

Information & Instructions: Answer Respondent's plea in abatement

PREVIEW

1. The most typical use of a plea in abatement is when the Petitioner has not resided in the county in which the suit is filed for the required 90 days; the situation may also arise where the 6-months' residency requirement for Texas residence has not yet been met. In such circumstances, the suit should be abated. Courts will often abate proceedings on their own motion.
2. Where there has been a recent change of residence, caution should be used in filing suits in "new" counties of residence, particularly where there are adjoining counties where metropolitan areas overlap, such as the boundary situation of Travis and Williamson County. Situations may occur in which the parties actually don't realize in which county they reside since Austin city limits are in both counties.

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THANK YOU

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Form: Respondent's plea in abatement

PREVIEW

NO. [Cause Number]

IN THE MATTER OF THE MARRIAGE OF
[Petitioner Name], Petitioner

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IN THE DISTRICT COURT

v.

[Respondent Name], Respondent

[District] JUDICIAL DISTRICT

AND IN THE INTEREST OF:

[CHILD NAME]

[SUIT COUNTY] COUNTY, TEXAS

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RESPONDENT'S PLEA IN ABATEMENT

Respondent, [Respondent Name], files this Plea in Abatement. [Where appropriate, state:
Respondent filed a divorce action against Petitioner on [date], which action is pending. That action
is Cause Number _____ in the [Court Designation] of [Suit County] County, Texas. The issues
and parties in the cause filed by Respondent are the same as those in this action.

[Or]

THIS DOCUMENT

Neither Petitioner nor Respondent has been a domiciliary of this state for six (6) months
preceding the filing of this suit.

[Or]

Neither Petitioner nor Respondent has been a resident of this county for ninety (90) days
preceding the filing of this suit.]

Respondent prays that this Plea in Abatement be sustained and this cause dismissed.

THANK YOU

Respectfully Submitted,

[Law Firm Name]

By

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PREVIEW

[Attorney's Name]
[Attorney for Client Role]
[Attorney's Address]
[Telephone Number]
[Facsimile Number]
[Bar Card Number]

The undersigned states under oath "I am Respondent in the foregoing Plea in Abatement. I have personal knowledge of the allegations and facts stated in it, and they are true and correct."

[Respondent Name], Respondent

State of Texas
County of [Name of county]

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Affiant on oath swears that the statements are true and correct based on personal knowledge and Affiant has:

Subscribed and sworn to before me by _____ on _____.

Notary Public, State of Texas

THIS DOCUMENT

[Notary's type or printed name]
My commission expires: _____

[or Notary's Stamp]

STATEMENT REGARDING ALTERNATIVE DISPUTE RESOLUTION

I AM AWARE THAT IT IS THE POLICY OF THE STATE OF TEXAS TO PROMOTE THE AMICABLE AND NONJUDICIAL SETTLEMENT OF DISPUTES INVOLVING CHILDREN AND FAMILIES. I AM AWARE OF ALTERNATIVE DISPUTE RESOLUTION METHODS INCLUDING MEDIATION.

THANK YOU
WHILE I RECOGNIZE THAT ALTERNATIVE DISPUTE RESOLUTION IS AN ALTERNATIVE TO AND NOT A SUBSTITUTE FOR A TRIAL AND THAT THIS CASE MAY BE TRIED IF IT IS NOT SETTLED, I REPRESENT TO THE COURT THAT I WILL ATTEMPT IN GOOD FAITH TO RESOLVE BEFORE FINAL TRIAL CONTESTED ISSUES IN THIS CASE BY ALTERNATIVE DISPUTE RESOLUTION WITHOUT THE NECESSITY OF COURT INTERVENTION.

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Respondent

CERTIFICATE OF SERVICE
PREVIEW

I certify that a true and correct copy of the foregoing has been served upon all attorneys of record and any parties who are not represented by an attorney on _____.

Attorney for: Other attorney's client's name

Attorney's name: Other attorney's name

Attorney's address: Other attorney's address

Type of Service:

___ U.S. Mail, certified return receipt requested no. _____

___ U.S. Mail, first class _____

___ Hand delivery by [name of delivery service]: _____

___ Facsimile transmission to _____ [fax number] before 5 p.m.

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[Attorney's name]

THIS DOCUMENT

THANK YOU

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