



## **ABSOLUTE DIVORCE**

### **NOTE:**

**THIS PACKET CONTAINS INFORMATION REGARDING A SIMPLE DIVORCE. THERE ARE NO FORMS OR INSTRUCTIONS IN THIS PACKET FOR SPOUSAL SUPPORT OR DIVISION OF MARITAL PROPERTY. IF YOU OBTAIN A DIVORCE WITHOUT FIRST PROPERLY FILING FOR OR OBTAINING THE APPROPRIATE SPOUSAL SUPPORT OR PROPERTY DIVISION, YOU WILL LOSE YOUR RIGHTS. IF YOU ARE SEEKING THESE RIGHTS, PLEASE CONSULT WITH A LAWYER.**

DUE TO THE CHANGING NATURE OF THE LAW, the forms and information contained in this packet may become outdated. Therefore, you should review and research statutes and rules of procedure referenced in the instructions to ensure that the forms are accurate and current.

IN NO EVENT will the Clerk of Court or anyone contributing to the production of these forms, instructions, or guidelines be liable for any indirect or consequential damages resulting from the use of the forms or information provided to you.

IF THERE ARE ANY QUESTIONS in your mind concerning these forms, the use of these forms, or your legal rights, it is strongly recommended that you consult with or retain an attorney.



**PLEASE CAREFULLY READ THE FORMS AND INSTRUCTIONS CONTAINED IN THIS PACKET.**

**IF YOU HAVE ANY QUESTIONS, PLEASE CONSULT WITH AN ATTORNEY.**

THESE ARE EDUCATIONAL FORMS AND INSTRUCTIONS DESIGNED TO ASSIST YOU, BUT YOU ARE REPRESENTING YOURSELF. PLEASE REVIEW AND FOLLOW THE DIRECTIONS TO IMPROVE YOUR PERFORMANCE IN YOUR CASE. FAILURE TO READ AND FOLLOW THE INSTRUCTIONS MAY ADVERSELY IMPACT YOUR CLAIM.

## **Steps for filing for Divorce**

Please note that once this divorce is granted, it will be too late to file a claim for Equitable Distribution of marital property and/or marital debts, for spousal support or alimony.

### **STEP 1**

#### **Filling out the documents**

**\*\*\*CHECKLIST\*\*\***

You must complete the following documents:

- ◆ **COMPLAINT**
- ◆ **VERIFICATION**
- ◆ **CIVIL SUMMONS (AOC-CV-100)**
- ◆ **DOMESTIC CIVIL ACTION COVER SHEET (AOC-CV-750)**
- ◆ **SERVICEMEMBERS CIVIL RELIEF ACT AFFIDAVIT (2)- (AOC-G-250)**

You must have the complaint verified by a Notary Public.

### **STEP 2**

#### **Filing the documents**

Take your original documents, two copies and the \$225.00 filing fee to the Civil Filing Department for filing. At that time, a case number will be assigned to your divorce. Until you receive that number from the clerk, leave the upper right hand corner of the documents blank. Once you have been assigned a case number, however, please make a note of it and print or type it on the upper right hand corner of ALL of your papers filed with the court in this case.

**THE CLERK'S OFFICE CAN NOT TELL YOU IF YOU HAVE COMPLETED THE PAPERWORK CORRECTLY.**

### **STEP 3**

#### **Service of Process**

Once you have filed the documents to initiate your divorce (Complaint, Domestic Civil Action Cover Sheet, Civil Summons and Verification), you must "serve" (give notice to) the opposing party of the action. **YOU CANNOT SERVE THE PAPERS ON THE DEFENDANT UNTIL YOU HAVE FILED THEM IN THE CLERK'S OFFICE.** At this point, there are two ways your case can proceed. You can serve the Defendant by:

- A. The Sheriff in the county that the Defendant lives (\$30.00), OR
- B. Certified Mail. If you serve by certified mail, you must file an Affidavit of Service when you receive the green return receipt card back in the mail.

You must serve the Defendant (or lawyer if he/she has retained one) with the court papers.

After Service of Process has been successfully completed, it is suggested that you wait **30 days** from the date of service in order to give the Defendant an opportunity to file an "Answer" (response) to the Complaint. Once the 30-day period has elapsed, then you may proceed with setting the divorce hearing date.

