NORTH CAROLINA DIVORCE PACKET

Prepared by the North Carolina Equal Access to Justice Commission
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Use this packet only if:



- You or your spouse have lived in North Carolina for at least the last 6 months
- You have been separated from your spouse for at least 12 months
- You are not interested in ***ever*** receiving alimony or spousal support
- You are not interested in ***ever*** having property or debts from the marriage divided between you and your spouse

Use these forms at your own risk! These are educational forms designed to help you, but you are representing yourself. Please review and follow the directions to help you present your case. ***Failure to read and follow the instructions may hurt your case.***

This packet **cannot** help you with:

- Child custody
- Visitation
- Legal separation
- Child support
- Alimony
- Division of pensions, joint savings accounts, retirement plans
- Equitable distribution of marital property (dividing things that you and your spouse both own together such as vehicles, houses, bank accounts, insurance policies, home equity, and other personal property; and also dividing debts that you and your spouse owe)

If you want these rights, ***you need to talk to a lawyer. This packet is not for you!*** If you get a divorce before you settle these matters, you may ***lose your rights!***

You can find the name of an attorney by consulting your local telephone directory or the **North Carolina Lawyer Referral Service** at **1-800-662-7660**. If you cannot afford an attorney, you may be eligible for advice or assistance from **Legal Aid of North Carolina** at 1-866-219-5262.

No one except an attorney can advise you of your legal rights. No one at the Judicial Center, Clerk of Court's office, or Judge's office may give legal advice or tell you how to fill out these forms.

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THINGS TO KNOW BEFORE YOU BEGIN

- Your case is called a **pro se**, or **self-represented** case, because you are representing yourself instead of hiring a lawyer. Therefore, it is up to **you** to make sure that the forms and information you present to the court are correct and up-to-date. Since you are representing yourself, you should research the laws, rules of court, and cases that apply to your case.
- Fill out all the forms by completing them online, typing on a typewriter, or using a blue or black pen. Write neatly if you use a pen.
- ***Keep copies of everything.*** Keep at least one copy of all the forms you file for your own records.
- You must file all forms at the Clerk's office in the county in which you or your spouse lives.

BACKGROUND INFORMATION

An **Absolute Divorce** is a complete divorce that allows the parties to marry again after their divorce judgment becomes final, or to legally take action as a single individual, such as purchasing property or filing taxes as single. North Carolina law requires that the parties be separated for more than one (1) year before they file for divorce. The parties do not need an agreement to file for an Absolute Divorce. However, in order for a party to be eligible for an Absolute Divorce in North Carolina, the husband or wife must have been a resident of North Carolina for at least six (6) months prior to the filing. ***You and your spouse must also have lived continuously separate and apart for at least one (1) year and one (1) day before the divorce can be filed.*** (See below for more information about North Carolina's separation requirement.) These requirements are set out in North Carolina law (or statutes) at North Carolina General Statute Section 50-6. There are no exceptions to these requirements to get an Absolute Divorce.

As you go through the court process, you will be called the **Plaintiff**, because you have started the court process to get an Absolute Divorce. Your spouse will be the **Defendant**.

A case for Absolute Divorce begins when a **Complaint** is filed with the Court. The Complaint must contain a statement of facts to give a person fair notice of the basis for the lawsuit, including a statement of where the party lives and has lived. A sample Complaint is found on page 25 of this Divorce Packet.

In order for the court to reach a binding decision in a case, the court must have **Jurisdiction** (the power to require a party to follow its decisions), which it obtains by **Service of Process**. The Clerk of Court must issue a **Summons** and the Summons must be served on the Defendant (the spouse of the person who started the process for Divorce) in a certain way, which is set out in the court's rules. The easiest way to serve the Defendant is to submit the Summons and a copy of the Complaint to the Sheriff of the county where the Defendant lives. The Sheriff will deliver the papers to the Defendant and provide proof to the court. There are also other methods of acceptable service that are described below at page 13-14.

CAN OR SHOULD I FILE FOR AN ABSOLUTE DIVORCE?

