

**PETITIONING FOR LEGITIMATION AND/OR  
CUSTODY/VISITATION**

**THESE FORMS DO NOT COVER THE FOLLOWING SITUATIONS – YOU WILL NEED TO SPEAK TO AN ATTORNEY IF ANY OF THE FOLLOWING STATEMENTS ARE TRUE:**

- The child is in the physical custody or guardianship of someone other than you or the mother.
- The mother was married to another man at the time the child was conceived or born.
- Another man has legitimated the child or appears on the child’s birth certificate.
- Another man claims to be the child’s legal or biological father.

**THERE ARE MANY OTHER REASONS WHY THESE FORMS MAY NOT BE APPROPRIATE FOR YOUR PARTICULAR SITUATION.** It is strongly recommended that you seek the advice or representation of an attorney before signing or filing any legal document with the Court.

**USE THESE FORMS AT YOUR OWN RISK.** In no event will the Court Administrator, Clerk of Court or anyone contributing to the development of these forms or instructions be liable for any damages resulting from the use of this packet. These forms may not be appropriate for your particular case. In addition, due to the changing nature of the law, the information in these instructions and forms may be or become outdated. You should review any statutes (laws) that apply to make sure the forms are current. **Again, it is strongly recommended that you obtain the services of an attorney.**

**YOU MAY ALSO NEED THE FOLLOWING FORMS NOT INCLUDED IN THIS PACKET:**

- **CHILD SUPPORT WORKSHEET AND SCHEDULES** – go to [www.georgiacourts.org/csc](http://www.georgiacourts.org/csc) for calculators and forms.

**NO AUTHORITY TO GIVE LEGAL ADVICE**

State law, O.C.G.A. § 15-19-51, prohibits court personnel (including staff attorneys or law clerks, calendar clerks, clerk’s office staff, and sheriff’s department staff) from giving legal advice or answering legal questions. This rule also applies to staff persons in the Northeastern Judicial Circuit Family Law Information Center (FLIC), except for the FLIC attorney who can answer general legal questions pertaining to legitimation (by appointment only). Consultations are available to Hall or Dawson County residents or individuals filing in Hall or Dawson County (subject to conflict check and income qualification).

## IMPORTANT INFORMATION

1. **THIS PACKET DOES NOT COVER EVERY LEGAL ISSUE THAT CAN COME UP IN A LEGITIMATION AND/OR CUSTODY CASE.** It is best to hire an attorney or discuss your case with an attorney before filing or signing any documents to protect your legal rights. Mistakes can place your rights in jeopardy and have serious consequences (including dismissals and rulings that are unfavorable to you).
2. **DUE TO THE CHANGING NATURE OF THE LAW, THE INFORMATION IN THESE INSTRUCTIONS AND FORMS MAY BE OR BECOME OUTDATED.** It is your responsibility to check any statutes or laws that pertain to legitimation, custody/visitation and/or child support to make sure these forms are current when you use them.
3. **THERE MAY BE BETTER WAYS TO DESCRIBE OR ADDRESS CERTAIN ISSUES IN YOUR CASE.** A lawyer experienced in domestic relations law (family law) is best suited to advise you how to protect your rights and can create legal documents specifically tailored to your situation. Even in uncontested cases, it is best to have an attorney advise you on how to craft an agreement or proposed order.
4. **YOU MAY ESPECIALLY NEED TO HIRE AN ATTORNEY TO REPRESENT YOU IF:**
  - Someone other than the mother or father has physical custody or guardianship of the minor child(ren). \*\*If this situation applies to you, you must speak with an attorney about whether you can use this packet, and how to modify the paperwork.
  - Another man: 1) was married to the Mother at the time of the child’s conception or birth; 2) has legitimated the child; 3) is listed as the father on the child’s birth records; or 4) claims to be the child’s legal or biological father. \*\*If this situation applies to you, you must speak with an attorney about whether you can use this packet, and how to modify the paperwork.
  - You have doubts about the paternity of the child.
  - The case is contested OR an attorney represents the mother of the child(ren).
  - You want an arrangement for custody or visitation that does not exactly fit these forms.
  - You do not understand how to complete the *Child Support Worksheet* and applicable schedules. (NOT INCLUDED WITH THIS PACKET)
  - You are unable to locate the mother to have her served with this action.
  - You think you may have difficulty getting financial information from the mother.
5. **READ THESE INSTRUCTIONS AND EVERY WORD OF EACH FORM CONTAINED IN THIS PACKET.** You are making statements to the Court in these forms and missing or misreading something you submit to the Court may cause **serious and irreversible consequences** for you and your case.
6. **NORTHEASTERN JUDICIAL CIRCUIT FAMILY LAW INFORMATION CENTER (FLIC).** The following services are available to residents of Hall and Dawson Counties and individuals filing in Hall and Dawson Counties:
  - At FLIC’s main office (located in Room 459 on the top floor of the Hall County Courthouse in Gainesville, GA), assistance is available by appointment. Here, a FLIC staff person can check your forms for completeness, and notarize them free of charge. You will also receive a folder, instructions for filing and obtaining a Court date, and a procedural checklist.
  - Limited legal consultations are available with the FLIC attorney for people who financially qualify. All appointments with the FLIC attorney are subject to a conflict check. The FLIC attorney also travels to the Dawson County Courthouse the third Friday of every month. Call (770) 531-2463 for more information or to schedule an appointment.
  - FLIC on the web: [flic.hallcounty.org](http://flic.hallcounty.org)
7. **FINDING BASIC LEGAL INFORMATION**

“O.C.G.A.,” followed by a symbol (“§”) and number, refers to a specific section (“§”) in the Official Code of Georgia Annotated (O.C.G.A.). You can find the annotated Georgia Code in print at some libraries (including the Hall County Law Library at 117 Bradford St., SE, Gainesville, GA). The unannotated Georgia Code is available on the Georgia General Assembly’s website at: [www.legis.state.ga.us](http://www.legis.state.ga.us).

“USCR,” followed by a number, refers to a specific rule in the Uniform Superior Court Rules (USCR). USCR 24.1 through 24.9 include several rules that apply in domestic relations cases (a legitimation is considered a domestic relations case). The Uniform Superior Court Rules are available on the Georgia Judicial Branch website at [www.georgiacourts.org](http://www.georgiacourts.org) (under “Courts” and then under “Court Rules”). A hard copy of the rules is also available in FLIC.

The Domestic Relations Action Standing Order (a copy is included in this packet) also has local procedures that apply to legitimation cases in Hall and Dawson Counties.

Some other helpful websites are [www.legalaid-ga.org](http://www.legalaid-ga.org) or [www.findlaw.com](http://www.findlaw.com).

