copies. State whether the arrangements are now in effect. If support payments have not been paid in full, state the amount that has not been paid.)*

Date Nature of arrangements

(b) *(Where a claim for support or division of property is made, check the appropriate boxes.)*



The Financial Statement of the respondent, in the form prescribed by the Rules of Court, is attached.

The income information of the respondent required by the child support guidelines is attached

I claim a division of property not listed in the Financial Statement. A list of property that I seek to have divided is attached and my claim to each item of property is set out on the list.

The petitioner and respondent agree that corollary relief should be granted as set out above in the respondent's claim.

COLLUSION, CONDONATION AND CONNIVANCE

10 There has been no collusion in relation to this divorce proceeding.

(b) *(Where breakdown of the marriage is alleged on the basis of adultery or cruelty, check the box below, unless there has been either connivance or condonation on the part of the respondent, in which case give full particulars of the facts on which the Court will be asked to find that the public interest would be better served by granting the divorce.)*

There has been no condonation or connivance on the part of the respondent.



DECLARATION OF RESPONDENT

11 I have read and understand this Counter-Petition. The statements of which I have personal knowledge are true, and those of which I do not have personal knowledge I believe to be true.

DATED at _____, this ____ day of _____, 20____.

Signature of Respondent



STATEMENT OF SOLICITOR

(Where respondent has retained a solicitor)

I, _____, solicitor for
(name)

the petitioner, certify to this Court that I have complied with the requirements of section 9 of the *Divorce Act*. *(Where in the circumstances it would clearly not be appropriate to discuss the matters in subsection 9(1) with the petitioner, set out the circumstances.)*

DATED at _____ this __ day of _____, 20__

signature of solicitor

solicitor's business address

ENDNOTES:

1. The court file number and judicial district will be on the Petition for Divorce that you were served with.
2. Give your full name as it appears on the marriage certificate. You are the respondent.
3. CLAIM – Make your claim very clear. If you would like to have provisions of a separation agreement included, refer specifically to the provisions. Attach a copy of the separation agreement.
4. If you are requesting a division of marital property, you should seek legal advice. If you and your spouse agree on a division of property, write what you have agreed to in this space. **After a divorce, if you wish to make an application for marital property division, you must do so within 60 days of the event, except in special circumstances.**
5. Whether or not you are required to file a Financial Statement, it is a good idea to do so. If you have children, it is even better to include a Financial Statement even if you and your spouse have agreed on child support.
6. GROUNDS - Although the only ground for divorce is breakdown of the marriage, 97% of New Brunswickers use "separation" as proof. That means they must show that they have lived "separate and apart" for at least one year before the court decision.
7. RECONCILIATION – If you and your spouse did not try to reconcile, cross out paragraph (b). If you did try to reconcile, write out what efforts you made.
8. PARTICULARS OF MARRIAGE – Attach the original or certified copy of your marriage certificate. Make sure that the information in the Answer and Counter Petition is the same as the information on the marriage certificate.
9. RESIDENCE AND JURISDICTION – Residence means the place where you are now living. Under the *Divorce Act* you or the Respondent must live in the province for at least one year before a Divorce Petition is filed.
10. CHILDREN – You only need to write down the children that are dependants and that you are requesting support for. If you are attaching an order or agreement for support, check whether the agreement proposed in paragraph 7(k) agrees with the Child Support guidelines.
11. OTHER COURT PROCEEDINGS – Give the details if you, or your spouse, have started other court proceedings concerning the marriage or the children of the marriage.
12. SEPARATION AGREEMENTS – Give details about any agreements and attach a copy.
13. DECLARATION OF RESPONDENT– Include your full address. It must be a street address. Also include your mailing address if that is different than your street address.

**DO NOT FORGET YOU MUST SIGN AND DATE THIS FORM ON THE LAST PAGE,
AND INCLUDE YOUR ADDRESS IN THE SPACE PROVIDED**

** The endnotes on these formatted family law forms were created by Public Legal Education and Information Service of New Brunswick. Financial support for this initiative was provided by Justice Canada. For general information on court procedure, call the toll free family law information line at 1-888-236-2444, or visit the Family Law NB website at www.familylawnb.ca. For advice on your specific situation, please consult a lawyer.**