UNITED STATES MARINE CORPS

LEGAL ASSISTANCE OFFICE
MARINE CORPS RECRUIT DEPOT/WESTERN RECRUITING REGION
SAN DIEGO, CALIFORNIA 92140
(619) 514-4110

MCRD San Diego Dissolution Package

TABLE OF CONTENTS

I.	Purpose	3
II.	Services of MCRD Legal Assistance Office	3
	A. Eligibility for Dissolution Assistance	3
	Phone numbers for other military legal offices	3
	B. Process	4
	C. Expenses	4
III.	General Summary of Dissolution Law	5
	A. Division of Property and Debts	5
	Retirement Benefits formula	5
	B. Spousal Support	6
	C. Child Custody	6
	D. Loss of Benefits	7
	E. What If We Can't Agree?	7
IV.	Dissolution Client Information	8
	A. Affirmation of uncontested process by	
	Unrepresented spouse	8
V.	Dissolution information worksheets	9

I. PURPOSE.

This packet serves three functions. First, it explains the type of dissolution (divorce) services provided by this office. Second, it contains a general summary of dissolution law in California and addresses issues that our clients frequently encounter. Finally, this packet serves as a worksheet from which our paralegal will complete the legal documents that you will file. THIS PACKET CARRIES NO LEGAL WEIGHT AND DOES NOT CONSTITUTE ANY TYPE OF BINDING AGREEMENT BETWEEN THE PARTIES.

II. SERVICES OF THE MCRD LEGAL ASSISTANCE OFFICE.

The Marine Corps Recruit Depot Legal Assistance Office provides dissolution service to clients who have come to accept divorce as the best option under their current circumstances. If anger or retribution is driving your decisions, an attorney specializing in dissolution law will be a better source of aid. Our services are not a weapon for the use of one spouse against another.

A. ELIGIBILITY FOR DISSOLUTION ASSISTANCE

Unfortunately, we cannot assist everyone who is seeking a dissolution. Three factors limit the number of people that we can help: 1) the Marine Corps order on legal assistance; 2) ethical conflicts; and 3) the capabilities of the MCRD Legal Assistance Office.

The Manual of the Judge Advocate General's (JAGMAN) chapter on legal assistance only provides for "in-office attorney advice, aid, and referral." Consequently, any dissolution proceeding that requires the appearance of an attorney in court will be beyond the scope of services that this office provides. The JAGMAN also limits legal assistance services to active duty members, their dependents, retirees, and retiree dependents. Active duty members will receive priority.

Ethical regulations require that each office only represent one party in a dissolution. JAGINST 5801.2. This means that no matter how amicable your dissolution is, only one spouse will receive representation from this office. The attorney/client relationship, once formed, also carries over from previous legal services given to one spouse. JAGINST 5801.2.5e(1). For example, if a wife comes to the MCRD Legal Assistance Office for help with a landlord-tenant dispute, her husband will be precluded from using our office for assistance in a dissolution. The spouse who is precluded from using our office should seek assistance from legal assistance offices in North Island (619) 545-6278, Miramar (858) 537-1656, or Camp Pendleton (760) 725-5788.

Finally, the capabilities of the Marine Corps Recruit Depot Legal Assistance Office limit the services we provide. Dissolutions constitute a specialized area of family law. Although all legal assistance attorneys are members of a state bar, none are divorce specialists. Consequently, if your dissolution is in any way contested or involves

complicated issues such as division of a large estate with tax consequences or bankruptcy, we will not be able to provide representation to you.

B. PROCESS

If you qualify for our dissolution services, we will be helping you in a process that essentially requires four trips into our office. The first step involves picking up this worksheet and receiving an overview of the dissolution process from an attorney. It is helpful to bring a copy of your Leave and Earning Statement (LES) to this first meeting so the attorney can calculate child and spousal support guidelines.

The second step includes filling out this worksheet COMPLETELY with your spouse. The spouse who is not represented by our office must sign the affirmation of intent to participate in an uncontested dissolution. This signature is not binding, but it is necessary for us to know that both parties anticipate an uncontested dissolution. Ordinarily, this office will not assist you without this signature. You then meet with an attorney a second time to confirm that you and your spouse have reached an agreement. This meeting with an attorney is also a chance to ask any final questions. The attorney will then clear you to see the office paralegal.

Prior to your appointment with the paralegal, you must pick up two packets of forms from a family law courthouse. The family law courthouses are located at 1555 Sixth Avenue (downtown San Diego), 325 S. Melrose Dr. (North County), 250 E. Main Street (El Cajon), and 500 3rd Avenue (Chula Vista). If you need directions, see one of the clerks at the front desk. The courthouse will charge you \$2.50 for the packets. Pick up ONE (1) DISSO PACKET and ONE (1) JUDGEMENT PACKET.