### GENERAL INFORMATION ABOUT LEGITIMATION

**How does a father legitimate his child born out of wedlock?** In the State of Georgia, other than through marriage to the mother, a father may establish a legal connection to his biological child and render his relationship with the child legitimate by:

- (1) Filing a petition for legitimation in Superior Court (by hiring a lawyer or representing himself) OR
- (2) **For births between July 1, 2005 and June 30, 2016**, by signing a voluntary acknowledgment of legitimation with the mother on the “Paternity Acknowledgment” form at the time of the child’s birth (at the hospital) or at the vital records office. **HOWEVER:**
  - a. The birth certificate itself does not show whether the parents signed the voluntary acknowledgment of legitimation portion of the Paternity Acknowledgment (PA) form. You can request a certified copy of the *Paternity Acknowledgment* form for a fee from the Georgia State Office of Vital Records in Atlanta. See FLIC for a letter to request the record by mail or call Vital Records at (404) 679-4702 for more information.
  - b. Some circumstances may make a voluntary acknowledgment of legitimation ineffective (e.g., if it was rescinded by either party) and additional restrictions apply for the use of the PA form after July 1, 2008. For example, after July 1, 2008, parents could not use the form to legitimate the child if the child was more than one year of age.
  - c. As noted above, administrative legitimation is no longer an option for births on or after July 1, 2016.

**What is the effect of legitimation?** Legitimation establishes a legal connection between the father and child – the biological father becomes the “legal father”. This connection means the father and child can inherit from one another, the father can be granted custody and/or visitation rights, the father can be named on the child’s birth records (if he is not already named as the father), and either the father or mother may be ordered to pay child support to the other parent, among other legal implications.

**How does the father establish custody and/or visitation rights?** Legitimation alone does not automatically give the father custody and/or visitations rights, but the forms included with this packet allow the father to include claims/requests for custody and/or visitation rights. You are not required to ask for custody or visitation rights if you use this packet.

#### Where should the petition be filed?

- O.C.G.A. § 19-7-22 (b) provides: “The biological father of a child born out of wedlock may render his relationship with the child legitimate by petitioning the superior court of the county of the residence of the child's mother or other party having legal custody or guardianship of the child; provided, however, that if the mother or other party having legal custody or guardianship of the child resides outside this state or cannot, after due diligence, be found within this state, the petition may be filed in the county of the biological father's residence or the county of the child's residence. If a petition for the adoption of the child is pending, the biological father shall file the petition for legitimation in the county in which the adoption petition is filed.” **NOTE: this packet does not address situations where there may be a pending juvenile court deprivation proceeding** (speak to a lawyer if there is an active juvenile court matter involving the child).
- Additional laws apply if you are asking the Court to address custody and/or visitation as part of your case. There are some circumstances where the Court can address the legitimation portion of your petition, but may not be able to decide issues of custody and/or visitation because of jurisdictional issues.

- The mother can also expressly consent in writing (*Acknowledgment of Service and Consent to Personal Jurisdiction and Venue* form included in this packet) to the case being filed in the father’s county of residence.

### **BASIC STEPS FOR USING AND FILING THESE FORMS**

Your case may require different or additional steps, so please read through the entire instructions carefully.

1. **Carefully read all of these instructions at least once before filling out the forms.**
2. **Complete the legal forms, using these instructions to guide you.** Note: you can have them notarized at FLIC free of charge.
3. **If applicable, complete the *Child Support Worksheet* and appropriate schedules.** See *Completing the Georgia Child Support Worksheet* (included with this packet) or go directly to [www.georgiacourts.org/csc](http://www.georgiacourts.org/csc) for calculators and information about the child support laws.
4. **Make at least two complete sets of copies of all of your paperwork (once they are in final form, signed and notarized).**
5. **Have filing and services fees (contact Clerk of Courts for updated fee information) ready.**
6. **File your papers with the Clerk of Courts, ask for your copies to be stamped by the Clerk and arrange for interested parties to be served** (if they have not acknowledged service in writing using the form in this packet). FLIC has Sheriff’s Entry of Service forms.
7. **Using a *Rule Nisi*** (distributed by the Clerk of Courts), **obtain a Court date for your hearing from the assigned Judge’s office** (bring one set of copies of your papers with you to the Judge’s office).
8. **Make copies of your *Rule Nisi* if they are not made for you, file the original with the Clerk of Courts, and make sure any interested party is served with a copy.**
9. **If you and the opposing party have not executed and filed a written *Settlement Agreement*, contact the mediation office to schedule mediation. Mediation is required in the Northeastern Judicial Circuit if you do not have a complete written agreement.** Contact the mediation office for timing requirements to avoid postponement of your hearing. Go to [www.adr9.com](http://www.adr9.com) or call 770 535-6909 for more information.
10. **Attend the Ninth Judicial District ADR Parenting Seminar ([www.adr9.com](http://www.adr9.com)) or other approved parenting seminar.** Contact FLIC for an updated list.
11. **Make sure all relevant parties are actually served.** Have your case number ready and check with the Hall County Clerk of Courts at (770) 531-7025 to see that a return of service has been filed.
12. **Go to your hearing at the scheduled Court date and time.**
13. **After the hearing, take your final Order (if given to you by the Judge) and *Domestic Relations Case Final Disposition Information Form* to the Clerk of Courts for filing. You can purchase a certified copy of the Order from the Clerk of Courts.**

### **I. FORMS YOU WILL NEED TO START YOUR COURT ACTION**

You will need to file the following documents with the *Petition for Legitimation and/or Custody/Visitation*. Most of the forms are available in this packet or at FLIC. Note: THIS PACKET DOES NOT INCLUDE SOME OF THE REQUIRED FORMS FOR CASES INVOLVING CHILD SUPPORT. See *Completing the Georgia Child Support Worksheet* (included with this packet) or go to [www.georgiacourts.org/csc](http://www.georgiacourts.org/csc).

- Petition for Legitimation and/or Custody/Visitation*
- Parenting Plan (if seeking custody/visitation rights)*
- Child Support Worksheet* and appropriate schedules (if applicable)
- Verification* form
- Domestic Relations Financial Affidavit*
- Domestic Relations Action Standing Order* and *Certificate of Service*
- Domestic Relations Case Filing Information Form*

AND, depending on your method of service (one of the 4 options below), you will also need:

If you are having the mother/interested parties served by the Hall County Sheriff's Office:

- Complete copy of all of your papers for each person served (the "service copy")
- Sheriff's Entry of Service* for each person served (3-page carbon copy form)
- Summons* for each person served (2-page carbon copy form)
- Money order for each person served (contact FLIC or Clerk of Courts for amount)

If you are having the mother/interested parties served by another county's sheriff's department:

- Complete copy of all of your papers for each person served (the "service copy")
- Sheriff's Entry of Service* for each person served (3-page carbon copy form)
- Summons* for each person served (2-page carbon copy form)
- Letter(s) for Service by Second Original*
- Money order(s) payable to appropriate county sheriff's department (confirm amount, name to use on money order, and sheriff's office address)
- Anything else the specific sheriff's office requires (it is your responsibility to contact the specific county's sheriff's office to find out what they require – see FLIC for a list of questions to ask when you call)