Please note that neither the District Court Staff nor anyone in the office of the Clerk of Court are allowed to provide legal advice. **Therefore, we cannot tell you if you should file or what you should file, but we can tell you that you must meet certain requirements to be eligible for an Absolute Divorce.** The **Plaintiff** is the person beginning the divorce proceeding against the **Defendant,** who is the spouse (husband or wife) of the Plaintiff. The Plaintiff may file a Complaint for divorce in North Carolina IF the Plaintiff spouse has been a resident of North Carolina for at least six (6) months prior to the filing. The couple must have lived continuously separate and apart, where at least one person intends for that separation to be permanent, for at least one (1) year and one (1) day before the divorce can be filed.



You should remember that, if you want to receive alimony or spousal support or have a court help you decide how to divide your marital property and debts, you must raise it by filing a claim with the court before your Divorce is final. If the Judge signs a Judgment for Absolute Divorce before these issues are raised, you will lose your right to raise it forever. You should talk to an attorney if you have questions about these topics.

DO I HAVE TO HAVE A COURT ORDER TO BEGIN A PHYSICAL SEPARATION?

No, you do not need a court order to be legally separated in North Carolina. As long as you and your spouse are living in separate residences ***and*** at least one of you intends the separation to be permanent, then the time you spend living apart will qualify for a one-year waiting period for a divorce.

A person might be able to sign a **Separation Agreement** (a Separation Agreement is a contract between both spouses to settle issues such as property division, child custody, alimony, and equitable distribution) or get a court order (called a Divorce from Bed and Board), either of which can free both spouses from legal responsibility for the other spouse. This step is **not** required to start the one-year separation clock for the purposes of getting an Absolute Divorce – only physical separation is required for that. If you are interested in taking the step of getting a court order or a Separation Agreement to separate your legal responsibility from your spouse before obtaining an Absolute Divorce, you should talk to an Attorney.

HOW MUCH DOES IT COST TO GET AN ABSOLUTE DIVORCE?

The fee for filing a case for divorce is currently $225.00. You will also need either $30.00 to have the Sheriff serve the Defendant, or $7.00 to serve the Defendant by certified mail. If you are including a claim for "Resumption of Maiden Name," there may be an additional $10.00 fee. **These fees are subject to change.**

If you cannot afford these costs, you might qualify to proceed as an Indigent. See page 10 for more information about the requirements to file a case as an Indigent.

THREE REASONS TO CONSIDER NOT REPRESENTING YOURSELF

1. PRESENCE OF DOMESTIC VIOLENCE

If you have been the victim of physical or emotional abuse during your marriage, you may not want to represent yourself in an Absolute Divorce case. In abusive relationships, sometimes the act of filing the Complaint for an Absolute Divorce may further anger the abusive spouse. Many abusive spouses are very controlling. Your spouse may think you are trying to challenge his or her authority. If your spouse has hurt you in the past and you are afraid of your spouse now, you may want to reconsider handling your case yourself and seek representation by a private attorney. You may also want to consider filing for a Domestic Violence Protective Order. More information can be obtained by contacting the Domestic Violence Service Provider in your county (a list is available at nccadv.org/get-help) or by calling the National Domestic Violence Hotline at 1-800-799-7233.

Ultimately, the choice to represent yourself is your own decision. Some factors you may want to consider when making your decision include:

- *Do I think my spouse will become very angry when I file this and try to do something to get back at me?*
- *Do I have a safe space to stay after I file for divorce, while I am waiting for the Sheriff to serve my spouse with the absolute divorce papers, and after my spouse gets the divorce papers?*
- *Have I had to get a protective order against my spouse in the past?*
- *Has my spouse followed the terms of any protective order?*

2. EQUITABLE DIVISION OF MARITAL PROPERTY OR DEBTS

Once an Absolute Divorce Judgment has been granted, neither you nor your ex-spouse can ask the court for a division of marital property or marital debts. To preserve a claim to marital property or debts, you must file with the Clerk of Court a claim for Equitable Distribution of Marital Property ***prior to filing your Absolute Divorce Judgment***.