The paralegal will assist you in filling out the Disso packet for you based on the information you have provided in this worksheet. The paralegal will then give you instructions on how to file it with the courthouse and arrange for service of process on your spouse. As of 1 January 2002, the filing fee was \$199.00. Once your spouse has been served, a six month statutory waiting period begins to run. The spouse who files the paperwork will be known as the petitioner. The other spouse is the respondent.

Because your dissolution is uncontested, your spouse should agree with all the terms on the petition and not need to file a response. After 30 days, a default judgment will be entered. You will then see the paralegal again for filling out the judgment packet. Once this judgment packet is filed and the six month statutory waiting period has concluded, your dissolution will be final.

C. EXPENSES

The services of our legal assistance office are free. Your only expenses should be the charge for the dissolution and judgment packets, which are \$2.50, and the filing fee of \$196. These funds are paid directly to the Clerk of the Court If you do not have enough money to pay the fees, it may be possible to have the court waive them in the case of

extreme economic hardship. Ask our paralegal if you feel that you may qualify for a fee waiver.

III. GENERAL SUMMARY OF DISSOLUTION LAW.

A. DIVISION OF PROPERTY AND DEBTS

California is a community property state. Depending on the extent of marital assets, division of property can range from simple to complex. Unlike child support, the parties can agree on <u>any</u> distribution and the court will adhere to the arrangement provided it is convinced that the agreement was knowingly and voluntarily entered by both parties.

1. Community Property

Community property principles are fairly complex, but, generally speaking, all property or money acquired during the marriage, except that acquired by gift or inheritance, is considered community property. This definition is quite expansive, including intellectual property rights and personal injury awards, among other things. If you have a question about whether something is community property ask an attorney. Community property rights begin with the date of marriage and cut off at the date of separation.

2. Separate Property

Separate property belongs exclusively to only one of parties in the marriage. You need not divide separate property in the dissolution agreement. In order to prevent disagreements in the future, however, we recommend that you include any items that you want understood as separate in the agreement. Separate property can come from three sources. First, separate property consists of property which one spouse owned prior to the marriage. The other spouse must not have helped make payments on this in order for it to remain separate property. Second, separate property may also include gifts made to one spouse during the course of the marriage. Finally, any inherited property is considered separate property.

3. Debts

You are responsible for all community debts incurred by either spouse between the dates of marriage and separation. Each debt must be characterized as either community or separate property and assigned to one spouse. In general, there is no community property share of debts after separation except debts incurred for the "common necessities of life" (food, clothing, and shelter).

4. Retirement Benefits

Military retirement pay and federal civil service annuities are community property. The Uniformed Services Former Spouses' Protection Act gave states the right to treat military retirement pay as marital property. California treats a military retirement pension as community property. The formula below shows the percentage of retirement pay that a former spouse is entitled to under California's community property laws:

One half X <u>length of time the marriage overlaps with military service</u> X 100 length of member's creditable military service towards retirement

This formula applies only to retirement pay. Disability pay is not divisible. SGLI benefits are not considered community property.

B. SPOUSAL SUPPORT

You and your spouse can decide if one of you should receive spousal support. Any spousal support obligation created during this process will become a legal obligation under California law. California courts award spousal support on the basis of necessity. The order to pay spousal support is seldom permanent and there is no inherent right to receive spousal support. In making decisions about spousal support, the court will consider twelve factors (length of marriage, incomes, standard of living during the marriage, and other factors). The court does not automatically order spousal support in every case.

If you are unsure whether to apply spousal support in your case, ask a legal assistance attorney to go over the 12 factors that California courts consider with you. IF ONE PARTY TO YOUR DISSOLUTION DOES NOT HAVE THE CAPACITY TO MAINTAIN A STANDARD OF LIVING SIMILAR TO WHAT EXISTED DURING YOUR MARRIAGE--YOU MAY BE A CANDIDATE FOR SPOUSAL SUPPORT.

The Marine Corps guidelines on dependent support (Chapter 15 of the Legal Admin Manual) need not be accepted by a court. These guidelines often require support in excess of what a California court would order. Any court ordered support as a result of legal proceedings will take priority over the Marine Corps Guidelines.

