

Form 72F

ANSWER AND COUNTER-PETITION

COURT OF KING'S BENCH OF NEW BRUNSWICK
FAMILY DIVISION
JUDICIAL DISTRICT OF _____

Court File Number

BETWEEN:

PETITIONER
and

RESPONDENT

ANSWER AND COUNTER-PETITION (FORM 72F)

COUNTER-PETITION

(Strike out portions that are not applicable.)

CLAIM

- 1 The respondent claims:
- 1(a) a divorce;
- 1(b) under the *Divorce Act*:
- (i)

(ii)

(iii)

(iv)

(v)

1(c) under the *Martial Property Act*:

(i)

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(ii)

(iii)

(iv)

(v)



State precisely everything you want the Court to include in the divorce judgment. If you claim child support, 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 claimed. If you claim spousal support, set out the amount claimed as spousal support. If you claim a division of property, set out the nature and amount of relief claimed. If you claim division of property that is not listed in an attached Financial Statement, attach a list of all property that you seek to have divided and set out your claim to each item of property. If you want to include provisions of a domestic contract, separation agreement, minutes of settlement, parenting plan, 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. If relief is claimed under any other Act, refer to the Act in the claim.

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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 _____, _____, 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.

2(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.

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

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PARTICULARS OF MARRIAGE

 Attach a marriage certificate or explain its absence.

- 4(a) The petitioner and respondent were married on the ____ day of _____, _____, at _____.
(place of marriage)
- 4(b) The petitioner's last name at birth was: _____.
- 4(c) The respondent's last name at birth was: _____.
- 4(d) The petitioner's last name on the day before this marriage (if different than at birth):
_____.
- 4(e) The respondent's last name on the day before this marriage (if different than at birth):
_____.
- 4(f) The petitioner's given names on the day before this marriage:
_____.
- 4(g) The respondent's given names on the day before this marriage:
_____.
- 4(h) The petitioner's gender on the day before this marriage: ☐ Male ☐ Female ☐ Another Gender
- 4(i) The respondent's gender on the day before this marriage: ☐ Male ☐ Female ☐ Another Gender
- 4(j) The marital status of the petitioner and the respondent on the day before this marriage was:
petitioner _____
respondent _____.
- 4(k) The petitioner was born on the ____ day of _____, _____.
- 4(l) The respondent was born on the ____ day of _____, _____.

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RESIDENCE AND JURISDICTION

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

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

5(c) *(Check the appropriate box)*

- ☐ The petitioner has been
☐ The respondent has been
☐ Both the petitioner and the respondent have been

habitually 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 the child lives | Length of time child has lived there |
|-----------|------------|-----------------------------|--|---|
| _____ | _____ | _____ | _____ | _____ |
| _____ | _____ | _____ | _____ | _____ |
| _____ | _____ | _____ | _____ | _____ |
| _____ | _____ | _____ | _____ | _____ |
| _____ | _____ | _____ | _____ | _____ |
| _____ | _____ | _____ | _____ | _____ |

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

7(b) The respondent seeks a parenting order with respect to 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 order |
|---------------|----------------|
|---------------|----------------|

The petitioner

- ☐ agrees
- ☐ does not agree with the above terms

7(c) The respondent is not seeking a parenting order and

☐ is content that a previous parenting order continue in force, or

☐ is attempting to obtain a parenting order in another proceeding, full particulars of which are as follows:

Name of court: _____

Court file number: _____

Particulars of the order or proceeding:

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- 7(d)** The respondent seeks to have parenting time allocated under a parenting order and is content that the petitioner have parenting time and decision-making responsibility allocated under a parenting order with respect to the following children on the following terms:

Name of child

Terms of order

The petitioner

- ☐ agrees
- ☐ does not agree with the above terms.

- 7(e)** The following is the existing schedule of parenting time for the spouse who does not have the children living with him or her: *(Give details such as days of the week, hours and location.)*

-
- 7(f)** The above schedule of parenting time is

- ☐ satisfactory
- ☐ not satisfactory.

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

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

7(h) The following changes in the circumstances of the spouses are expected to affect the children and the parenting time and decision-making responsibility with respect to the children in the future:

7(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) |
|--------------------|--|---|---------------------------------|
| <hr/> | <hr/> | <hr/> | <hr/> |
| <hr/> | <hr/> | <hr/> | <hr/> |
| <hr/> | <hr/> | <hr/> | <hr/> |
| <hr/> | <hr/> | <hr/> | <hr/> |
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7(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 seek an order for payment of part or all of the unpaid amount, be sure to include it in the claim under clause 1(b).)

7(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.) | To be paid by (petitioner or respondent) | To be paid for (name of child) |
|------------------------------|--|---|---------------------------------------|
| <hr/> | <hr/> | <hr/> | <hr/> |
| <hr/> | <hr/> | <hr/> | <hr/> |
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| <hr/> | <hr/> | <hr/> | <hr/> |
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7(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) |
|---------------------------|-------------------|-------------------------------------|--|--------------------------------|
| | | | | |
| | | | | |
| | | | | |
| | | | | |
| | | | | |

7(l) The educational needs of the children

- ☐ are being met.
☐ are not being met.

(If not being met, give particulars.)

OTHER COURT PROCEEDINGS

8 If you are applying for a parenting order or an order for child support or spousal support, you will need to tell the court about:

- any criminal or child protection cases or orders that involve you or your spouse, or
- any restraining or protection orders or applications against one of you.


The judge will use this information to help ensure that any orders made under the *Divorce Act* do not conflict with other orders or proceedings.

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The following are all other court proceedings involving one or both parties to the proceeding 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 AND PARENTING PLANS

- 9(a)** 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 |
|-------|------------------------|
| <hr/> | <hr/> |
| <hr/> | <hr/> |
| <hr/> | <hr/> |
| <hr/> | <hr/> |

- 9(b)** The spouses have agreed to a parenting plan.

 *Attach a copy.*

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9(c) *(Where a claim for support or division of property is made, check the appropriate box or 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 all 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(a) There has been no collusion in relation to this proceeding.

10(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(a) ☐ 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.

11(b) ☐ I certify that I am aware of my duties under sections 7.1 to 7.5 of the *Divorce Act*.

DATED at _____ this _____ day of _____, 20____ .
(location)

SIGNATURE OF RESPONDENT

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STATEMENT OF SOLICITOR

12 (Where respondent has retained a solicitor)

I _____, solicitor
for the respondent, certify that I have complied with the requirements of section 7.7 of the *Divorce Act*.

(Where in the circumstances it would clearly not be appropriate to discuss the matters in subsection 7.7(1) with the respondent, set out the circumstances.)

DATED at _____ this ____ day of _____, 20__ .
(location)

SIGNATURE OF SOLICITOR

Solicitor's business address: