

\_\_\_\_\_  
Full Name of Party Filing Document

\_\_\_\_\_  
Mailing Address (Street or Post Office Box)

\_\_\_\_\_  
City, State and Zip Code

\_\_\_\_\_  
Telephone

\_\_\_\_\_  
Email Address (if any)

IN THE DISTRICT COURT FOR THE \_\_\_\_\_ JUDICIAL DISTRICT  
FOR THE STATE OF IDAHO, IN AND FOR THE COUNTY OF \_\_\_\_\_

\_\_\_\_\_,  
Petitioner,  
vs.  
\_\_\_\_\_,  
Respondent.

Case No. \_\_\_\_\_

FAMILY CASE RESPONSE AND  
COUNTERCLAIM (WITH CHILDREN)

Fee Categories: \_\_\_\_\_

Filing Fee: \$ \_\_\_\_\_

(Your name) \_\_\_\_\_, for his/her Response to the \_\_\_\_\_  
\_\_\_\_\_, states:

1. I completely agree with and admit the following paragraphs (list each paragraph number):

\_\_\_\_\_  
\_\_\_\_\_

2. I admit the portion of paragraph \_\_\_\_\_, that states: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_ and I deny everything else in that paragraph.

3. I admit the portion of paragraph \_\_\_\_\_, that states: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_ and I deny everything else in that paragraph.

4. I deny the following paragraphs because I do not have enough information to admit or deny them (list each paragraph number): \_\_\_\_\_
5. I completely disagree with and deny everything I do not admit.
6. The following child/ren under the age of 18, or 19 and still pursuing a high school education, was/were born to or adopted by the parties:

Name                                      Date of Birth                      Current Address

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

- Wife is not now pregnant.
- Wife is now pregnant with a child expected to be born \_\_\_\_\_

7. Our child/ren have lived with the following persons in the following places within the last five years:

Name of Person	City and State	Time Period (mm/yr – mm/yr)	Child's Name if not all children

The names and current addresses of each non-parent our children have lived with during the last 5 years are: \_\_\_\_\_

\_\_\_\_\_

8. I have not participated as a party or witness, in a different case involving our child/ren. **or**

I have participated as a party or witness in the following different case involving our children (provide all specifics including the parent's name, the state, the court, the case number and the date of the child custody order, if any): \_\_\_\_\_

\_\_\_\_\_

9. I do not know of a different case that could affect our child/ren. **or**

The following different case could affect our child/ren (provide all specifics including the parent's name, the state, the court, the case number and the nature of the proceeding): \_\_\_\_\_

\_\_\_\_\_

10. Other than the parents, no one has or claims custody or visitation rights with our child/ren. **or**

In addition to the parents, the following person/s have or claim custody or visitation for our child/ren (list names and addresses): \_\_\_\_\_

\_\_\_\_\_

11.  I want the Petition dismissed.

**AFFIRMATIVE DEFENSE(S).**

(State each affirmative defense that applies in a separate paragraph - see I.R.F.L.P. 208(C))

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

COUNTERCLAIM.

The Respondent/Counterclaimant says:

1. **Residence of the Parties.** I am now and have been a resident of the state of Idaho for at least six (6) full weeks prior to the filing of this action. Respondent is currently a resident of the State of \_\_\_\_\_.

2. **Marriage of the Parties.** The parties were married at (city) \_\_\_\_\_, (state) \_\_\_\_\_ on (month, day, year) \_\_\_\_\_, and are still married.

3. **Grounds for Divorce.** Irreconcilable differences exist between the parties.

4. **Minor Child/ren of the Parties.** The following child/ren under the age of 18 years, or 19 years and still pursuing a high school education, was/were born to or adopted by the parties:

<u>Name</u>	<u>Date of Birth</u>	<u>Current Address</u>

- Wife **is not** pregnant.
- Wife **is** pregnant with a child expected to be born \_\_\_\_\_.