If the mother/interested parties have acknowledged service in writing (signed and notarized):

- Acknowledgment of Service* for each person (complete top portion of a two-part form included in this packet)

If you are serving the mother/interested parties by publication, for each person you need:

- Affidavit of Diligent Search*
- Order of Publication*
- Notice of Publication*
- \$80.00 money order payable to *The Times*

**Other forms, depending on your case:**

- Settlement Agreement* with attachments (*Child Support Addendum, Parenting Plan, etc.*) – if you and the mother can reach a written agreement, and do not wish to be ordered to go to mediation
- Affidavit of Poverty and Order on Affidavit of Poverty* (only if you are indigent and cannot afford to pay the filing & service fees) – contact FLIC for more information

**II. COMPLETING THE FORMS**

**A. On ALL Forms:**

- **Complete the Caption (Heading):** Fill in the name(s) of the child(ren) involved in this action under "In re (Child(ren))" and your full name as the Petitioner. If the mother is living, fill in the mother's full name as the Respondent. Do not fill in the "Civil Action File No." The clerk will assign a number to your case when you file your *Petition* in the Clerk's office. Follow these instructions for the captions on all of your documents.
- **READ EVERY WORD IN EVERY PARAGRAPH.** If you do not agree with something pre-printed/stated on the form, you will need to talk to a lawyer about how to modify it.
- **Complete every paragraph and blank space as instructed on the form.** If something does not apply, write "N/A". If an amount is zero, write "0". Do not skip paragraphs unless the instructions on the form specifically allow you to do so.
- **Certain forms must be signed in the presence of a notary.** If there is a place for a notary seal, do not sign the form until you are in front of a notary public.

**B. Petition for Legitimation and/or Custody/Visitation (Petition):**

- **Paragraph 1. Minor Child(ren):** Fill in the full, current names(s), gender, and year of birth of the child(ren) you want to legitimize. Then fill in your full name again following the word “Petitioner”. Obtain copies of any relevant birth records or paternity acknowledgment forms and attached them as exhibits (label them Exhibit “A”, “B”, etc. and then write the same letters in Paragraph 1.
- **Paragraph 2. Mother:** Provide the full name of the mother, living or deceased.
- **Paragraph 3. Personal Jurisdiction and Venue:** Review each option carefully and decide which option applies. If no option applies to your situation, STOP! Talk to an attorney about whether you can file your case in Hall County. If paragraphs (c) or (d) apply, talk to an attorney about whether you SHOULD file your case in Hall County. It may be possible to file your case in Hall County, but the Court may or may not be able to award certain kinds of relief, such as custody or visitation rights or child support. For example, if you will have to serve the mother by publication, because you do not know where she lives, you will not be able to get child support.

*Note:* To obtain an order from the Judge permitting you to serve the Respondent by publication, the Judge will need to review a completed *Affidavit of Diligent Search*. You must prove to the Court that you have been diligent in trying to locate the Respondent and cannot find her. Instructions for submitting the affidavit to the Judge and the *Order of Publication* and *Notice of Publication* forms are available at FLIC.

➤ **Paragraph 4: Service of Process**

IMPORTANT: Before completing Paragraph 4, carefully read the notes in the box below. Then choose the appropriate option. Make sure to file any required forms with your *Petition*, depending on the option you choose.

**Choosing a Method of Service:** Service is the required formal process of notifying the Respondent that the action has been filed. There are basically three ways for service to be completed: (1) the Respondent signs the *Acknowledgment of Service*, (2) service is completed by the sheriff’s department or other approved process server, or (3) service is completed by publication (publishing a notice in *The Times*).

**(1) Acknowledgment of Service**

This method is the easiest and least expensive method of service, but only if the Respondent is cooperative and willing to sign an acknowledgement form in front of a notary public. You cannot sign the form for the Respondent and you cannot sign as the notary witnessing the Respondent’s signature. Also, it is not good enough for the Respondent to sign it without the signature being witnessed by a notary public.

There is a two-part form in this packet that contains an *Acknowledgment of Service* and *Consent to Personal Jurisdiction and Venue*. The top portion of the form (the *Acknowledgment of Service*) allows the Respondent to acknowledge service by selecting one of three options. The bottom portion of the form (the *Consent to Personal Jurisdiction and Venue*) allows the Respondent to consent to personal jurisdiction and venue in Hall County Superior Court (if he/she resides in another county or state).

To use this method of service, you need to complete the caption (heading) on the form and have the Respondent complete and sign it in front of a notary public. Then, you file it with your *Petition*.

**(2) Service by the Sheriff (“Personal Service”)**

This method is the usual way for service to be completed. It is sometimes called “Personal Service,” which means that the deputy sheriff or other court-approved process server hands the papers to the Respondent in person. If the Respondent will not sign an acknowledgment form, and you know an address where the Respondent can be served in Hall County, then you can make arrangements for the Hall County Sheriff’s Office to serve the papers by providing the required forms to the Clerk’s office when you file. The forms provided by the Hall Family Law Information Center do not include the special motion and order required to have a special process server appointed.

If the Respondent can be served by the Hall County Sheriff’s Office, you will need the forms entitled *Sheriff’s Entry of Service* (3-page carbon form) and *Summons* (2-page carbon form) to include with the “service copy” of your legitimation papers. These forms are available from FLIC. After you complete the forms and are ready to file, you may pay the service fee at the Clerk’s office when you file the case, and

leave the “service copy” of the papers with the clerk. The clerk will forward your payment and legal documents to the Sheriff’s Office for service. If you prefer, you may take the fee and service copy directly to the Sheriff’s Office yourself (after you filed the original papers). The Civil Process Division of the Sheriff’s Office is located on the ground floor of the Hall County Courthouse.

After the Sheriff’s Office completes service, they will send the white and yellow copies of the *Sheriff’s Entry of Service* to the Clerk’s office. You will need to follow up with the Clerk’s office to make sure the Respondent was actually served. Have your case number ready and check with the Hall County Clerk of Courts at (770) 531-7025 to see that a return of service has been filed.

If the Respondent must be served in another county or state, then the Hall County Sheriff’s Office cannot serve the papers. You should contact the sheriff’s department in the proper county to find out what forms they require, how many copies of your papers, and the fee. Depending on the county, you may need a *Sheriff’s Entry of Service* (3-page carbon form), *Summons* (2-page carbon form), and a *Letter for Service by Second Original* (all forms available from FLIC). Some counties have additional requirements. **When you file your papers, you will need to inform the Clerk’s office that the other party must be served by “second original.”** Give the clerk your “service copy,” any forms that are required, and the fee.