Marital property consists of any real or personal property acquired by either spouse during the course of the marriage, and before the spouses' separation. Examples of marital property may include the marital home, land, vehicles, furniture, and retirement plans (for example, 401k or IRA). Marital property can include marital debt (for example, credit cards and medical bills).

If you have marital property or debts you wish to divide, you will need to file for **Equitable Distribution** of the marital property – either at the same time you file for Absolute Divorce or before the divorce judgment is entered.

You should seek the assistance of a private attorney in filing for your Absolute Divorce and Equitable Distribution of marital property.

3. ALIMONY AND POSTSEPARATION SUPPORT

Alimony and Postseparation Support are forms of spousal support. **Alimony** is money paid to a spouse or ex-spouse. **Postseparation Support** is money paid to a spouse for a specific period of time, generally temporary, until the court orders or denies an award of Alimony. You may be eligible for Alimony or Postseparation Support if:

- You are substantially dependent upon your spouse for your maintenance and support ***or***
- You are substantially in need of maintenance and support from your spouse.

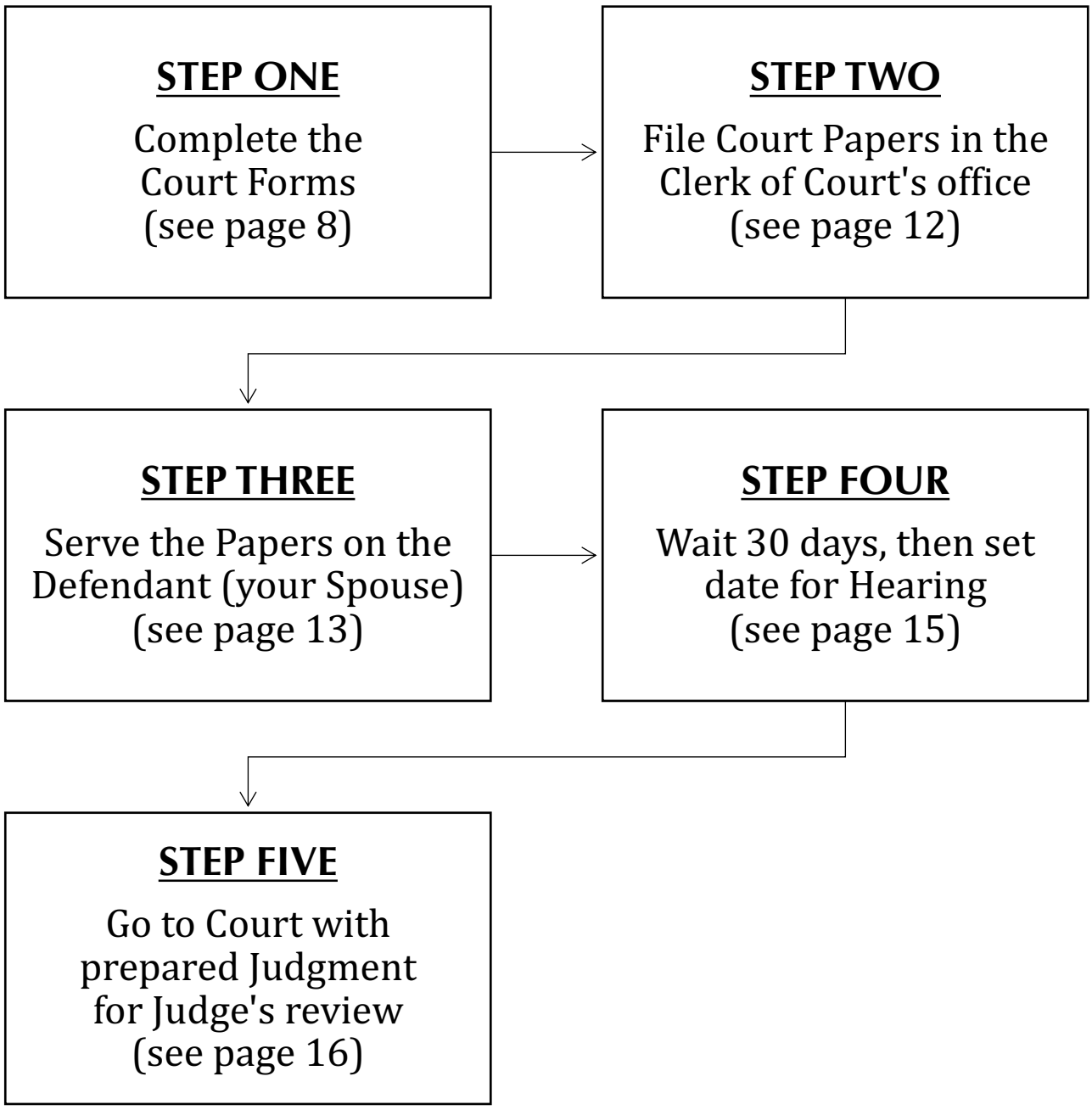
The court will consider many factors to determine whether or not you are eligible for Alimony or Postseparation Support. Some of these factors include: marital misconduct, earnings and earning capacity of each spouse, how long you have been married, contributions each of you have made to the marriage and your standard of living, your ages and physical and mental conditions, property that you own, and the needs of each spouse. There are many other factors that the court may consider.