5. **UCCJEA Jurisdiction.** This court has jurisdiction to determine custody of our child/ren under the Uniform Child Custody Jurisdiction and Enforcement Act, Idaho Code § 32-11-101, et seq., because each child has resided in Idaho for at least six consecutive months before the filing of this Petition or for their entire life if they are less than six months of age.

a. **Living Arrangements Last 5 years.** Our child/ren have lived with the following persons in the following places within the last five years:

Name of Person	City and State	Time Period (mm/yr- mm/yr)	Child's Name if not all children

The names and current addresses of each non-parent our children have lived with during the last 5 years are: \_\_\_\_\_

**b. Participation in Other Cases.**  I have NOT participated as a party or witness, in a different case involving our child/ren. **or**

I have participated as a party or witness in the following different case involving our child/ren (provide all specifics including the parent's name, the state, the court, the case number and the date of the child custody order, if any): \_\_\_\_\_

**c. Other Cases Affecting Child/ren.**  I do NOT know of a different case that could affect our child/ren. **or**

The following different case that could affect our child/ren (provide all specifics including the parent's name, the state, the court, the case number and the nature of the proceeding): \_\_\_\_\_

**d. Custody/Visitation.**  Other than the parents, no one has or claims custody or visitation rights with our child/ren. **or**

In addition to the parents, the following person/s have or claim custody or visitation for our child/ren (list names and addresses): \_\_\_\_\_

**6. Legal Custody.**

It is in the best interest of our child/ren that we be awarded joint legal custody. **or**

It is in the best interest of our child/ren that (name) \_\_\_\_\_ be awarded sole legal custody of the child/ren because \_\_\_\_\_

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**7. Physical Custody.**

It is in the best interest of our child/ren that we be awarded joint physical custody of our child/ren

on the terms and as described in the Parenting Plan attached as Schedule A.

**or**

as follows: \_\_\_\_\_

**or**

(name) \_\_\_\_\_ should be awarded sole physical custody of our child/ren because \_\_\_\_\_

\_\_\_\_\_ **and**

(name) \_\_\_\_\_ should spend time with our child/ren as follows: \_\_\_\_\_

**8. Child Support.**

**a. Existing Child Support Orders.**

Is there a child support order for any of the child/ren listed in Section 1?

No. (Skip to section 9. below)

Yes.

If Yes, provide the following information about the child support order(s):

State	County	Court Case Number	Date of order, judgment, or decree

**b. Change in Child Support.**

Do you want to change the amount of child support?

No. I ask for it to continue. (If the order was from a different case please attach a copy of that order, judgment, or decree as Schedule B, skip to section 10.)

Yes. The amount of child support should be changed and the judgment issued by this Court should control. (If the order was from a different case you may have to file a Motion to Consolidate to avoid having multiple child support orders.)

**NOTE: Complete all of Section 9. below to change child support.**

**c. Reasons for Changing Child Support.**

The following substantial and material changes since the date of the last Order, Judgment or Decree have occurred. (check all boxes that apply):

- The custodial arrangement.
  - The gross annual income of one or both parents.
  - A parent is providing medical insurance.
  - The parent claiming the tax dependency exemption should be changed.
  - (other reason) \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_

**Section 9. New Child Support Amount.**

9. a.  Child support should be paid by (name of parent who will pay support) \_\_\_\_\_ in the amount of \$ \_\_\_\_\_ per month, based on the Idaho Child Support Guidelines. This is based on the Affidavit Verifying Income and Child Support Worksheet(s) attached as "Schedule B". (see Recommended Adjusted support in the worksheet)

**or**

Instead I ask that child support should be paid by (full name of parent who will pay support): \_\_\_\_\_ in the amount of \$ \_\_\_\_\_ per month, because: \_\_\_\_\_

(Attach Affidavit Verifying Income and Child Support Worksheet(s) as Schedule B.)

**b. Effective Date and Duration.**

Child support payments should begin (select one option):

- the month after petition is filed. **or**
- the month after the Decree is signed.

Child support should continue to be paid on the same day of each following month until the child/ren for whom support is being paid reach/es the age of eighteen. If a child for whom support is being paid continues his/her high school education after reaching the age of

eighteen (18) years, child support payments should continue until the child discontinues his/her high school education or reaches the age of nineteen (19) years, whichever is sooner. Payment should be made payable to the Department of Health and Welfare and sent to Idaho Child Support Recepting, P.O. Box 70008, Boise, ID 83707-0108.