### **(3) Service by Publication (putting a notice in the newspaper)**

This method is the method of last resort. If you *can* find the Respondent, you must use one of the other two methods of service. But, this method is your only choice if you do not know where the Respondent lives or works, and you cannot find out that information. You must prove to the Court you have made diligent efforts to locate the Respondent and cannot find him or her.

If you have to serve the Respondent by publication, there are special limitations in your case, because the Court will not have “personal jurisdiction” over the Respondent. You will not be able to get certain kinds of relief, such as child support. Also, whether the child is with you or the Respondent (and for how long) may impact whether the Court can address custody of the child. However, if the Respondent later acknowledges service, gets served by the sheriff, or files an *Answer* to the legitimation petition, then your case may not be limited by the restrictions that apply to publications cases.

To serve by publication, you must prepare and file an *Affidavit of Diligent Search* (included with this packet), a *Notice of Publication* and an *Order of Publication*, signed by a judge. In the *Affidavit of Diligent Search*, you will explain to the Court the steps you took to try to find the Respondent. You must make reasonable efforts to find the Respondent before you fill out the affidavit form. Blank *Notices of Publication* and *Orders of Publication* and instructions for submitting the affidavit to the Judge for his/her review are available from FLIC. If the Court grants permission, the Judge will sign the *Order of Publication*.

If you know you must use service by publication when you prepare your *Petition*, then you should prepare the *Affidavit of Diligent Search* at that time. However, if you have already filed your case, and have tried to complete service by a different method, you can still request the Court’s permission to serve by publication. See FLIC if those circumstances apply in your case.

If the Court signs the *Order of Publication*, you must pay the cost of publication (\$80.00 money order payable to *The Times*). You may pay the fee in the Clerk of Courts office when you file your legitimation papers. Then, the *Notice of Publication* will be published in the county’s official legal newspaper (*The Times*) four times (usually four weeks in a row). The Notice gives the Respondent 60 days to file an Answer, if she or he wants to contest the case.

Meanwhile, the Court Clerk will mail a copy of the *Notice of Publication* and “service copy” to the Respondent’s last known address (which you have provided in the *Affidavit of Diligent Search*). To be on the safe side, you should also mail a set of all the papers to the last known address. Make sure you put enough postage on it, and make sure you list a return address, so the post office can return it to you if they are not able to deliver it.

You should keep clippings of the notices in the newspaper (all four publications) or obtain an Affidavit of Publication from the Times (\$10.00), stating that publication is complete. Bring these items with you to your hearing, to prove that service by publication has been completed.

You may later find out where the Respondent lives or works (before the case is over). If this circumstance

applies in your case, then you should arrange for the Sheriff’s Office to serve the Respondent, or for the Respondent to acknowledge service.

- **Paragraph 5. No Other Putative or Legal Fathers:** READ every statement contained in this paragraph. If any statement is untrue, STOP! Do not use this form. Speak with an attorney.
- **Paragraph 6. Legitimation:** It is important to read the entire paragraph 6 carefully, which extends into page 4 of the *Petition*. Depending on how many children are part of this action, and when they were born, and whether you signed voluntary acknowledgments of legitimation for these children (see information on page 3 of these instructions), there may be several options that apply. Again, READ EVERY WORD OF EVERY PARAGRAPH. By selecting option (a) or option (b), you are making each statement contained in subsections (1), (2) and (3) of that option to the Court. Also make sure to identify the exhibits (applicable PA forms) that apply to the children you have named in the particular option. If you know you have not signed a voluntary acknowledgment of legitimation for any child listed in your Petition, only option (c) will apply.
- **Paragraph 7. Changes to Birth Records:** Complete any options you are requesting.
- **Paragraph 8.** If you are not asking the Court to address issues of custody and/or visitation at this time, select option (a) and continue on to Paragraph 17. Otherwise, select option (b) and continue with Paragraph 9.
- **Paragraph 9. Jurisdiction for Determining Child Custody:** Review the options carefully. If neither option applies, STOP! Do not use this form. You will need to talk to an attorney. Or, if you have questions about whether your case falls into either option, you should speak with an attorney.
- **Paragraph 10. Child(ren)’s Current Residence:** In the spaces provided, give the Court the address and county where the children live now, and the names of people living with them. **However, if the children live in a shelter for victims of family violence, DO NOT LIST THE ADDRESS OF THE SHELTER.** Instead, list only the name of the shelter and the state where it is located. Do not even fill in the name of the county. On the last space, tell the Court how long they have been at that address. If the child(ren) is/are living with someone other than you or the Mother, STOP! You will need to talk to an attorney.
- **Paragraph 11. Child(ren)’s Past Residences and People with Whom the Child(ren) Has/Have Lived:** You must tell the Court where the children have lived within the past five (5) years. In the spaces provided, give the address(es) and tell the Court the dates the children lived at each address. **However, if the children lived in a shelter for victims of family violence, DO NOT LIST THE ADDRESS OF THE SHELTER.** Instead, on the space for the address, list only the name of the shelter and the state where it is located. Then, in the spaces provided, list the name of each person with whom the children lived at each address during the past 5 years, and list that person’s current address. **However, if any person on the list is living in a shelter for victims of family violence, DO NOT LIST THE ADDRESS OF THE SHELTER.** Instead, on the space for the address, list only the name of the shelter and the state where it is located.
- **Paragraph 12. Other Court Cases about the Child(ren):** Read and select the option that applies, and fill in any requested information. Examples include divorces, contempt actions, family violence cases, protective orders, termination of parental rights, legitimations, and adoptions, whether in this state or another state, past or present.
- **Paragraph 13. Other Proceedings that Could Affect Custody or Visitation in this Case:** Read and select the option that applies, and fill in any requested information. Examples include divorces, contempt actions, family violence cases, protective orders, termination of parental rights, legitimations, and adoptions, whether in this state or another state, past or present.
- **Paragraph 14. Others Claiming Custody or Visitation:** Read and select the option that applies. If option (b) applies, STOP! You will need to talk with an attorney.
- **Paragraph 15. Settlement Agreement (Optional):** check this box only if you expect the Respondent will sign a written settlement agreement that settles all issues in this case (legitimation, custody, visitation, child support, medical expenses, insurance). The parties must agree voluntarily and this document must be signed by both parties in front of a notary public. A *Settlement Agreement* is included with this packet. If applicable, you will need to make sure the agreement has any required attachments (e.g. *Parenting Plan*, *Child Support Addendum*, *Child Support Worksheet* and schedules).
- **Paragraph 16. Child Custody, Visitation and/or Parenting Time:** Read *Notes about Custody* below and then carefully review and select the option you want to apply. If you select option (b), you will need to complete the *Parenting Plan* included with this packet and reference it as an exhibit in option (b). Make sure to also label the

Parenting Plan with the same Exhibit letter.