## STEP 4

### Setting a date for your case to be heard

You must have the following documents in your file before you can get a court date:

#### ◆ **Proof of Service**

- Affidavit of Service of Process By Registered or Certified Mail  
(if you served the original documents by certified or registered mail)
- Return by Sheriff

#### ◆ **Certificate of Absolute Divorce**

This form is required by the state of North Carolina and is NOT in your packet. One copy goes into your file and the other goes to the NC Bureau of Vital Records. You must have this before the judge on the date of your divorce. You can do this by completing the form and giving it back to the clerk at the time you file for the divorce so that it will be in your court file, or when you set your hearing date. You should make a copy for your own records.

***\*\*\*If the Certificate of Absolute Divorce is not filled out or is not filled out accurately and completely, the judge WILL NOT sign your divorce.***

*N.C. Department of Vital Records Form*

The **Certificate of Absolute Divorce** form is necessary to file for an Absolute Divorce. Unfortunately, it is not available online. **You must get this form from the Clerk of Superior Court Civil Division or from the N.C. Department of Vital Records** to be able to file for an Absolute Divorce in the State of North Carolina.

#### ◆ **Notice of Hearing and Request for Setting**

Complete these two forms. Take your originals and two copies to the Clerk's office. You will obtain a date for the Notice of Hearing.

#### ◆ **Judgment of Divorce**

This form is for the judge to use to make his/her final ruling. You should insert the names of the parties and the case number but **DO NOT FILL IN THE BODY OF THE FORM.**

#### ◆ **Self-addressed, stamped envelope (so your divorce can be mailed to you)\***

\*You may also elect to bring a self-addressed, stamped envelope for the Defendant. If you do not include the envelope to the Defendant for the court to mail, then **YOU** will be responsible for mailing him/her a copy after you receive yours.

## **YOU MUST APPEAR IN COURT!**

## STEP 5

### **Certification of the forms**

If you did not properly complete the forms, if you are missing a form, or if you do not meet the criteria enabling you to file (e.g. you have not been separated for one year or more *at the time of filing* and/or one or both spouses have not lived in NC for the 6 months prior to filing) you will receive a letter from the court explaining why your divorce was not granted. It is your responsibility to determine why your divorce was not granted and to take the necessary steps to correct the problem. This may require you to go back and complete some or all of the stages over again and **may also require you to submit the \$225 filing fee again.**

If you have any questions about the divorce, you are advised to speak to an attorney.

**Again, your file will be given to the judge for review. There is no specific time or date for you to be present for your case. Please do not plan to be at court or call the judges' office about this matter.**

*Lawyer Referral Services:*

*North Carolina Lawyer Referral Service: (800) 662-7660*



8. That there were \_\_\_\_\_ child/children born of this marriage.

*(insert "no" or the number of children here)*

The names and ages are of any children are:

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9. That the Plaintiff understands, once this divorce is granted, it will be too late to file a claim for Equitable Distribution of marital property and/or marital debts, for spousal support or alimony

**WHEREFORE**, the Plaintiff asks the Court:

1. That the Plaintiff be granted an absolute divorce from the Defendant, and that the marriage existing between the Plaintiff and Defendant be dissolved.
2. That this verified complaint be treated as an affidavit for purposes of Summary Judgment.
3. [  ] The Plaintiff/Defendant is entitled to resume the use of the former name: \_\_\_\_\_.

\_\_\_\_\_  
*(Signature)*

STATE OF NORTH CAROLINA )  
 )  
COUNTY OF \_\_\_\_\_ )

**VERIFICATION**

I, \_\_\_\_\_, being first duly sworn, deposes and  
*(insert your name here)*

says that he/she is the Plaintiff in this matter, that he/she has read and understood this **COMPLAINT** and knows the contents to be true of his/her own personal knowledge, except for those matters and things set forth upon information and belief, and as to those matters and things, he/she believes them to be true.

\_\_\_\_\_  
**(Sign in the Presence of the Notary Public)**

Sworn to and subscribed before me this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
Notary Public

My commission expires:\_\_\_\_\_.