Once an Absolute Divorce Judgment has been granted, neither you nor your ex-spouse can ask the court for spousal support. To preserve a claim to spousal support, you must file with the Clerk of Court a claim for spousal support prior to having your Absolute Divorce Judgment signed by a Judge and filed.

You should seek the advice of a private attorney in filing for your Absolute Divorce and Alimony or Postseparation Support.

STEPS FOR GETTING AN ABSOLUTE DIVORCE

Before beginning this process, read this complete packet and make sure you understand this process. If you have any questions or are not sure if this is the best route for your situation, ***talk to an attorney.***



STEP ONE – COMPLETING THE COURT FORMS AND PREPARING TO FILE

To ***begin*** a case for Absolute Divorce, you will need the complete following forms:

1. Complaint for Absolute Divorce
2. Domestic Civil Action Cover Sheet (AOC-CV-750)
3. Civil Summons (AOC-CV-100)
4. Servicemembers Civil Relief Act Affidavit (AOC-G-250)

Note: You might need a Petition to Proceed as an Indigent (used if you cannot afford the court fees) (AOC-G106) (**optional**).

Other forms you may need as you go through the process to finish your Absolute Divorce are:

1. Notice of Hearing
2. Judgment of Absolute Divorce
3. Waiver and Answer (**optional**)
4. Affidavit of Service of Process by Registered or Certified Mail (**optional**)
5. Certificate of Absolute Divorce (DHHS 2089/Vital Records) (You will get this form from the courtroom clerk on the day you come to court for your divorce hearing.)

Note: Your address is requested on many court forms throughout the filing process. ***If you have been the victim of physical or emotional abuse*** during your marriage and decide to use an address other than your residence, you must be aware that ***all court-related information will be sent to the address you include on your documents***. You will be responsible for all information and court documents sent to the address you list.

1. COMPLAINT FOR ABSOLUTE DIVORCE

This Complaint was created to be self-explanatory. You should fill in every blank unless you are sure that it does not apply to your case.

The Complaint is the paperwork you file with the Clerk of Court that asks the court for an Absolute Divorce. The Complaint consists of statements and facts about the parties' marriage and separation, and a request that the Judge grant an Absolute Divorce based on the statements and facts. On the last page of the included Complaint is a Verification, where you state under penalty of perjury that everything in the Complaint is true to the best of your knowledge. You must sign the Verification in front of a Notary Public and have the form notarized. You should make two extra copies (in addition to the original) of the completed Complaint.

2. DOMESTIC CIVIL ACTION COVER SHEET (FORM AOC-CV-750)

The Domestic Civil Action Cover Sheet allows the courts to properly file the case and determine if service has been requested and if either party is being represented by an attorney. Fill out the appropriate blanks and check the correct boxes for your case.