**Notes about Custody:** There are many ways to arrange custody. The *Petition* and *Parenting Plan* do not try to deal with all possible arrangements for custody and/or visitation. If you want the Court to order a different custody arrangement, you should talk to a lawyer. Under the law, the Court must order custody in a way that fits the “best interests of the children.” You may also want to read the definitions below from O.C.G.A. § 19-9-6.

§ 19-9-6. Definitions. As used in this article, the term: . . .

(4) “Joint custody” means joint legal custody, joint physical custody, or both joint legal custody and joint physical custody. In making an order for joint custody, the judge may order joint legal custody without ordering joint physical custody.

(5) “Joint legal custody” means both parents have equal rights and responsibilities for major decisions concerning the child, including the child’s education, health care, extracurricular activities, and religious training; provided, however, that the judge may designate one parent to have sole power to make certain decisions while both parents retain equal rights and responsibilities for other decisions.

(6) “Joint physical custody” means that physical custody is shared by the parents in such a way as to assure the child of substantially equal time and contact with both parents.

. . .

(11) “Sole custody” means a person, including, but not limited to, a parent, has been awarded permanent custody of a child by a court order. Unless otherwise provided by court order, the person awarded sole custody of a child shall have the rights and responsibilities for major decisions concerning the child, including the child’s education, health care, extracurricular activities, and religious training, and the noncustodial parent shall have the right to visitation or parenting time. A person who has not been awarded custody of a child by court order shall not be considered as the sole legal custodian while exercising visitation rights or parenting time.

**Notes about Parenting Time/Visitation:** There are also many ways to arrange parenting time/visitation for children. Because certain arrangements might be better for certain ages of children, it is strongly recommended that you consult with an attorney or counselor to determine what schedule will be best for the children. Or, you may attend the Parenting Seminar before you fill out our paperwork to get helpful information. The law requires that the Court order parenting time/visitation in a way that fits the “best interests of the child.” If the Respondent is willing to work with you in setting a schedule, consider looking through the *Parenting Plan* together. You might also wish to look at some of the following resources.

*Planning for Parenting Time: Arizona’s Guide for Parents Living Apart*  
© 2009 Arizona Supreme Court  
<http://www.azcourts.gov/portals/31/parentingtime/ppwguidelines.pdf>

*Basic Parenting Plan Guide for Parents*  
Oregon Judicial Department, State Law Family Advisory Committee, and Office of the State Court Administrator (available at: <http://www.afccnet.org/> under “Resource Center – Resources for Parents”)

*Safety Focused Parenting Plan Guide*  
Oregon Judicial Department (available at: <http://www.afccnet.org/> under “Resource Center – Resources for Parents”)

*Protecting Your Children During Divorce – A Model Parenting Plan and Guidelines*  
American Academy of Matrimonial Lawyers (available for order at: [www.aaml.org](http://www.aaml.org))

*Model Parenting Agreement*  
Alaska Court System (available at: <http://www.state.ak.us/courts/forms/dr-475.pdf>)

- **Paragraph 17. Child Support:** Carefully review and select an option. If you have questions about any of these options, you should speak to an attorney. Additionally, if the option you select requires you to prepare and attach a *Child Support Worksheet* and schedules or a copy of an existing child support order or both, **DO NOT FORGET TO ATTACH THEM**. Label each exhibit with a letter and write the same letter in the space provided in the option you have selected. If you already have an existing child support order, you should attach it as an exhibit as well. Follow each paragraph’s instructions carefully.

*Note:* There are specific guidelines that the Court must follow when setting child support. The current guidelines are found in O.C.G.A. § 19-6-15. You can get more information about these laws at [www.georgiacourts.org/csc](http://www.georgiacourts.org/csc). Also see *Basic Instructions for Accessing the Child Support Calculator on the Computer* (last page of this packet).

- **Paragraph 18. Health, Dental and Vision Insurance for the Children:** Carefully review and select an option. Within some of the options, you will need to designate which types of insurance coverage you are requesting for the child(ren). Option (e) can be selected in addition to (a) or (b).
- **Paragraph 19. Uninsured Health Care Expenses for the Children:** Review, select and complete an option (examples for option (a): “based on our pro rata child support responsibility;” or “split 50/50;” or “Respondent to pay all uninsured medical expenses”). You should make sure the split you list is consistent with the percentages you list on Line 14 of the *Child Support Worksheet* you prepare.
- **Paragraph 20. Income Deduction Order:** Review, select and complete an option. If you want the Court to enter an Income Deduction Order (“IDO”) for the purposes of having child support deducted from a paycheck, FLIC has a packet of forms to complete and present to the Court before or at your hearing. Note: If you already have a child support order enforced through OCSS, you can send a copy of the Final Order in this case to the OCSS office that is handling your case, especially if the Court has increased or decreased the amount of support or if the Court has addressed past due amounts.

*Note about the Office of Child Support Services (“OCSS”):* If you want OCSS to enforce your IDO and handle changes in the noncustodial parent’s employment, you must apply with OCSS. Call OCSS for more information: (404) 657-3862.

- **Final Paragraph. Request for Relief:** Review each item carefully and make sure you agree with the statements before signing the last page.
- **To complete the *Petition*,** sign your name in the space provided on the last page, write your address and a daytime telephone number where Court staff can reach you if necessary. **However, if you are living in a shelter for victims of family violence, DO NOT LIST THE ADDRESS OF THE SHELTER.** To do so would violate O.C.G.A. § 19-13-23. Instead, on the space for the address, list only the name of the shelter and the state where it is located. **Also, if the Respondent does not know your address or phone number and it should be kept confidential because of family violence, do not write that address or phone number here.** Instead, you should write another address here, where you can be sure that you will receive any information that is mailed to you by the Court or the Respondent.

### **C. Parenting Plan**

If you selected option (b) of Paragraph 16 in your *Petition*, you must complete and attach the *Parenting Plan* to your *Petition* and *Settlement Agreement*, if one is reached. Read notes about custody and/or visitation above in reference to paragraph 16 of the *Petition*. Carefully read each word of the *Parenting Plan* and be specific where the form requires it.

### **D. Child Support Worksheet and Schedules (not included with this packet)**

If you are addressing child support in your *Petition*, you will need to prepare and file a *Child Support Worksheet* and applicable schedules (not included with this packet). You can get more information about child support laws at [www.georgiacourts.org/csc](http://www.georgiacourts.org/csc). See *Completing the Georgia Child Support Worksheet* (included with this packet). If you do not have access to the Internet at home, you can use the public computer in the courthouse, or computers in the public library system to access the website. **It is strongly recommended that you seek the advice of an attorney before completing these forms, as there can be many ways to complete them.**

### **E. Verification Form**

Complete the heading and all blank spaces on this form (except for the Civil Action File No. and notary information). Make sure to write in the name of the document you are verifying in the space provided: “Petition for Legitimation

and/or Custody/Visitation.” Before you sign this *Verification*, remember you will be swearing under oath that the information you have provided in the *Petition* is true and correct to the best of your knowledge and belief. Therefore, you should re-read your *Petition* one more time, from start to finish, to make sure it is all true. When your forms are ready, sign your name on the *Verification* in front of the notary public in the space provided, and check the box to indicate you are the Petitioner. The notary must complete the rest of the *Verification* form after you sign it under oath. The staff persons at the Family Law Information Center can notarize this document free of charge, but you must have proper photo identification.