C. CHILD CUSTODY AND SUPPORT

Two types of child custody exist; legal and physical. Legal custody refers to the health, education, and welfare of the child. It includes decisions about a child's religion, schooling, and moral upbringing. Physical custody refers to the child's residence. If the parents cannot agree on custody issues, the court will order mediation. It will then issue an order based on the best interests of the child. The court may give custody to either parent singly (sole custody) or to both parents (joint custody). There is a presumption in California that joint legal custody is in the best interests of the child. It is possible, however, for the court to award sole legal custody.

Courts award child support based on a mathematical formula that includes both the monthly disposable income and custody time for each parent. The results of this formula represent a mandatory guideline. This means that, in a contested case, the court must use the amount the support formula produces. In your case, you can either set the amount of child support or ask the court to calculate it for you. If you set your own amount, however, it needs to be close to the guideline amount. A judge can only approve an award of child support below the guideline if certain conditions are met. Ask your legal assistance attorney for details if you plan on setting child support below the guideline.

D. LOSS OF BENEFITS

The finalization of your dissolution will result in some loss of benefits for a nonmilitary spouse. All former spouses lose their eligibility to receive legal assistance once the dissolution is final. Former spouses who were married to a military member for 20 years and the period of service overlaps the marriage by at least 20 years retain full medical and commissary privileges after the dissolution. Spouses whose military overlap is only 15 years retain medical privileges for one year after the dissolution is final. All other spouses lose their benefits immediately.

E. WHAT IF WE CAN'T AGREE?

If you cannot agree on ALL of the above issues, your divorce will become a contested case and we cannot help you. The Marine Corps Recruit Depot does not offer any mediation services. If you believe that you are close to an agreement, we recommend that you utilize the services of a mediator. The court will require and provide mediation if your dispute involves child custody or visitation issues.

Mediation may prove worthwhile in disputes regarding property division or spousal support. The Family Law Mediation Program is located at 625 Broadway, Ste 925, San Diego CA 92101. They may be reached at (619) 235-5656. The San Diego Mediation Center is also at 625 Broadway. It is located in Ste 1221 and its phone number is (619) 238-2400. Both these agencies charge fees for their services. These fees, however, are small compared to those charged by attorneys in a contested dissolution.

IV. DISSOLUTION CLIENT INFORMATION.

A. AFFIRMATION OF UNCONTESTED PROCESS BY UNREPRESENTED SPOUSE

I ac	cknowledge that I have read and understand all the preceding pages of this
worksheet	. By signing below, I affirm that my present intent to work with my spouse
towards an	uncontested dissolution. I also acknowledge my obligation to consult with a
lawyer at a	another legal assistance office or a civilian attorney in order to safeguard my
own rights	. I understand that my signature below is not binding regarding the terms in
this works	heet.
Sign	Date

V. DISSO INFORMATION WORKSHEETS.

A. Client			
Full Name	Rank	Branch	
Address			
City	State	Zip	
Residence Phone	Work Phone		
Date of Birth	_ SSN#		
Occupation	How	Long?	
Employer			
Employer's Address			
City	State	Zip	
Years completed in school			
Employment training or education _			
State in which you last filed state in	come tax return		
What year? State wh	nere you last voted?		
State you claim as your legal reside	nce		
Have you lived in California for the last 6 months?			
Have you lived in San Diego County for the last 3 months?			
Brief description of health			

B. Spouse				
Full Name		_ Rank	Branch	
Address				
City	_ State		_ Zip	
Residence Phone	Work	Phone		
Date of Birth	_ SSN#			
Occupation		How Lo	ng?	
Employer				
Employer's Address				
City	_ State		Zip	
Years completed in school				
Employment training or education				
State in which you last filed state in	ncome tax return			
What year? State w	here you last voted?			
State vou claim as vour legal reside	ence			

C. Marriage Information

Did you live with your spouse pr	rior to this marriage? Yes	No
If so, how long?	Date of mar	riage
Place of marriage (City or Town	n)	
County	State	
Date of separation		
Does wife desire her former mai	den name restored? Yes	No
Wife's former or maiden name i	s:	
Do you want family counseling?	? Yes No	
Prior marriages of client and how	w terminated	
Prior marriages of spouse and ho	ow terminated	
Has a dissolution proceeding even	er been filed between you and	your spouse?
Yes No If so, where	e: City	
County	State	When

D.	Children

Full Name		Place of Birth		DOB	Age	Sex
Present address of m	ninor childrei	n and with whon	residing:			
Living with						
Residence of minor	children for j	past five years:				
Dates From to present		Address		Resid	led with	1
From:	To:					
From:	To:					
From:	To:					
From:	To:					
From:	To:					
Is wife presently pre	gnant? Yes	No	If yes, wh	en is she	due	
Have there been any marriage? Yes		_	•			