A. Fill in the name of the county where you will be filing the case.
B. Fill in your name and address in the box labeled "Plaintiff 1."
C. Fill in the name of the Defendant (your spouse) in the box labeled "Defendant 1," and check the box labeled "Defendant 1," and check "yes" for the box that asks, "Summons Submitted" beneath that box.

D. Check the box that says: "Initial Filing" below the title of the cover sheet, near the top right.
E. Fill in your mailing address in the box marked "Name and Address of Attorney or Party." Include your telephone number, if you have one.
F. In the box that says "Jury Demanded in Pleading," check "No."
G. Check the box for type of pleading: "Complaint."
H. Check the box for claim for relief: "Divorce." (Claim for relief refers to what you are asking the court to grant you.)
I. Sign and date the bottom of the form.
J. Make two extra copies (in addition to the original) of the completed Domestic Civil Action Cover Sheet.

3. CIVIL SUMMONS (FORM AOC-CV-100)

The Civil Summons is the form which notifies the Defendant that a lawsuit has been filed against him/her. The Clerk of Court must "issue" the Civil Summons after you prepare it. The form lets the Defendant know that he/she has thirty (30) days to respond to the Complaint by filing an Answer with the Clerk of Court.

A. Fill in the name of the county where you will be filing the case. Check the box marked "District" for Court Division.
B. Fill in your name and address and the name of the Defendant in the top left-hand part of the form. Note – this must be a reliable address for the Defendant in order for the lawsuit to be served successfully.
C. You should fill in the Defendant's address in the box marked "Name and address of Defendant 1." Use the street address unless you are making service by registered mail.
D. Fill in your mailing address in the box that says "Name and Address of Plaintiff's Attorney (if none, Address of Plaintiff)." Include your telephone number if you have one.

Leave the rest of the form blank and make three (3) copies in addition to the original, on **yellow paper**, leaving the original on white paper. This is done to distinguish between the original Summons and the copies. If you do not have yellow paper, use white paper instead and mark the copies "COPY" on the top.

4. SERVICEMEMBERS CIVIL RELIEF ACT AFFIDAVIT (FORM AOC-G-250)

This form helps the Judge be sure that your spouse, the Defendant, is not in active service in the military, and so protected from civil lawsuits.

A. Fill in the name of the county where you will be filing the case.
B. Fill in your name and address and the name of the Defendant in the top left-hand part of the form.
C. Check the box under Item #1 that accurately describes your knowledge about your spouse's military service. Your choices are that you know they are in military service; you know they are not in military service; or you do not know whether they are in military service.
D. You must also either:

a. Go to the Servicemembers Civil Relief Act website (https://scra.dmdc.osd.mil/) and search for your spouse's name. Print the results from that search and attach it to the Affidavit. Check the two boxes beside (a) under Item #2. OR
b. Check the box beside (b) under Item #2, and explain why you think your spouse is or is not in active service in the military.

E. Sign the Affidavit **in the presence of a Notary Public** and have the form notarized.
F. Make two extra copies (in addition to the original) of the completed Servicemembers Civil Relief Act Affidavit.

5. PETITION TO PROCEED AS AN INDIGENT (FORM AOC-G-106) (OPTIONAL FORM)

If you cannot afford the fees for filing your Complaint for Divorce, you can ask the Court to let you file for free. In order to make that request, you must file a "Petition to Proceed as an Indigent." If approved, you will not have to pay the filing fee to the Clerk or service of process fee to the sheriff.

A. Fill in the name of the county where you will be filing the papers. Check the box marked "District" for court division.
B. Fill in your name as Plaintiff and your spouse's name as Defendant, in the appropriate places.
C. Check the box marked "Petition to Assert Claims."
D. If you are a recipient of public benefits such as Work First, SNAP (food stamps), or SSI, then check the appropriate box or boxes. If you receive none of these, but still wish to request a determination of indigence, check the last box, "Although I am not a recipient…." The Clerk of Court may require you to show a pay stub or other proof to show that you cannot afford the fee, but the Clerk is supposed to waive the fee upon a reasonable showing.
E. Make sure you sign the petition in the presence of a Notary Public and have the form notarized.
F. Important note – You MUST be aware that you could be in **contempt of court** if you give false information on this form.