STATE OF NORTH CAROLINA  
COUNTY OF UNION

IN THE GENERAL COURT OF JUSTICE  
DISTRICT COURT DIVISION  
File No. \_\_\_\_\_ CVD \_\_\_\_\_

\_\_\_\_\_) )  
(Print name of Plaintiff here) )  
Plaintiff, )  
) )  
v. )  
) )  
\_\_\_\_\_) )  
(Print name of Defendant here) )  
Defendant. )

**AFFIDAVIT OF SERVICE OF PROCESS  
BY REGISTERED OR CERTIFIED MAIL**

I, \_\_\_\_\_ did mail by (Registered) (Certified) mail, Return Receipt Requested, a copy of the Complaint and Summons in this case to

\_\_\_\_\_ addressed as follows:  
(Insert name of Defendant here)

\_\_\_\_\_  
\_\_\_\_\_  
(Use this space to list the address of Defendant)

Further, that copy of the Summons and Complaint were in fact received by the Defendant on \_\_\_\_\_ as evidenced by the attached genuine receipt.  
(Insert date of receipt)

*(Please attach the original green return receipt to this affidavit)*

IN WITNESS WHEREOF, I have hereunto set my hand this the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
(Sign in the presence of a Notary Public)

Sworn to and subscribed before me this the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
(Notary Public)

(SEAL)

My commission expires: \_\_\_\_\_





STATE OF NORTH CAROLINA  
COUNTY OF \_\_\_\_\_

THE GENERAL COURT OF JUSTICE  
DISTRICT COURT DIVISION  
CASE NUMBER \_\_\_\_\_  
ASSIGNED JUDGE \_\_\_\_\_

\_\_\_\_\_  
Plaintiff  
-v-  
\_\_\_\_\_  
Defendant

)  
)  
)  
)  
)  
)  
)  
)  
)  
)  
)

REQUEST FOR SETTING  
FOR DIVORCE

The above case is ready for and should be set for the following purpose(s):

DIVORCE

Requested by:  Plaintiff  Defendant  Plaintiff's Attorney  Defendant's Attorney

A copy of this document has been provided to the Family Court Case Coordinator.

I HEREBY CERTIFY THAT A COPY OF THIS REQUEST FOR SETTING HAS BEEN SERVED IN THE FOLLOWING MANNER:

By depositing a copy in the United States mail in a properly addressed, postpaid envelope to:

Plaintiff at: \_\_\_\_\_

Defendant at: \_\_\_\_\_

This the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
Signature: Attorney or Party

STATE OF NORTH CAROLINA  
COUNTY OF UNION

IN THE GENERAL COURT OF JUSTICE  
DISTRICT COURT DIVISION  
FILE NO: \_\_\_\_\_

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**Plaintiff**

VS

**JUDGMENT: ABSOLUTE DIVORCE**

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**Defendant**

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THIS CAUSE coming on to be heard and being heard by the undersigned District Court Judge upon Plaintiff's Complaint for Absolute Divorce based upon one year's separation of the parties; and from the record in this cause and the evidence presented the Court finds the following facts:

1. That the Plaintiff is a citizen and resident of \_\_\_\_\_ County, North Carolina, and has been a citizen and resident of the State of North Carolina for more than six (6) months next preceding the commencement of this action.
2. That the Defendant is a citizen and resident of \_\_\_\_\_ (insert name of county and state).
3. That Defendant was properly served with a copy of the Complaint and Summons as required by Rule 4 of the Rules of Civil Procedure as follows:  
 Sheriff's service;  
 Certified Mail, return receipt requested (affidavit in Court file);  
 Publication.
4. That the Plaintiff and Defendant were married on or about \_\_\_\_\_ (insert date of marriage).
5. That the Plaintiff and Defendant have lived separate and apart from each other for more than one year preceding the institution of this action for absolute divorce.
6. (If applicable, check box)  Plaintiff/Defendant desires to resume the use of her former name: \_\_\_\_\_ (insert name here).
7. There were: (check one)  
 no children born of the marriage of the parties.  
 \_\_\_\_\_ child/children born to the marriage of the parties, namely:  
\_\_\_\_\_  
\_\_\_\_\_

8. Based upon the foregoing findings of fact, the Court concludes as a matter of law that it has jurisdiction over the subject matter and the parties and that the parties are entitled to an absolute divorce based on one year's separation.

**THEREFORE IT IS ORDERED, AJDUDGED AND DECREED:**

1. That the bonds of matrimony which have existed between the parties be and hereby are dissolved and Plaintiff is granted an absolute divorce from the Defendant.
2. (Check here if applicable) ( ) The Plaintiff/Defendant is entitled to resume the use of the former name: \_\_\_\_\_.
3. If already pled by either the plaintiff or defendant those issues remain open for further hearing (custody, child support, alimony, and/or equitable distribution).

This the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
DISTRICT COURT JUDGE PRESIDING

**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing JUDGMENT OF ABSOLUTE DIVORCE was served upon the Plaintiff and Defendant in this action by depositing a copy thereof in the United States mail in a properly addressed, postpaid envelope and mailing it to:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_  
(Insert name and address of Plaintiff)

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_  
(Insert name and address of Defendant)

This the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Clerk of Superior Court, Deputy Clerk

**STATE OF NORTH CAROLINA**

File No.

