



Judicial District 19A

ABSOLUTE DIVORCE

PLEASE READ ALL INSTRUCTIONS BEFORE COMPLETING FORMS.

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DUE TO THE CHANGING NATURE OF THE LAW, the forms and information contained in this packet may become outdated.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

Filing out the documents

*** CHECKLIST ***

You must complete the following documents:

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

You must have the complaint and Service Members Civil Relief Affidavit verified by a Notary Public.

After obtaining these forms, you must provide the Clerk's Office with 1 Original & 2 Copies of all the documents.

STEP 2

Filing the documents

Take your original documents, two copies and the \$225.00 filing fee (Cash, Credit Card, or Money Order) to the Civil Filing Department (Cabarrus County Clerk of Court 77 Union Street S. Concord, NC – ROOM 180) 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, 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. A status review court date will be assigned to your case until the Plaintiff requests an earlier court date, after completing the additional steps.

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, Service Members Civil Relief Affidavit 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 in which the Defendant resides (\$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 his/her lawyer if he/she has retained one) with the filed court documents.

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 for an earlier hearing date.

STEP 4

Setting a date for your case to be heard

You must have the following documents in your file before setting an earlier 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) and the green return receipt signed by the Defendant to attach to the Affidavit of Service.
 - Return by Sheriff

After providing the Clerk’s office with proof of service, a calendar notice can be obtained by the Plaintiff to set an earlier court date, rather than the court date you were provided with at time of filing.

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 six months prior to filing) your divorce will not be 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 start over and possibly pay the \$225.00 filing fee again**. If you have ANY questions about the divorce, you are advised to speak to an attorney.

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

The following forms must be presented in court the date of the divorce proceeding:

- **Certificate of Absolute Divorce**

This form is required by the state of North Carolina and is in your packet. You must have this completely filled out before presenting it to the Judge the day of court. Except for the section that says “Certification”.

- **Judgment of Divorce**

This form is for the Judge to use to make his/her final ruling. You should completely fill out the judgment of divorce before presenting it to the Judge the day of Court, except for where the Judge will sign. **YOU MUST BRING 3 COMPLETED COPIES OF THE DIVORCE JUDGMENT TO THE COURT HEARING.**

***** 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. *****

STATE OF NORTH CAROLINA
COUNTY OF CABARRUS

IN THE GENERAL COURT OF JUSTICE
DISTRICT COURT DIVISION
_____ CVD _____

(Type or print your name here)

Plaintiff

vs.

**COMPLAINT
FOR
DIVORCE**

(Type or print your Spouse's name)

Defendant

The Plaintiff, complaining of the Defendant, alleges and says:

1. That the Plaintiff is a citizen and resident of _____.
(Insert county and state)
2. That the Plaintiff has been a resident of the above location since _____.
(List length of residency)
3. That the Defendant is a citizen of _____.
(Insert county and state)
4. That the Defendant has been a resident at the above location since _____.
(List length of residency)
5. That the Plaintiff and Defendant were married on _____.
(Insert date of marriage)

6. That the parties separated on or about _____.
(Insert day, month, year of separation)
7. That the parties have lived continuously separate and apart for at least one year prior to the filing of this complaint.
8. That there were _____ *(Insert "no" or the number of children here)* child/children born of this marriage. The names and ages of any children are:

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. That the Plaintiff be allowed to resume the use of her maiden name

_____.

(Signature)

STATE OF NORTH CAROLINA
COUNTY OF CABARRUS

VERIFICATION

I, _____, being first duly sworn, deposes and 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 CABARRUS

IN THE GENERAL COURT OF JUSTICE
DISTRICT COURT DIVISION
____ CVD ____

(Type or print name of Plaintiff here)

Plaintiff,

vs.

(Type of print Defendant's name here)

Defendant

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

I, _____ did mail by (Registered) (Certified)
(circle one of the above)

Mail, Return Receipt Requested, a copy of the Complaint and Summons in this case

to _____ addressed as follows:
(insert name of other party here)

(use this space to list the address of party to be served)

Further, that copies of the Summons and Complaint were in fact received by the Defendant on
_____ as evidenced by the attached genuine receipt.