#### Notice

The court is required to order income withholding in all child support orders. Income withholding is enforced by a withholding order issued to the paying parent's employer without additional notice to the paying parent, according to Idaho Code Section 32-1204. The support order can also be enforced by license suspension or the filing of a lien upon all real and personal property of the paying parent.

#### **c. Multiple Children.** (if applicable)

We have more than one minor child. If this child support Decree has not been modified, when one child is no longer entitled to support, child support for the remaining child/ren should continue and will be paid as described in the Continued Support Worksheet attached as Schedule B.

#### **d. Extended Visits.** (if applicable)

Our child/ren live/s in the home of one parent at least 75% of the time. (If selected, check the boxes below that apply. Otherwise, go to the next section.)

When the parent paying child support has physical custody of the child/ren for 14 or more overnights in a row, the amount of basic child support should be reduced for that period of time. However, visitation of two overnights or less with the other parent should not eliminate the reduction of basic child support during extended visits. The child support reduction for the period of the actual physical custody should be  50% or  (Other percentage) \_\_\_\_% of the basic child support obligation. The reduction should be subtracted from the child support payment due the month following the extended visit.

If the parent paying child support has physical custody of some but not all of the children for a period of 14 overnights in a row, before a reduction is made, the basic child support obligation should first be divided by the number of children under 18 years of age. The parent who pays child support can only claim a reduction for the child/ren in that parent's custody.

For Example—Parent has 3 of 4 children for 14 overnights. \$300/mo. basic support payment divided by 4 children = \$75 per child per month divided by 30 = \$2.50 per day per child x 14 = \$35.00 x 3 for 3 children = \$105.00. Reduction = 50% of \$105 or \$52.50.

#### **e. Work-Related Childcare Expenses.**



Child support does not include work-related childcare. The net out-of-pocket costs for work-related child care should be paid by the parents based on the Idaho Child Support Guidelines, \_\_\_\_\_% by (your name) \_\_\_\_\_ and \_\_\_\_\_% by (other parent's name) \_\_\_\_\_.

**or**

Instead I ask that (your name) \_\_\_\_\_ pay \_\_\_\_\_% and (other parent's name) \_\_\_\_\_ pay \_\_\_\_\_% because: \_\_\_\_\_

(Attach Affidavit Verifying Income and Child Support Worksheet(s) as Schedule B.)

Payment should be made directly to the child care provider by both parents according to arrangements made with the care provider if permitted by the care provider. Otherwise, the non-paying parent should reimburse the paying parent within 10 days after the paying parent provides a copy of the invoice and proof of payment.

**f. Medical, Dental, and/or Optical Insurance.**

**A. Pro Rata Share.** (select one)

1. Any health insurance premiums for the child/ren should be paid by the parents based on the Idaho Child Support Guidelines, \_\_\_\_\_% by (your name) \_\_\_\_\_ and \_\_\_\_\_% by (other parent's name) \_\_\_\_\_.

**or**

2. Instead I ask that (your name) \_\_\_\_\_ pay \_\_\_\_\_% and (other parent's name) \_\_\_\_\_ pay \_\_\_\_\_% because: \_\_\_\_\_

(Attach Affidavit Verifying Income and Child Support Worksheet(s) as Schedule B.)

**B. Insurance Currently Provided.** (select one)

1. (name) \_\_\_\_\_ is/are currently providing health insurance for the minor child/ren and should continue to do so, so long as it is available at reasonable cost. If this insurance becomes unavailable, the parent first able to obtain health insurance at reasonable cost should do so.

**or**

2. Neither parent is providing health insurance for the child/ren. The parent first able to obtain health insurance at reasonable cost should do so.

3. The child/ren are enrolled in the Children's Health Insurance Program (CHIP) or have Medicaid coverage. The parent first able to obtain health insurance at reasonable cost should do so.