County

In The General Court Of Justice  
District Court Division

Name And Address Of Plaintiff 1

Name And Address Of Plaintiff 2

**DOMESTIC  
CIVIL ACTION COVER SHEET**

INITIAL FILING     SUBSEQUENT FILING

Rule 5(b), Rules of Practice For Superior and District Courts

**VERSUS**

Jury Demanded In Pleading?     No     Yes

Name Of Defendant 1

Name And Address Of Attorney Or Party, If Not Represented (complete for initial appearance or change of address)

Summons Submitted     Yes     No

Telephone No.

Cellular Telephone No.

Name Of Defendant 2

NC Attorney Bar No.    Attorney E-Mail Address

Initial Appearance in Case     Change of Address

Summons Submitted     Yes     No

Name Of Firm

Counsel for

All Plaintiffs     All Defendants     Only (List party(ies) represented)

FAX No.

**TYPE OF PLEADING**

**CLAIMS FOR RELIEF**

(check all that apply)

- Amended Answer/Reply (AMND-Response)
- Amended Complaint (AMND)
- Answer/Reply (ANSW-Response)
- Complaint (COMP)
- Confession Of Judgment (CNFJ)
- Contempt (CNTP)
- Continue (CNTN)
- Compel (CMPL)
- Counterclaim vs. (CTCL) Assess Counterclaim Costs
- Extend Time For An Answer (MEOT-Response)
- Modification Of Alimony (MALI)
- Modification Of Custody (MCUS)
- Modification Of Support in non-IV-D cases (MSUP)
- Modification Of Visitation (MVIS)
- Rule 12 Motion In Lieu Of Answer (MDLA)
- Sanctions (SANC)
- Show Cause (SHOW)
- Transfer (TRFR)
- Vacate/Modify Judgment or Order (VCMD)
- Other (OTHR):

(check all that apply)

- Alimony (ALIM)
- Annulment (ANUL)
- Child Support (CSUP)
- Custody (CUST)
- Divorce (DIVR)
- Divorce From Bed And Board (DIVB)
- Domestic Violence (DOME)
- Equitable Distribution (EQUD)
- Medical Coverage (MEDC)
- Paternity (PATR)
- Possession Of Personal Property (POPP)
- Post Separation Support (PSSU)
- Reimbursement For Public Assistance (RPPA)
- Visitation (VIST)
- Other: (specify and list separately)

Date

Signature Of Attorney/Party

**NOTE:** All filings in civil actions shall include as the first page of the filing a cover sheet summarizing the critical elements of the filing in a format prescribed by the Administrative Office of the Courts and the Clerk of Superior Court shall require a party to refile a filing which does not include the required cover sheet. For subsequent filings in civil actions, the filing party must include a Domestic (AOC-CV-750), Motions (AOC-CV-752), or Court Action (AOC-CV-753) cover sheet.

AOC-CV-750, Rev. 1/14

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**STATE OF NORTH CAROLINA**

File No.

\_\_\_\_\_ County

In The General Court Of Justice  
 District     Superior Court Division

Name Of Plaintiff

Address

City, State, Zip

**VERSUS**

**CIVIL SUMMONS**

**ALIAS AND PLURIES SUMMONS (ASSESS FEE)**

G.S. 1A-1, Rules 3 and 4

Name Of Defendant(s)

Date Original Summons Issued

Date(s) Subsequent Summons(es) Issued

**To Each Of The Defendant(s) Named Below:**

Name And Address Of Defendant 1

Name And Address Of Defendant 2



**IMPORTANT! You have been sued! These papers are legal documents, DO NOT throw these papers out! You have to respond within 30 days. You may want to talk with a lawyer about your case as soon as possible, and, if needed, speak with someone who reads English and can translate these papers!**  
**¡IMPORTANTE! ¡Se ha entablado un proceso civil en su contra! Estos papeles son documentos legales. ¡NO TIRE estos papeles!**  
**Tiene que contestar a más tardar en 30 días. ¡Puede querer consultar con un abogado lo antes posible acerca de su caso y, de ser necesario, hablar con alguien que lea inglés y que pueda traducir estos documentos!**

**A Civil Action Has Been Commenced Against You!**

You are notified to appear and answer the complaint of the plaintiff as follows:

1. Serve a copy of your written answer to the complaint upon the plaintiff or plaintiff's attorney within thirty (30) days after you have been served. You may serve your answer by delivering a copy to the plaintiff or by mailing it to the plaintiff's last known address, and
2. File the original of the written answer with the Clerk of Superior Court of the county named above.