(insert date of receipt)

IN WITNESS WHEREOF, I have hereunto set my hand and seal this the

_____ day of _____, _____.
(insert date) (insert month) (insert year)

(Sign here in the presence of a Notary Public).

Sworn to and Subscribed before me this the _____ day of _____, _____.

(Notary Public)

My Commission Expires: _____

STATE OF NORTH CAROLINA
COUNTY OF CABARRUS

IN THE GENERAL COURT OF JUSTICE
DISTRICT COURT DIVISION
____ CVD _____

Plaintiff

VS

DIVORCE JUDGMENT

Defendant

THIS CAUSE, coming on to be heard and being heard, before the undersigned Judge presiding during the 19A, Civil Session of District Court in Cabarrus County, North Carolina. The court upon reviewing the record and hearing the evidence and testimony therefore finds the following facts and applies the law accordingly:

FROM THE RECORD IN THIS CAUSE, THE COURT FINDS AS A FACT as follows:

That this is an action brought by the Plaintiff for an absolute divorce based on one year of separation instituted by the filing of a Divorce Complaint on _____.

That the Plaintiff and Defendant were married on or about _____, and separated on _____, living separate and apart without resuming the marital relationship.

That the Defendant was properly served.

That the Defendant _____ did not file an answer (or) _____ did file an answer.

That there were _____ children born from the marriage.

That there are no pending issues between the Plaintiff and Defendant.

That the Plaintiff appeared in front of the undersigned Judge and testified to the above findings of facts.

BASED UPON THE FOREGOING FINDINGS OF FACT, THE COURT MAKES THE FOLLOWING CONCLUSIONS OF LAW:

That the Plaintiff and Defendant are entitled to an absolute divorce by reason of having lived separate and apart from one another for more than one year prior to the commencement of this action.

NOW THEREFORE, IT IS ORDERED, ADJUDGED, AND DECREED THAT:

The bonds of matrimony previously existing between the Plaintiff and Defendant are wholly dissolved, and that the Plaintiff is granted an absolute divorce from the Defendant.

The Plaintiff and/or Defendant is entitled to resume the use of her maiden name as follows:

_____.

THIS THE _____ DAY OF _____, 20_____.

Judge Presiding

STATE OF NORTH CAROLINA

File No.

In The General Court Of Justice
District Court Division

_____ County

Name Of Plaintiff

VERSUS

Name Of Defendant

**JUDGMENT FOR
ABSOLUTE DIVORCE
BEFORE THE CLERK**

G.S. 50-10(e)

NOTE TO CLERK: This form is drafted for granting absolute divorce when plaintiff's verified complaint alleges all of the required facts and the plaintiff proves service of the summons and complaint, and notice of hearing, if required. If plaintiff's complaint is not verified or if the complaint does not allege all of the facts necessary, the clerk should not enter a judgment.

FINDINGS

This case was heard by the undersigned Clerk of Superior Court upon the Plaintiff's complaint for an Absolute Divorce. From the verified complaint and other evidence presented, the Court finds the following facts:

1. The defendant was properly served with the Summons and Complaint in this action as provided by the Rules of Civil Procedure.
2. The defendant
 - a. failed to make an appearance.
 - b. admitted all of the plaintiff's allegations in the answer.
 - c. filed a written waiver of the right to answer.
3. The defendant is not an infant or incompetent.
4. a. The defendant was served with notice of this hearing as required by the Rules of Civil Procedure.
 b. The defendant was not served with notice of this hearing because defendant failed to make an appearance.
 defendant filed a written waiver of the right to receive notice of any hearings.
5. The plaintiff defendant is a resident of _____ County, North Carolina and has been a resident of the State of North Carolina for more than six (6) months immediately preceding the commencement of this action.
6. The plaintiff and defendant were married on or about (give date) _____.
7. On the date this complaint was filed, the parties had lived separate and apart for more than one year; that at the time of separation the plaintiff defendant had intent to remain continuously separate and apart from the defendant plaintiff; and the parties have lived continuously separate and apart since their separation without resuming the marital relationship.
8. The plaintiff has requested to use the plaintiff's former name of (give name) _____.
9. The defendant has requested to use the defendant's former name of (give name) _____.