**C. In Addition to or Included in Monthly Child Support.** (select one)

1. The child support payment should include an adjustment for each parent's share of health insurance premiums. All other health care payments are in addition to the basic child support award and should be promptly paid or reimbursed directly between the parents. **or**

2. All health care premiums should be in addition to the basic child support award and should be promptly paid or reimbursed directly between the parents.

**NOTICE**

Where medical insurance is provided, each parent should be ordered to provide the other with all medical insurance information necessary to obtain health care and process insurance claims for the child/ren. Insurance proceeds should be applied first to unpaid medical bills and then to reimburse the paying parent for any prepaid medical costs. Both parents should be ordered to sign any needed document that provides continuing health care for the child/ren.

Failure to provide medical insurance coverage may result in the direct enforcement of a medical support order by either the obligee (party or parent other than the parent ordered to carry or provide a health benefit plan for the parties' minor child/ren) or the Department of Health and Welfare. A national medical support notice will be sent to your employer, requiring your employer to enroll the child in a health benefit plan as provided by Sections 32-1214A through 32-1214J, Idaho Code, and applicable rules of the department.

**g. Out-of-Pocket Health Care Costs.**

The out-of-pocket cost for health care expenses for the child/ren should be paid by the parents based on the Idaho Child Support Guidelines, \_\_\_\_\_% by (your name) \_\_\_\_\_ and \_\_\_\_\_% by (other parent's name) \_\_\_\_\_.

**or**

Instead I ask that (your name) \_\_\_\_\_ pay \_\_\_\_\_% and (other parent's name) \_\_\_\_\_ pay \_\_\_\_\_% because \_\_\_\_\_.

(Attach Affidavit Verifying Income and Child Support Worksheet(s) as Schedule B.)

Health care expenses include, but are not limited to, medical, prescription, dental, orthodontic, optical, psychiatric, psychological, special education, addiction treatment, or counseling in any form.

Any health care for the child/ren that would result in an actual out-of-pocket expense of over \$500 to the parent who did not incur or consent to the expense, must be approved in advance, in writing, by both parents or by prior court order. (**Note:** The court may consider whether consent for out-of-pocket expenses in excess of \$500 was unreasonably requested or withheld and order payment of the incurred expense in some percentage other than the Guidelines Income.)

**h. Tax Benefits & Exemptions.**

The state and federal income tax dependency exemptions for the child/ren should be assigned as follows:

(your name) \_\_\_\_\_ shall claim:  
(child/ren's names) \_\_\_\_\_

(Other parent's name) \_\_\_\_\_ shall claim:  
(child/ren's names) \_\_\_\_\_

The parent not receiving the exemption(s) should be awarded a pro rata share of the value of income tax benefit in proportion to his/her guidelines income which should be either a credit against or in addition to the basic child support obligation.

You must not claim the exemption if it is not assigned to you. If the exemption is not assigned to you, you must sign and provide to the other parent all required Internal Revenue Service form(s), including IRS Form 8332, by January 31st of each tax year.

**10. Other Minor Child/ren, NOT of Both Parties.**

No party is the parent of any other minor child/ren born during the marriage and Wife **is not** pregnant. **or**

Wife **is** pregnant, but Husband is not the father of the child expected to be born on (date) \_\_\_\_\_ **and/or**

Husband is not the father of the following child/ren born to Wife during the marriage:  
(write full name/s and date/s of birth) \_\_\_\_\_

**11. Separate Property.** (Land and/or Personal Property)

None. **or**

Prior to or during the marriage, I, (your name) \_\_\_\_\_  
acquired the separate property listed on the attached Schedule. That property should be  
confirmed as my separate property. (spouse's name) \_\_\_\_\_  
should be ordered to return to me any such property in his/her possession. **and/or**

Prior to or during the marriage, (spouse's name) \_\_\_\_\_  
acquired the separate property listed on the attached Schedule. That property should be  
confirmed as spouse's separate property. (your name) \_\_\_\_\_  
should be ordered to return to him/her any such property in my possession.

**12. Community Real Property.** (Land) During the marriage, the spouses acquired:

no community real property. **or**

the community real property should be awarded as set out in the attached Schedule.