If you fail to answer the complaint, the plaintiff will apply to the Court for the relief demanded in the complaint.

Name And Address Of Plaintiff's Attorney (if none, Address Of Plaintiff)

Date Issued

Time  AM  PM

Signature

Deputy CSC     Assistant CSC     Clerk Of Superior Court

**ENDORSEMENT (ASSESS FEE)**

This Summons was originally issued on the date indicated above and returned not served. At the request of the plaintiff, the time within which this Summons must be served is extended sixty (60) days.

Date Of Endorsement

Time  AM  PM

Signature

Deputy CSC     Assistant CSC     Clerk Of Superior Court

**NOTE TO PARTIES:** Many counties have **MANDATORY ARBITRATION** programs in which most cases where the amount in controversy is \$25,000 or less are heard by an arbitrator before a trial. The parties will be notified if this case is assigned for mandatory arbitration, and, if so, what procedure is to be followed.

(Over)

**RETURN OF SERVICE**

I certify that this Summons and a copy of the complaint were received and served as follows:

**DEFENDANT 1**

<i>Date Served</i>	<i>Time Served</i> <input type="checkbox"/> AM <input type="checkbox"/> PM	<i>Name Of Defendant</i>
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- By delivering to the defendant named above a copy of the summons and complaint.
- By leaving a copy of the summons and complaint at the dwelling house or usual place of abode of the defendant named above with a person of suitable age and discretion then residing therein.
- As the defendant is a corporation, service was effected by delivering a copy of the summons and complaint to the person named below.

*Name And Address Of Person With Whom Copies Left (if corporation, give title of person copies left with)*

- Other manner of service (*specify*)

- Defendant WAS NOT served for the following reason:

**DEFENDANT 2**

<i>Date Served</i>	<i>Time Served</i> <input type="checkbox"/> AM <input type="checkbox"/> PM	<i>Name Of Defendant</i>
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- By delivering to the defendant named above a copy of the summons and complaint.
- By leaving a copy of the summons and complaint at the dwelling house or usual place of abode of the defendant named above with a person of suitable age and discretion then residing therein.
- As the defendant is a corporation, service was effected by delivering a copy of the summons and complaint to the person named below.

*Name And Address Of Person With Whom Copies Left (if corporation, give title of person copies left with)*

- Other manner of service (*specify*)

- Defendant WAS NOT served for the following reason:

<i>Service Fee Paid</i> \$	<i>Signature Of Deputy Sheriff Making Return</i>
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<i>Date Received</i>	<i>Name Of Sheriff (type or print)</i>
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<i>Date Of Return</i>	<i>County Of Sheriff</i>
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\_\_\_\_\_ County

In The General Court Of Justice

Name And Address Of Plaintiff

**SERVICEMEMBERS CIVIL RELIEF ACT  
AFFIDAVIT**

**VERSUS**

Name And Address Of Defendant

50 U.S.C. 3901 to 4043

**NOTE:** Though this form may be used in a Chapter 45 Foreclosure action, it is not a substitute for the certification that may be required by G.S. 45-21.12A.

**AFFIDAVIT**

**I, the undersigned Affiant, under penalty of perjury declare the following to be true:**

1. As of the current date: (check one of the following)

- a. I have personal knowledge that the defendant named above is in military service.\*
- b. I have personal knowledge that the defendant named above is **not** in military service.\*
- c. I am unable to determine whether the defendant named above is in military service.\*

2. (check one of the following)

a. I used the Servicemembers Civil Relief Act Website (<https://scra.dmdc.osd.mil/>) to determine the defendant's military status.

The results from my use of that website are attached.

**(NOTE: The Servicemembers Civil Relief Act Website is a website maintained by the Department of Defense (DoD). If DoD security certificates are not installed on your computer, you may experience security alerts from your internet browser when you attempt to access the website. DoD security certificates were automatically added to the computers of all Judicial Branch users, such that these users should not expect security alerts to appear with this website after July of 2015. As of June 22, 2016, the Servicemembers Civil Relief Act Website includes the following advice: "Most web browsers don't come with the DoD certificates already installed. The best and most secure solution is for the user to install all of the DoD's public certificates in their web browser.")**

b. I have not used the Servicemembers Civil Relief Act Website and the following facts support my statement as to the defendant's military service: (State how you know the defendant is not in the military. Be specific.)