Does any other person claim custody or visitation rights for these children? Yes No If so, describe						
CHILDREN NOT OF THIS MARRIAGE						
Other children of husband:						
Full Name	Date of Birth	Age	Sex			
Other children of wife:						
Full Name	Date of Birth	Age	Sex			

E. Income and Expense Information (This information is required and it is important that it be as accurate as possible).

<u>INCOME</u>	Husband	Wife
Total monthly income from Salary and Wages (including BAH, other military entitlements, commissions, bonuses and overtime) [Attach a copy of most recent LES and most recent copy of pay stub from all civilian employment]		
Child Support Income		
Spousal Support Received from prior marriage		
Dividends and Interest Income		
All Other Sources of Income (specify)		
TOTAL MONTHLY INCOME		
<u>DEDUCTIONS</u>	Husband	Wife
Federal Taxes State Taxes Social Security Unemployment Insurance Medical Insurance Union Dues Spousal Support Payments (Court Ordered) Child Support Payments (Court Ordered) Mandatory Retirement and Pension Contributions Per Month		
TOTAL MONTHLY DEDUCTIONS		

NET MONTHLY INCOME		
(Total Monthly Income Less		
Total Monthly Deductions)		
MONTHLY EXPENSES	Husband	Wife
Home expenses		
Rent or mortgage	\$	\$
Taxes & insurance on home	\$	\$
Maintenance on home	\$	\$
Food at home & household supplies	\$	\$
Food eating out	\$	
Utilities	\$	\$
Telephone	\$	
Laundry & cleaning	\$	
Clothing	\$	\$
Medical & dental	\$	\$
Child care	\$	\$
Education Expenses (specify)	Husband	Wife
a	\$	\$
b	\$	\$
c	\$	
Entertainment/Recreation Expenses (s	pecify)	
a	\$	\$
b	\$	\$
c	\$	
Transportation & auto expenses (insurance, gas, oil, repair)	\$	\$
Total installment payments (specify below)	\$	\$

ATTORNEY'S NOTES			
Incidental Expenses (specify)			
a	\$	\$	
b	<u> </u>	\$	
c	\$	<u> </u>	
d	<u> </u>	\$	
CHILD/SPOUSAL SUPPORT P	AYMENTS		
	\$	<u> </u>	
TOTAL EXPENSES	\$	\$	
F. SPOUSAL SUPPORT			
Will one spouse receive s	pousal support? Yes	No	
If so:			
(a) Who is to receive support? I	Husband Wife		
(b) What amount per month? \$_			
(c) Date first payment is to be m			

(d) If spousal support to continue until death or remarriage? Yes No
(e) Date of last payment?
(f) Day(s) of month payments will be made?
G. CHILD CUSTODY, VISITATION AND SUPPORT:
Who will have physical custody of the minor child(ren)? Husband Wife Joint
Who will have legal custody of the minor child(ren)? Husband Wife Joint
Have you and your spouse agreed to reasonable visitation by the party not having physical custody? Yes No
Do you desire any special terms concerning visitation? Yes No If so, what are they?
Who will pay the costs of transportation incident to visitation? Custodial Parent Non-custodial parent Split the Costs % for custodial parent and % to non-parent. Have you and your spouse agreed to raise your child(ren) in any particular religious faith? Yes No If so, what faith?
Will the custodial parent be restricted from moving the permanent residence of the minor child(ren)
 (a) Out of San Diego County? Yes No (b) Out of California? Yes No (c) Out of the United States? Yes No
Who will pay child support? Husband Wife Non-custodial Parent
What amount of monthly child support have you agreed upon? \$ per child per month. Monthly total of \$
Will the children be living in a home in which will remain jointly owned by husband and wife? Yes No

Will the children be attending private school? Yes No
Do you and your spouse desire to make an agreement concerning the college education expenses of you children? Yes No
If so what percent of expenses will each parent pay? Husband% Wife% up to a maximum of \$ per year for years or age
Who will claim the children as dependents for income tax purposes? Husband Wife [Normally it is the custodial parent]
Who will pay the costs of uninsured medical and dental expenses? Husband Wife Split Husband and Wife.
If children are no longer covered by military health care benefits who will provide insurance? Husband Wife
Will there be a duty on the part of the parent paying child support to provide life insurance for the benefit of the children? Yes No If so, how much? \$
Do you desire to require a life insurance policy as security for <u>spousal</u> support? If so, how much? \$
H. SEPARATE PROPERTY: Separate property is that acquired before marriage or after separation, or acquired during marriage by gift or inheritance. It is acceptable to list small value property by categories. For example, pots, pans, dishes, etc. may be listed as "kitchen articles." It is important, however, that all major items of property be listed separately. Please do not be limited to the space below. Attach additional pages where necessary.
WIFE'S SEPARATE PROPERTY:
Wife's Automobiles Present Amount
Market Still Net Make Model Year Vehicle ID# State Value less Owed = Value

