

## POST-JUDGMENT LETTER TO CLIENT--OBLIGEE

Dear [name]:

The judgment of dissolution was signed by [name] on [date]. It became final on the date it was signed. Your judgment is now effective.

A conformed copy of the judgment is enclosed. You can discard all the other court documents, papers and letters mailed to you during your case. This judgment replaces and makes unimportant all the other documents filed in your case. Keep it with your other important documents such as your insurance policies, car titles, etc. You may need to refer to it some time in the future.

The Division of Child Support of the Department of Justice (DCS), or the District Attorney, will be collecting support on your behalf and sending it to you. Help the DCS do its job by providing any information it requests. Remember that the law requires you to tell the DCS your new address within 10 days after you have one. Failure to keep the DCS advised of your current address will cause delays in receiving support payments.

It may take a month or two for the DCS to actually get the collection account established. Expect to receive a packet of documents from the district attorney.

Remember that the district attorney is there to help you. In fact, the district attorney is required to recalculate your support every two years. All you need to do is ask. Most people are entitled to a support increase. Keep this in mind as the second anniversary of the entry of the judgment approaches.

Everyone assumes all support payments will be made on time, but some people simply cannot (or will not) voluntarily pay support. Contact the local district attorney's office if the support payments are not being made. They will probably already be working on it, but it never hurts to apply pressure.

Sometimes clients go years without receiving support. Do not give up. The district attorney is required by law to help you collect the past due support. There are two things the district attorney will not do for you. The first is to collect interest. Your support order is a judgment. All judgments accrue interest at 9% per year. This interest can add up to a lot of money if support goes unpaid for a long time. Second, your support judgment may expire in 25 years from the date of this judgment. Child support judgments cannot be renewed. You may decide to wait and not vigorously pursue collection efforts on a child support judgment for a number of years for various reasons, but make sure that you do collect it before it expires on its 25th anniversary.

Remember, the spousal support you receive must be included as income on your income tax return. Depending on the amount of support which you receive, it may be necessary to make estimated quarterly tax payments. Check with an accountant to see if you should be making such payments and in what amount. If you do not already have an accountant, you might want to contact mine for an appointment. His/her name is [name] and his/her telephone number is [number].

Enclosed is a checklist of details you will want to take care of now that you are divorced. I assume you will take responsibility for following through on these details unless you advise me to the contrary in writing.

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Internal Revenue Code provisions require each taxpayer to notify the IRS if there is a change in the taxpayer's address, marital status or if the taxpayer has resumed her maiden name. Many clients never provide that information to the IRS until their next year's return is filed. That can be an expensive mistake. Keep in mind that you have been filing a joint tax return for the last couple of years. How are you going to know if the IRS sends a deficiency notice to your old address or to [name]? Avoid this risk by filing IRS form 8822. A copy is enclosed for your convenience.

Check every year to make sure [name] is maintaining life insurance as required by the judgment. He has been ordered to send his insurance company a copy of the judgment with instructions to update its records to guarantee [name(s)] are listed as beneficiaries. He is to provide you proof this has been done within 60 days after the judgment was signed. Carefully reread paragraph [number] on page [number] of the judgment about life insurance. It is your responsibility to be sure Father obeys this provision.

The need to execute a new will is frequently overlooked by people who are recently divorced. A divorce has the same effect as if your spouse had predeceased you under your current will, if you have one. You should, therefore, examine your current will and, if appropriate, make sure that you execute a new will to reflect the circumstances that exist now that your divorce is final.

It is particularly important you change the death beneficiaries of your life insurance policies, pension plan, and IRAs, if appropriate. You may have done this during the pendency of the divorce. If not, do it now.

You were awarded a portion of [name]'s pension plan. You must tell the plan within 30 days of any change of your address. This is to protect your rights. The pension company needs to be able to find you at any time to provide notice of any change in the plan or to let you know that a claim for benefits has been made. Your failure to keep the pension company advised of your address could jeopardize your right to receive pension benefits.

It is perhaps premature to talk about social security, but I want you to know that the social security system makes a variety of benefits available to retired workers and their families, even ex-spouses. Under 42 U.S.C. Section 402(b) and (c), a divorced spouse can claim social security benefits equal to 50% of the worker's retirement benefit based on the ex-spouse's earnings if:

1. The divorced spouse is age 62 or older.
2. The marriage lasted at least ten years. 42 U.S.C. Section 416(d).
3. The divorced spouse claiming the benefit is not married to someone else.
4. The divorced spouse is not entitled to a benefit based on his or her own earnings record that exceeds the divorced spouse's benefit. This means you get to choose the higher of your amount or [name]'s.

There are also benefits available should [name] die. Check with the Social Security Administration about those should it ever occur.

The judgment of dissolution requires that each of you pay certain debts. One of the most frequent complaints I hear after entry of a judgment of dissolution is that a creditor is calling my client to make payment on a debt the ex-spouse was ordered to pay. The creditor is not interested in hearing that the judge ordered the ex-spouse to pay that debt. The creditor is right.