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**\*NOTE:** The term "military service" includes the following: active duty service as a member of the United States Army, Navy, Air Force, Marine Corps, or Coast Guard; service as a member of the National Guard under a call to active service authorized by the President or the Secretary of Defense for a period of more than 30 consecutive days for purposes of responding to a national emergency; active service as a commissioned officer of the Public Health Service or of the National Oceanic and Atmospheric Administration; any period of service during which a servicemember is absent from duty on account of sickness, wounds, leave, or other lawful cause. 50 U.S.C. 3911(2).

<b>SWORN/AFFIRMED AND SUBSCRIBED TO BEFORE ME</b>	Date
Date	Signature Of Affiant
Signature Of Person Authorized To Administer Oaths	Name Of Affiant (type or print)
<input type="checkbox"/> Deputy CSC <input type="checkbox"/> Assistant CSC <input type="checkbox"/> Clerk Of Superior Court <input type="checkbox"/> Magistrate	
<b>SEAL</b> <input type="checkbox"/> Notary	Date My Commission Expires

**NOTE TO COURT:** Do not proceed to enter judgment in a non-criminal case in which the defendant has not made an appearance until a Servicemembers Civil Relief Act affidavit (whether on this form or not) has been filed, and if it appears that the defendant is in military service, do not proceed to enter judgment until such time that you have appointed an attorney to represent him or her.

(Over)



## Information About Servicemembers Civil Relief Act Affidavits

### 1. Plaintiff to file affidavit

In any civil action or proceeding, including any child custody proceeding, in which the defendant does not make an appearance, the court, before entering judgment for the plaintiff, shall require the plaintiff to file with the court an affidavit—

- (A) stating whether or not the defendant is in military service and showing necessary facts to support the affidavit; or
- (B) if the plaintiff is unable to determine whether or not the defendant is in military service, stating that the plaintiff is unable to determine whether or not the defendant is in military service.

50 U.S.C. 3931(b)(1).

### 2. Appointment of attorney to represent defendant in military service

If in a civil action or proceeding in which the defendant does not make an appearance it appears that the defendant is in military service, the court may not enter a judgment until after the court appoints an attorney to represent the defendant. If an attorney appointed to represent a service member cannot locate the service member, actions by the attorney in the case shall not waive any defense of the service member or otherwise bind the service member. 50 U.S.C. 3931(b)(2).

State funds are not available to pay attorneys appointed pursuant to the Servicemembers Civil Relief Act. To comply with the federal Violence Against Women Act and in consideration of G.S. 50B-2(a), 50C-2(b), and 50D-2(b), plaintiffs in Chapter 50B, Chapter 50C, and Chapter 50D proceedings should not be required to pay the costs of attorneys appointed pursuant to the Servicemembers Civil Relief Act. Plaintiffs in other types of actions and proceedings may be required to pay the costs of attorneys appointed pursuant to the Servicemembers Civil Relief Act. The allowance or disallowance of the ordering of costs will require a case-specific analysis.

### 3. Defendant's military status not ascertained by affidavit

If based upon the affidavits filed in such an action, the court is unable to determine whether the defendant is in military service, the court, before entering judgment, may require the plaintiff to file a bond in an amount approved by the court. If the defendant is later found to be in military service, the bond shall be available to indemnify the defendant against any loss or damage the defendant may suffer by reason of any judgment for the plaintiff against the defendant, should the judgment be set aside in whole or in part. The bond shall remain in effect until expiration of the time for appeal and setting aside of a judgment under applicable Federal or State law or regulation or under any applicable ordinance of a political subdivision of a State. The court may issue such orders or enter such judgments as the court determines necessary to protect the rights of the defendant under this Act. 50 U.S.C. 3931(b)(3).

### 4. Satisfaction of requirement for affidavit

The requirement for an affidavit above may be satisfied by a statement, declaration, verification, or certificate, in writing, subscribed and certified or declared to be true under penalty of perjury.

50 U.S.C. 3931(b)(4). The presiding judicial official will determine whether the submitted affidavit is sufficient.

### 5. Penalty for making or using false affidavit

A person who makes or uses an affidavit permitted under 50 U.S.C. 3931(b) (or a statement, declaration, verification, or certificate as authorized under 50 U.S.C. 3931(b)(4)) knowing it to be false, shall be fined as provided in title 18, United States Code, or imprisoned for not more than one year, or both. 50 U.S.C. 3931(c).