CONCLUSIONS

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 plaintiff is entitled to an Absolute Divorce based on one year's separation.

ORDER

Therefore, it is ordered that:

1. The bonds of matrimony which have existed between the parties are dissolved and the plaintiff is granted an Absolute Divorce from the defendant.
2. The plaintiff is allowed to resume the plaintiff's former name set forth above.
3. The defendant is allowed to resume the defendant's former name set forth above.

Date

Signature

 Assistant CSC Clerk Of Superior Court

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)

_____ County

Name And Address Of Plaintiff

**SERVICEMEMBERS CIVIL RELIEF ACT
DECLARATION
(eCourts Civil Domestic Violence System)**

VERSUS

Name And Address Of Defendant

G.S. Ch. 127B, Art. 4; 50 U.S.C. 3901 to 4043

DECLARATION

I, the undersigned Declarant, 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. As of the current date, I have have not received a copy of a military order from the defendant named above relating to State active duty as a member of the North Carolina National Guard or service similar to State active duty as a member of the National Guard of another state. See G.S. 127B-27 and G.S. 127B-28(b).
3. I used did not use the Servicemembers Civil Relief Act Website (<https://scra.dmdc.osd.mil/>) to determine the defendant's federal military service.
 - 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. Members of the North Carolina National Guard under an order of the Governor of this State and members of the National Guard of another state under an order of the governor of that state will **not appear in the SCRA Website database.)**
4. The following facts support my statement as to the defendant's military service: *(State how you know the defendant is or 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). The term "military service" also includes the following: State active duty as a member of the North Carolina National Guard under an order of the Governor pursuant to Chapter 127A of the General Statutes, for a period of more than 30 consecutive days; service as a member of the National Guard of another state who resides in North Carolina and is under an order of the governor of that state that is similar to State active duty, for a period of more than 30 consecutive days. G.S. 127B-27(3) and G.S. 127B-27(4).

I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct.

Date

Signature Of Declarant

Name Of Declarant (type or print)

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 or declaration (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 And Declarations

1. Plaintiff to file affidavit/declaration

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/declaration

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/declaration

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/declaration

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).

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>
<i>Date Received</i>	<i>Name Of Sheriff (type or print)</i>
<i>Date Of Return</i>	<i>County Of Sheriff</i>

STATE OF NORTH CAROLINA
CERTIFICATE OF ABSOLUTE DIVORCE OR ANNULMENT

File Number: _____

County: _____

PLAINTIFF

<input type="checkbox"/> Husband/Spouse 1. <input type="checkbox"/> Wife/Spouse	FIRST	MIDDLE	LAST
RESIDENCE – STATE 2a.	COUNTY 2b.		

DEFENDANT

<input type="checkbox"/> Husband/Spouse 3. <input type="checkbox"/> Wife/Spouse	FIRST	MIDDLE	LAST
RESIDENCE – STATE 4a.	COUNTY 4b.		

MARRIAGE

DATE OF THIS MARRIAGE 5.	PLACE OF THIS MARRIAGE 6.
NUMBER OF MINOR CHILDREN 7.	DATE OF SEPARATION 8.

CERTIFICATION

I hereby certify that the above information as abstracted from court documents is true and correct. The divorce annulment was rendered in the above matter on the _____ day of _____ Year _____.

Date Signature ▶ Clerk of Superior Court Assistant CSC Deputy CSC

After printing form, please cut on dashed line
to create a form with the dimensions of 8.5 inches by 7 inches.

Type or print in permanent black ink.