#### **F. Domestic Relations Financial Affidavit (DRFA)**

The *Domestic Relations Financial Affidavit* should be filed with the *Petition* if the Court will be addressing child support. This document specifies your financial circumstances. You are the “Affiant.” It is important, as with all of your documents, that you be truthful about the information you are providing. Complete every space on the financial affidavit unless it is specified as optional. If a question is not applicable to your situation, put “N/A” on the line. If the amount is zero, put “0” on the line. Do not leave lines blank.

*Note:* Complete Paragraph 2 of the financial affidavit, “Summary of Affiant’s Income and Needs,” after you have completed pages 2-6. You will bring totals over from the other pages.

*Note:* Take care to be consistent with your financial numbers/figures on the *Domestic Relations Financial Affidavit* and the *Child Support Worksheet* you prepare. It can also be helpful to multiply weekly figures by 4.35 to get more accurate monthly figures (since a month is more than four exact weeks). Or if you have an expense that can be calculated for the year, divide that figure by 12 for a monthly average. Examples: “Affiant’s gifts” (i.e., gifts you give other people for special holidays) or car registration fees.

#### **G. Domestic Relations Action Standing Order (DRASO) and Certificate of Service**

You must include this Order with your paperwork when you file and make sure a copy of it is included in the copies for the Respondent. It is included with this packet. The main part of the Order is nine pages, but attached to it are blank exhibits. The only part of this Order you, as the Petitioner, are required to complete before filing it, is the caption/heading on the very first page. **DO NOT COMPLETE THE BLANK EXHIBITS.** After the opposing party is served with a full copy of your paperwork, she can simply pull the exhibits from the copy and complete and file them with the Court as required by the rules. **YOU AND THE OPPOSING PARTY ARE EXPECTED TO READ AND FOLLOW THIS ORDER, AS IT IS A SIGNED ORDER.**

The *Certificate of Service* should be completed by you and filed with all of your other paperwork. Designate on the form how you have or will be getting a copy of the DRASO to the Respondent. If you are serving by publication, you can simply change the wording on the form to show you are serving by publication, but you must still include a copy of the Order and its exhibits in your originals and copies.

#### **H. Settlement Agreement, Parenting Plan, Child Support Addendum, Child Support Worksheet and schedules**

You are not required to complete this step before filing your legitimation papers, but if you do not have a complete, written agreement, you are required to go to mediation as explained in the *DRASO* (see above).

If you and the opposing party have reached or can reach an agreement about all questions of legitimation, custody, visitation, child support, insurance, you may use the *Settlement Agreement* with this packet to formalize your agreement in writing.

When you use the *Settlement Agreement* in this packet, you must attach the agreed upon *Parenting Plan* as an exhibit to the *Settlement Agreement*, unless you have opted to share equal rights because you and the Mother are living together. Make sure to label it as an exhibit.

You must also complete the *Child Support Addendum* and attach it to the agreement if you are addressing issues of child support. To complete the *Child Support Addendum*, you must have already prepared the *Child Support Worksheet* and schedules mentioned above. Some of the numbers you will need to include on the addendum are pulled directly from the *Child Support Worksheet*.

You should have all exhibits attached to the *Settlement Agreement* before you or the opposing party signs anything. If you do not complete these additional forms, and they are required by the circumstances of your case, then the Settlement Agreement is not complete. See important notes about settlement agreements below.

**Important notes about settlement agreements:** Generally, if two parties execute an agreement because they want to settle all of the issues in their case, and it is not executed under fraud, duress, accident, or mistake, the agreement is a contract which is binding on both parties. If the agreement is considered by the Court to be a valid agreement, it may be incorporated into the Final Order. The Court is not bound to accept your agreement, but if the judge is satisfied with your agreement, she will likely incorporate it into the final decree, binding both of you to the agreement. Therefore, once you and the opposing party have executed the agreement, if you want to make any changes to it, you will both have to agree to those changes in writing, unless you can prove it is not a valid agreement.

In short, **DO NOT** execute the *Settlement Agreement* with this packet if it is incomplete, or you and the opposing party have agreed to something verbally that is not included in the agreement. **DO** contact an attorney if you have any questions at all about an agreement proposed to you by the opposing party or if you are unclear about any of the terms included in it. It is **STRONGLY** recommended that you talk with an attorney before signing any agreement.

Additionally, the *Settlement Agreement* included with this packet is just one sample of an agreement you might reach with the opposing party. It does not cover every possible scenario that might come up in the future between you and the opposing party with respect to the children. If you can hire an attorney to represent you, he or she will be able to help craft an agreement that is tailored to your precise needs.

If you execute an agreement with the opposing party, and later believe the agreement is not valid, you will need to contact an attorney to find out what options might be available to you.

### **I. Two-part Acknowledgment of Service and Consent to Personal Jurisdiction and Venue form**

The two-part *Acknowledgment of Service and Consent to Personal Jurisdiction and Venue* form is an optional form the opposing party may complete and sign in front of a notary (and return to you for filing with the Court). The top portion of the form, if completed by the opposing party and dated, signed and notarized, means you will not have to pay to have her personally served. If the case is uncontested and the opposing party is not a resident of Hall County or in the State of Georgia and she completes both parts of the form and signs it in front of a notary and returns it to you, she is consenting to the Hall County Court hearing the case and the Court will be able to grant relief that may not otherwise have been available (example: order child support).

If you decide to get the *Settlement Agreement* (with all of its attachments) ready to send to the opposing party for her review and signature, you can also send her the “service copy” of all of your other completed and notarized paperwork (*Petition, DRFA, DRASO*, etc.) and the two-part *Acknowledgment of Service and Consent to Personal Jurisdiction and Venue* form. **You may want to visit FLIC to get your paperwork in order before sending it the opposing party.**

If the opposing party sends the *Settlement Agreement* and two-part *Acknowledgment of Service and Consent to Personal Jurisdiction and Venue* back to you, completed, signed and notarized, you can include them with your original *Petition*, etc. when you file.