Wife's Real Property

Please provide a copy of the Deed: Address: ____ City State Brief Description: Present Market Value _____ Amount Still Owed _____ Net Value _____ Wife's Checking and Savings Accounts Bank Account Number Balance Wife's Miscellaneous Separate Property Present Amount Market Still Description Value Owed Net Value 2____

)						
10						
HUSE	BAND'S	S SEPARATE P	ROPE	RTY:		
	Husba	and's Automobil	les			
Make Mode	l Year	Vehicle ID#	State	Present Market Value less	Still	
Please provid		and's Real Property of the Deed:	erty			
Address:						
Brief Descrip	Street tion: _			City		
		e		Amount	Still Owe	d
	Husba	and's Checking	and Sav	vings Accour	nts	
Bank		Accoun	nt Num	nber		Balance
				· · · · · · · · · · · · · · · · · · ·		

Husband's Miscellaneous Separate Property

	Present Market	Amount Still	
Description	Value	Owed	Net Value
1			
2			
3			
4			
5			
6			
7			
8			
9			
10			
COMMUNITY PROPER' property. Most property a this section of the form macommunity property by ca additional pages where ne	equired during naking sure that youtegories. Please	narriage is in this cat ou indicate who will	egory. Please complete get each item of
COMMUNITY Prideed:	ROPERTY REAI	L PROPERTY – Ple	ase provide a copy of the
Address:			
Street		City	State
Brief Description:			
Present Market Value – A	mount Still Owe	d = Net Value	

What do y	ou desire to do	with the al	pove listed real proper	ty?		
Attornay N	Notace					
Auomey 1	votes.					
		OPERA	A AMERICAN CODE FOR			
CC	OMMUNITY PI	ROPERTY	AUTOMOBILES			
				State &		Party to Receive
Make	Model	Year	Vehicle ID#	License#		H or W
					_	
2					_	
3					_	
	Value of th	e Commu	nity Property Vehicles			
			Present Market	Amount Still		
Vehicle			Value -	Owed	=	Net Value
1						
2						
3						

MISCELLANEOUS COMMUNITY PROPERTY

Description of specific items	Present Market Value	Amount Still Owed	Net Value	Party to Receive H or W
Bank & Credit Union	Accounts			Party to Receive
Bank	Account#		Amount	H or W

Stocks, Bonds (identify)			Value	· 	
Life Insurance	Type of	Policy	Cash	Party Rece	
Name of Company	* *	•		Но	
I. RETIREMENT I	NTERESTS				
Is either party preser or retirement program	•			-	
If yes, who is enrolled Date employment be Name of plan	egan	; date	e of retirement		
Name of additional p	olan				
Is husband presently Date started active d	entitled to a uty	military pensio; date o	n?of retirement		
May husband become Yes No					
Is wife presently ent Date started active d	itled to a mili uty	tary pension?; date o	of retirement		
May wife become er		• 1			
What does wife desi retirement? Wants i later decision	nterest	Waives int			on for

	band desire to do w ants interest				
J. ASSETS O in possession of	F CHILDREN: Independent of the control.	icate descrij	otion of item	s(s), owner, v	value and person
1					
2					
K. OBLIGAT	TONS/DEBTS				
	HUSBAND	'S SEPARA	ATE OBLIG	ATIONS/DE	BTS
	Creditor's Name	A	Account #	Approx Balance	Monthly Payment
House Payment					
Car Payments					
Furniture Payments					
Credit Cards					
Loans					

Medical & Dental					
Other					
WIFE	'S SEPARATE OBLIGA	TIONS/DEBTS			
	Creditor's Name	Account #	Approx Balance	Monthly Payment	
House					
Payment					
Car					
Payments					
Furniture					
Payments					
Credit					
Cards					
Loans					

Medical & Dental					
Other				 	
<u>COM</u>	MUNITY OB	LIGATIONS/E	DEBTS		
	Creditor's Name	Account #	Approx Ba. Time Sep	Assig H	ned to W
House Payment					
Car Payments					
Furniture Payments					
Credit					
Cards					
Loans					

Medical & Dental			
Other			
	LIZING PAYMENT. Will there be any payment from on exzet the division of community property and obligations? Yes	-	
-	pay? Husband Wife What amount? \$		