After completing this form, you will file it with the Clerk at the same time that you file the Complaint, Domestic Civil Action Cover Sheet, and Civil Summons. The Clerk will then decide if you need to pay the filing fee(s). If you do not receive SNAP (food stamps), Work First (TANF), or SSI, the Clerk may ask you to complete a Civil Affidavit of Indigency form to further explain your financial situation.

6. JUDGMENT OF ABSOLUTE DIVORCE

At your court hearing, you must present the Judge with your proposed Judgment of Absolute Divorce. This form is for the Judge to use to make his/her final order (decision) in your case. To prepare for court, you should fill out the following:

A. Fill in the name of the county where you will be filing the papers.
B. Fill in the file number of your case. (You can find the file number on your copy of the filed Complaint.)
C. Fill in your name as Plaintiff and your spouse's name as Defendant, in the appropriate places.

D. Leave the rest of the form blank.

After the hearing, and if the Judge is satisfied with the evidence presented, he/she will sign the Judgment of Absolute Divorce. This Judgment would then become a final court order.

7. CERTIFICATE OF ABSOLUTE DIVORCE

The Certificate of Absolute Divorce states the relevant information about the parties' marriage and separation. The Clerk of Court signs this form after the Judge signs the Judgment of Absolute Divorce at the court hearing. The Clerk of Court keeps this information in the court file until sent by the Court to the North Carolina Center for Health Statistics, NC Vital Records. To prepare this form before your court date:

A. Fill in the file number of your case. (You can find the file number on your copy of the filed Complaint.)
B. Fill in the name of the county where you will be filing the papers.
C. Fill in your name in box #1, and check the appropriate box indicating whether you are a husband or wife.
D. Fill in the state and county where you live in boxes #2a and #2b.
E. Fill in your spouse's name in box #3, and check the appropriate box indicating whether your spouse is a husband or wife.
F. Fill in the state and county where your spouse lives in boxes #4a and #4b.
G. Fill in the appropriate information in boxes #5 through #8.
H. Do **not** complete any information under "Certification."

STEP TWO – HOW TO FILE THE CASE FOR DIVORCE

To begin Step Two, you should have completed at least the Complaint for Absolute Divorce, the Domestic Civil Action Cover Sheet, the Civil Summons, and the Servicemembers Civil Relief Act Affidavit, as instructed above at pages 8 through 10.

1. Take all three (3) copies of the Complaint, the Domestic Civil Action Cover Sheet, and the Servicemembers Civil Relief Act Affidavit, and all four (4) copies of the Summons to the office of the Clerk of Court in the county where you will be filing.
   The fee for filing a case for divorce is currently $225.00. If you are including a claim for **Resumption of Maiden Name**, there may be an additional $10.00 fee. These fees are subject to change.
   If you cannot afford the filing fee, also take the Petition to Proceed as an Indigent and ask to speak with a Clerk. Tell them that you need to have the Petition to Proceed approved. Show the Clerk the Complaint and the Petition to Proceed, and answer any questions he/she may have for you about your finances. The Clerk may also ask for the Civil Affidavit of Indigency and/or proof of your financial situation.