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You may very well at some point find yourself in the position of having to pay a debt [name] was ordered to pay and then having to seek reimbursement. Creditors go after the individual who is easiest to get money from. Call me if this situation should happen to you.

Your credit card numbers have been specifically set forth in the judgment so that there would be no dispute about who is to pay which debt. Unfortunately, this protection comes with a possible problem. The judgment is a public record. Anybody who walks into the courthouse can take a look at it. I always am fearful that someone will look at the judgment and use your number to make unauthorized charges. Take the time to call your credit card companies and ask them to change the account number. The credit card company is usually very willing to send a new card, with a new number and transfer the account balance from the old account number to the new one.

Recall that I advised that you obtain a credit report on yourself when this case began. It would be a wise idea for you to get a new report to make sure that the joint credit cards were actually canceled and that nothing happened to your credit while this case was pending. Recall that credit reports are available for \$15 from Merchant's Credit Bureau, 1787 State Street, Salem, Oregon 97301.

You have to personally go to Merchant's Credit Bureau to obtain the report. You will be required to prove who you are by showing a driver's license or some other picture identification which has your signature on it. The credit report takes approximately one-half hour to complete, so you should be able to get it while you wait. Let me know if you see any problems with that report.

You may have provided me with original tax returns or other important documents during the divorce. Please call [name] and make arrangements to pick them up if you would like them back. I will dispose of them and place the rest of your file in storage if you do not pick them up by [date].

## **CONTESTED CASES**

You do have the right to appeal the judge's decision. An appeal must be filed within 30 days after the judgment of dissolution is signed (in this case, by [date]) so please let me know at once if that is your wish. Specific steps must be taken to perfect an appeal. Your decision cannot be put off until the last minute. The decision to appeal should be thoroughly discussed before proceeding. For that reason, I will do nothing to file an appeal unless you personally make arrangements with me to do so.

## **UNCONTESTED CASES**

You have the right to appeal the decision in this case, even though you agreed to it. It makes little sense to file an appeal since you stipulated to the judgment; however, it is important you understand the right exists. An appeal must be filed within 30 days after the judgment of dissolution is signed (in this case by [date]). No appeal will be filed unless you personally make arrangements with me to do so.

Clients sometimes ask about modifying (changing) a judgment of dissolution. The court does have the power to modify the judgment, but that power is usually limited to changing custody and parenting time, child support or alimony. Modification will be granted only if a party proves there has been an unanticipated substantial change in circumstances, or if more than two years have passed since the date of the last support order. I will be happy to discuss the specific criteria for modification should you consider it at some time in the future.

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## CLIENT OWES THE MONEY

As you know, *[name]* was granted a judgment against you for \$*[amount]*. When you have paid the judgment, it is important that *[name]* signs a satisfaction of judgment so that the public records reflect the judgment has been paid in full. An unsatisfied judgment automatically becomes a lien against any land you may own in the county where the judgment was originally obtained, or any other county where the judgment is recorded and you also own property.

## THE MONEY IS OWED TO CLIENT

As you know, a judgment was entered in your favor for \$*[amount]*. By law, a judgment such as this accrues interest at nine percent per year. Interest paid to you on a judgment is considered as income which should be reported on your tax return. Never sign a document satisfying this judgment unless you have received all the interest you are entitled to.

Judgments are fairly easy to collect if there is money or property to collect it from. An unsatisfied judgment is a lien against any land in the county where the judgment is recorded. Talk to me if you want the judgment recorded in any county other than the county where the divorce occurred. Under Oregon law, a property division judgment expires after ten years unless it is renewed. Remember that only child support judgments last 25 years and they cannot be renewed, whereas property division judgments can be. Your judgment may require *[name]* to deliver property or pay money, including spousal or child support payments. It is your responsibility to renew the judgment before the ten-year period expires to ensure the judgment remains in effect.

The first step would be to write and ask *[name]* to pay you voluntarily. Talk to me about what to do if voluntary payment is not likely to happen.

I have sent you a lot of paperwork while this case has been pending. That was partly to keep you advised as to where we were, but also so that you would have an opportunity to review everything to assist in making sure errors were not made. Recall during our first meeting I explained that you were a part of the "team" in this case and that you would be taking an active role. One of those roles was to act as proofreader. I say that because occasionally an error is made in typing a legal description, an account number is incorrect, an asset is inadvertently left out, etc. You have assumed the responsibility as the ultimate reviewer of all documents to assure their accuracy. I have relied on you throughout this proceeding to act in that capacity and to have advised me if any errors occurred.

Unless I receive instructions from you to the contrary, your file will be closed in 30 days. At that time I will file a notice of termination of attorney-client relationship. This is done for your protection. *[Name]* could at some time in the future serve papers on me which might be binding upon you if I continued to be listed with the court as your attorney of record. My withdrawal will require him to serve you with papers, after which you can contact me again for help. ***My withdrawal does not mean that I no longer wish to be your attorney. I still do.*** It is simply a procedural step for your future benefit. You will not be charged for preparation of the notice.

As always, if you have any questions about this or any other matter, please contact me.

Very truly yours,

Enclosures

### IMPORTANT NOTICES

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