### **J. Other Forms in the Packet**

- *Affidavit of Diligent Search* – You do not need this form unless you are asking the Court to allow you to serve the Respondent by publication. Fill in your complete name as the Petitioner and the opposing party’s name as the Respondent. Put the last address you have for the Respondent in the space provided. Then, write all of your efforts to locate the Respondent (e.g., looking online at [www.whitepages.com](http://www.whitepages.com) or other web-based search tools, talking with relatives and friends of Respondent, talking to Respondent’s last known employer, etc.). As with any other document, you must be truthful about the information you are providing to the Court and **you must be diligent in your efforts to locate the Respondent**. You will also need to obtain a form *Notice of Publication* and form *Order of Publication* from FLIC.
- *Domestic Relations Case Filing Information Form* – Fill in your complete name as the Petitioner and the opposing party’s complete name as the Respondent. Check the box for “Pro se.” Check the box for “Other Domestic Relations Specify.” Then specify the action as “Custody and Legitimation” or “Legitimation”, depending on the specific requests you are making in your paperwork. Review and complete the rest of the form.
- *Pro Se Mediation Referral Form* – If you do not have a *Settlement Agreement* signed and notarized by both parties when you file, and you are not filing by publication, you are required to attend mediation. Complete the form and fax it to that office. Note – if you are having the opposing party served, you may want to wait

until you are sure she has been served with the papers before faxing your mediation referral form. **Also, do not disclose any contact information on the form you wish to be kept confidential, but you will need to provide the mediation office with some way of contacting you (e.g., P.O. Box). You MUST follow up with the mediation office to make sure it is scheduled and occurs within the time frame required.**

**Note: if you live in a shelter for victims of family violence, you should contact the Mediation Office directly at (770) 535-6909, rather than completing the Pro Se Mediation Referral Form.**

- *Domestic Relations Case Final Disposition Information Form* (included with this packet) – You will not need this form until the day of your final hearing (so keep it with your folder and complete it after the hearing).

### III. Getting your fees ready

Contact the Clerk of Courts or FLIC for the current court filing fee. If the Hall County Sheriff's Office is going to serve the papers, there is additional service fee. You should bring cash or money orders for these amounts with you when you bring your papers to the Clerk's office to file your case.

*Note:* If you have a very low income, and feel you cannot afford to pay these fees, you can ask the Court to waive the fees. FLIC has *Poverty Affidavits* and can explain the process for applying.

**IMPORTANT:** if you live in a shelter for victims of family violence, **DO NOT LIST THE ADDRESS OF THE SHELTER** on the *Poverty Affidavit*. Instead, on the space for the address, list only the name of the shelter and the state where it is located. Do not even fill in the name of the county.

If the Court approves your request, you will file the *Poverty Affidavit* and *Order on Poverty Affidavit* (signed by a judge) with the other papers when you file your legitimation action at the Clerk's office. A judge must sign the Order approving your *Poverty Affidavit*, before the filing of your case will be completed by the Clerk's office staff. If the judge signs the order of approval, both the civil filing fee and service fee are waived. If the judge does not approve your *Poverty Affidavit*, you must still file the order and pay the fees before your case will proceed.

If you are serving the Respondent by publication (because you do not know where she can be found for service), there is a publication fee charged by the newspaper that publishes the notice. Even if the judge approves your *Poverty Affidavit*, you will have to pay this fee. You will need an \$80.00 money order, payable to *The Times*.

If you are having the opposing party served in another county, you will need to find out from that Sheriff's office whether they will accept an *Order on Poverty Affidavit* from a Hall County Superior Court Judge. If not, you will need to pay the service fee required in that county/state or inquire with them how you might get the fee waived. See "Choosing a Method for Service" above in the instructions.

### IV. Getting your paperwork together and visiting FLIC on the fourth floor of the Courthouse in Room 459

After you have finished filling out the papers you need to start your case, you may either sign them (in front of a notary public when required) before coming to FLIC, or wait until you meet with a FLIC staff person and have them notarized free of charge. If you decide to have your papers notarized before coming to the Courthouse, you may want to sort the papers and making copies as described below.

At FLIC's main office (located on the 4th floor of the Hall County Courthouse in Gainesville, GA), assistance is available by appointment. Here, a FLIC staff person can check your forms for completeness and notarize them free of charge. You will also receive a folder, instructions for filing and obtaining a Court date and a procedural checklist.

One-time consultations with the FLIC attorney are available if you have general legal questions regarding your legitimation. Consultations are subject to a conflict check and income qualification. You may call (770) 531-2463 for more information and to schedule an appointment.

At FLIC, you can pick up the following forms if you are having the Respondent served: *Summons*, *Sheriff's Entry of Service*, and *Letter for Service by Second Original* (if the Respondent will be served in another county or state). If the Respondent has already signed an *Acknowledgment of Service*, but indicated on the form he/she does not waive further notice, you will need to ask for a *Certificate of Service* from FLIC and follow the instructions on the next page.

## V. Making copies

After you visit FLIC (you will now have a folder, procedural checklist, and certain other service forms if you are having the Respondent served), if your forms are complete and signed, sort them into the following order:

- *Order on Poverty Affidavit* (if applicable)
- *Petition for Legitimation and/or Custody* and exhibits (Paternity Acknowledgment forms, birth certificates, etc.)
- *Parenting Plan* as an exhibit to the *Petition* (if applicable)
- *Child Support Worksheet* and relevant schedules as an exhibit to the *Petition* (if applicable)
- *Verification*
- *Domestic Relations Financial Affidavit*
- *Domestic Relations Action Standing Order* and *Certificate of Service*
- Two-part form: *Acknowledgment of Service* and *Consent to Personal Jurisdiction and Venue*
- *Settlement Agreement* with required exhibits
- *Poverty Affidavit* and (if applicable)
- *Affidavit of Diligent Search*

Make two complete sets of copies of all the above papers you are going to file. Then, separate them into three packets: (1) all of the originals (to be filed in the Clerk of Court’s office for the Court) – **do not staple this set together**, (2) one set of copies for the opposing party (called the “service copy”), and (3) one set of copies for you to keep for your records (and to show to the Judge’s office when you ask for a Court date). Even if you are serving the Respondent by publication, make a “service copy” for the Clerk’s office to send to his/her last known address.

Put the *Domestic Case Relations Case Filing Information Form* on top of your set of originals. Any forms that you will be filing or presenting to the Court later (such as an *Income Deduction Order* or the *Domestic Relations Case Final Disposition Information Form*), may be kept in your folder.

## VI. Filing your action in the Clerk’s office

Take all 3 sets of forms (with the originals set on top), along with your cash or money orders, to the Superior Court Clerk’s office (Civil Division). It is located on the ground floor of the courthouse. Give all 3 sets to the clerk, along with any fees. If your paperwork is in order, the clerk will keep the originals for the Court’s file. After the fees have been paid, or the *Poverty Affidavit* has been approved by the judge, the clerk will write your case number (Civil Action File No.) on the top page of both sets of copies, stamp them with the date & time stamp, and return one set of copies to you (two copies will be returned to you if the opposing party has already executed the *Acknowledgment of Service*). He/she will also tell you where to go to get a court date (which Judge’s office) and give you a form entitled *Rule Nisi*.

