



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DUE TO THE CHANGING NATURE OF THE LAW, the forms and information contained in this packet may become outdated.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