**13. Community Personal Property.** During the marriage, the spouses acquired:

No community personal property. **or**

Community personal property has already been divided. The property should be  
awarded to the party who presently has possession. **or**

It would be fair for the court to award to the parties, as their sole and separate  
property, the community property as set out in the attached Schedule.

The court should order each party to deliver to the other any of the community personal  
property currently in his/her possession that is awarded to the other party. The court  
should also order each party to sign and deliver any documents necessary to carry out  
the property division.

**14. Debts.**

The Petitioner has no knowledge of any unpaid debts. **or**

It would be fair for the court to order me, (your name) \_\_\_\_\_,  
to pay the debts listed in the attached Schedule as or before they become due and to  
order me to hold spouse harmless for any further liability concerning those debts. **and/or**

It would be fair for the court to order (spouse's name) \_\_\_\_\_  
to pay the debts listed in the attached Schedule as or before they become due and to  
order him/her to hold me harmless for any further liability concerning these debts.

**15.  Debts Incurred Since Separation.** The parties have been separated since (date):

\_\_\_\_\_. It would be fair for the court to order that each party will assume any debt incurred by that party since the date of separation. The court should order each party to pay those debts as or before they become due and to hold the other party harmless from any obligation concerning those debts.

16.  **Name Change.** \_\_\_\_\_ should be restored to the former last name of \_\_\_\_\_.

**WHEREFORE,** Counterclaimant asks for judgment as requested above.

**CERTIFICATION UNDER PENALTY OF PERJURY**

I certify under penalty of perjury pursuant to the law of the State of Idaho that the foregoing is true and correct.

Date: \_\_\_\_\_

\_\_\_\_\_  
Typed/Printed Name

\_\_\_\_\_  
Signature

**CERTIFICATE OF SERVICE**

I certify that on (date) \_\_\_\_\_ I served a copy to: (name all parties in the case other than yourself)

\_\_\_\_\_  
(Name)

\_\_\_\_\_  
(Street or Post Office Address)

\_\_\_\_\_  
(City, State, and Zip Code)

- By mail
- By fax (number) \_\_\_\_\_
- By personal delivery

\_\_\_\_\_  
(Name)

\_\_\_\_\_  
(Street or Post Office Address)

\_\_\_\_\_  
(City, State, and Zip Code)

- By mail
- By fax (number) \_\_\_\_\_
- By personal delivery

\_\_\_\_\_  
Typed/printed name

\_\_\_\_\_  
Signature

**REMOVE THIS PAGE AND**

**ATTACH (staple) the PARENTING PLAN**

**ATTACH (staple)  
AFFIDAVIT VERIFYING INCOME and CHILD SUPPORT WORKSHEET(S)**

**If you have listed property:  
ATTACH (staple) the Property and Debt Schedule**

**IF APPLICABLE, ATTACH (STAPLE) THE ORDER WHICH SETS CHILD SUPPORT IN A  
DIFFERENT CASE WITH THE DEPARTMENT OF HEALTH AND WELFARE  
AND LABEL AS "EXHIBIT E"**

## Property and Debt Schedule

### Separate Property.

(your name) \_\_\_\_\_ Separate Property:

None. or (list separate property below)

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(spouse's name) \_\_\_\_\_ Separate Property:

None. or (list separate property below)

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### Community Real Property.

The real property, located at \_\_\_\_\_  
in the City of \_\_\_\_\_, County of \_\_\_\_\_,  
State of Idaho, and described in the deed as follows:

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shall be sold and the net proceeds divided \_\_\_\_\_ % to (your name) \_\_\_\_\_  
and \_\_\_\_\_ % to (Spouse's name) \_\_\_\_\_

**or**

is awarded to: (Name of party who will own the home) \_\_\_\_\_,  
subject to any liens. Spouse, (spouse's name) \_\_\_\_\_,  
is ordered to convey his/her interest in the property to the other party when (Name of party who will  
own the home) \_\_\_\_\_, pays spouse \$ \_\_\_\_\_.

**or**

\_\_\_\_\_

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