## VII. Obtaining a Court date

The offices of the Superior Court Judges are located on the top floor of the Courthouse. After leaving the Clerk’s office, go back to the Judge’s office and ask the calendar clerk in the office for a final hearing date. He/she may ask to see a copy of your paperwork before giving you a date (using the *Rule Nisi*).

## VIII. Making copies of the Court date (*Rule Nisi*)

You will need to make two copies of your *Rule Nisi* before returning to the Clerk’s office if they are not made for you. In addition, if the Respondent signed the *Acknowledgment of Service* but indicated on the form he/she does not waive further notice, you will need to complete a *Certificate of Service* form (if you have not already done so), certifying to the Judge you will immediately serve the Respondent with a copy of the *Rule Nisi* (either in person or by U.S. Mail). Once the *Certificate of Service* is complete, make two copies of it. Place the original signed *Certificate of Service* behind the original *Rule Nisi* (you will file this set in the Clerk’s office). Place one of the copies of the *Certificate of Service* behind the Respondent’s copy of the *Rule Nisi* (you will immediately deliver this set to the Respondent – via mail or by hand). Keep the second copy of the *Certificate of Service* with your copy of the *Rule Nisi* for your records.

## VIV. Filing your Court date

Take the original *Rule Nisi* (and original *Certificate of Service*, if applicable) back to the Clerk’s office for filing. If you are having the Respondent served, give one of the copies of the *Rule Nisi* to the Clerk as well.

## X. Steps you must take before your final hearing date

- Attend mandatory mediation with the opposing party if you do not have a *Settlement Agreement*, signed by and notarized for both parties, and you are not obtaining your legitimation by publication (notice in**

**the newspaper**). Mediation is required under the *Domestic Relations Action Standing Order* (copy included with this packet). At a minimum, you should bring copies of all paperwork you filed in your case with you to mediation, particularly the *Domestic Relations Financial Affidavit*, *Child Support Worksheet* and applicable schedules.

To schedule mediation, call the 9th Judicial Administrative District Office of Dispute Resolution (“Mediation Office”) at (770) 535-6909, or complete the *Pro Se Mediation Referral Form* (included with this packet and available at FLIC). It is your responsibility pursuant to Court Order to make sure the mediation is scheduled and takes place within the required time frame. If you do not think you will be able to pay the required mediation fees (approximately \$200 per hour, depending on the mediator), you must complete a *Fee Reduction Request* and submit it to mediation office at least 10 days prior to your scheduled mediation. Contact the Mediation Office for a *Fee Reduction Request* or you may download the form from [www.adr9.com](http://www.adr9.com).

\*\*\*If you have scheduled mediation but later decide to complete the *Settlement Agreement* with the opposing party, you may wish to set up an appointment with FLIC to make sure the agreement is complete. If the Mediation Office has already started the process of setting up mediation for you and the opposing party, you will need to let them know in advance you intend to complete a *Settlement Agreement*. If you do not show up for a scheduled mediation without notifying the mediation office, you will be charged for the mediation.

\*\*\*If you have obtained a protective or restraining order against the opposing party and believe attending mediation may pose a safety risk to you, you can set up an appointment with FLIC to find out about obtaining an *Order Waiving Mediation*. You should also contact the Mediation Office to learn more about the mediation process when domestic violence has been an issue between the parties.

- Attend the Ninth Judicial District ADR Parenting Seminar ([www.adr9.com](http://www.adr9.com)) or other approved parenting seminar.** Contact FLIC for an updated list.
- Follow up with the Clerk of Courts at (770) 531-7025 to make sure the opposing party has actually been served with the legitimation papers, and that proof has been received by the Clerk’s office.**

#### **XI. FORMS YOU WILL NEED AT THE FINAL HEARING TO FINISH YOUR CASE**

- Domestic Relations Case Final Disposition Information Form* (included with this packet)
- Form Income Deduction Order* (if applicable – available from FLIC)

#### **XIII. GENERAL INFORMATION ABOUT HEARINGS**

##### **Temporary Hearing**

A temporary hearing is not required. However, if your case will not be ready for a final hearing (because you do not have a signed agreement and do not expect to have one soon), there may be issues that need to be decided on a temporary basis before the final hearing. In that situation, you may ask the Court to schedule a temporary hearing. Temporary issues may include temporary custody and/or visitation or child support, or other matters, while the case is pending.

To schedule a temporary hearing, you should complete a *Rule Nisi Scheduling Temporary Hearing* form (available in FLIC) and make an extra copy of your *Domestic Relations Financial Affidavit*. If you know you want a temporary hearing when you file your case, you can bring the *Rule Nisi Scheduling Temporary Hearing* and extra copy of the *Domestic Relations Financial Affidavit* with you to the Judge’s office after you file your legitimation papers (when you are asking for a final Court date).

As with the *Rule Nisi* used to schedule your final Court date, you will need to make copies of the *Rule Nisi Scheduling Temporary Hearing* and *Domestic Relations Financial Affidavit* and make sure the Respondent receives them. If you are just now filing your legitimation papers, make copies of these two forms (as you are doing with the *Rule Nisi* – explained above) and bring them to the Clerk to include with the “service copy.” If the Sheriff has already served the Respondent, or the Respondent has acknowledged service, you must mail or personally deliver copies of the forms to the Respondent, using a *Certificate of Service* form (see above), showing the Court that the Respondent was properly served. Under Uniform Superior Court Rule 24.2, the *Rule Nisi Scheduling Temporary Hearing* (showing when and where the temporary hearing will take place) must be served on the Respondent at least fifteen (15) days before the temporary hearing, unless otherwise ordered by the Court.

### **Final Hearing**

The final hearing cannot take place until after the Respondent has been provided an opportunity to be heard as in other civil actions under Chapter 11 of Title 9 of the “Georgia Civil Practice Act.” Generally, the Respondent will have 30 days to respond after she has been personally served, but this time may be extended as permitted by law. Even if it is possible to schedule a hearing after 30 days, you may not receive a hearing that soon. It will depend on space availability on the particular Judge’s calendar.

### **Preparing for a Hearing**

Before the hearing date, whether temporary or final, you must prepare your case to be presented to the Court. You are your main witness. You must also gather your other evidence (such as documents and photographs), and you must arrange for any other witnesses you want to have testify at the hearing. You must also prepare the proper documents to be provided to the Judge at the hearing.

At temporary hearings, the parties involved and one additional witness for each side may give oral testimony. Additional witnesses must testify by deposition or affidavit unless otherwise ordered by the court. Any affidavit shall be served on the opposing side at least 24 hours prior to hearing. (See USCR 24.5.)

At the final hearing, Affidavits are not proper evidence. Your witnesses (if any) must testify in person at the hearing.

FLIC has some materials you can read that might help you prepare for the hearings. You should also talk to a lawyer to learn more about how to present your case.