2. Once you have paid the fee or had it waived, submit the *original* Complaint and Summons to the Court, where it will be assigned a file number and placed in the public records. Ask for all three (3) extra copies of the Summons to be issued (or signed) by the Clerk. Also ask for the Clerk to "file-stamp" the two extra copies of the Complaint, and the yellow copies of the Summons.
   The original packet will be placed in the Court file, one copy is for you, and the third copy will be served on the Defendant. (See pages 13-14 below for more information about how to properly serve the Defendant.)
   Note: The Clerk's office will accept credit cards and debit cards, cash, money order, or cashier's check. Make the money order or cashier's check payable to "Clerk of Superior Court." ***Personal checks are not accepted.***

STEP THREE – SERVING THE DEFENDANT

You will then be ready to have the Summons and Complaint for Absolute Divorce delivered to the Defendant. **You *cannot* deliver the lawsuit yourself.** You must use one of the following methods of personal service: (1) service by Sheriff; (2) service by certified mail, return receipt requested; (3) Acceptance of Service; or (4) Publication.

CHOOSE ONE METHOD:

1. SERVICE BY SHERIFF

This is the easiest method of service. The cost is $30.00 (fees may be subject to change). If the Clerk will accept the Summons and Complaint for delivery to the Sheriff's office, the $30.00 fee is paid at the Clerk's office. In some counties you must deliver the defendant's copy of the Summons and Complaint, along with the original Summons, to the Sheriff's office yourself. In that case, you will pay the $30.00 fee at the Sheriff's office.

The Sheriff will deliver the Summons and Complaint to the Defendant (or to someone of suitable age) who is found at his/her residence, using the address you have included on the Summons. After successful delivery, the Sheriff will make a notation on the back of the original Summons and return the original Summons to the Clerk for placement in the Court file.

You can also instruct the Sheriff's office to serve the Defendant at their place of employment.

If the Defendant does ***not*** live in your county, you must have the Sheriff in the county in which the Defendant lives deliver the Summons and Complaint. You can either hand-deliver or mail the papers to the Sheriff's office in that county. If you mail the papers, you CANNOT pay the service fee by cash or personal check. Instead, you must send a money order or cashier's check payable to that county's Sheriff's office. In addition, you must send a cover letter explaining that you want the service packet delivered to the Defendant.

Note: If you have filed and been approved to sue as an Indigent, you must include a certified copy of the Petition to Proceed as an Indigent in your packet to the Sheriff, so that they can waive the service fee.

2. SERVICE BY CERTIFIED MAIL, RETURN RECEIPT REQUESTED

You may also serve the papers by certified mail, return receipt requested. After the Post Office delivers the service packet to the Defendant, he/she will sign a "green card" showing that the packet was delivered. The Post Office will send you the "green card," which must be submitted to the Court along with an Affidavit of Service.

When you have the "green card," fill out the Affidavit of Service of Process by Certified Mail. (See page 47 for a blank Affidavit of Service that you can fill in.) Attach the green card to the Affidavit and ***sign the affidavit in the presence of a Notary Public***. Make a copy for yourself and file the original with the Clerk of Court for placement in your Court file.

3. ACCEPTANCE OF SERVICE

If the Defendant (your spouse) is cooperative, you can mail him/her the papers and an Acceptance of Service (see page 49 for a blank form), which he/she will need to sign in front of a Notary Public. After it is signed and notarized, the form should be filed with the Clerk of Court.

4. PUBLICATION

If you do not know where the Defendant (your spouse) lives, there is a way to serve your spouse by publishing in a newspaper. However, this method of service is expensive and takes time, and should be used as a last resort. You should consult with a private attorney if you need to serve your spouse by publication.

STEP FOUR – GETTING A HEARING DATE AND NOTICE OF HEARING

After you have successfully served the Defendant, several things will happen:

1. The Defendant has thirty (30) days to file an Answer or a motion for extension of time to file an Answer. If the Defendant files an Answer, he/she or his/her attorney will send you a copy of it. If it raises any counterclaims or issues other than divorce, you should consult an attorney to get legal advice.

2. After the Defendant files his/her Answer, or if after thirty (30) days no Answer has been filed, the case can be scheduled for hearing.

3. **Optional:** If the Defendant does not contest the divorce (if he/she agrees to the divorce and is cooperative), the 30-day period for the Defendant to answer can be waived using the Waiver and Answer form included in this packet (see page 51). The Defendant would have to complete this form and file it with the Clerk of Court, serving a copy on you, the Plaintiff.

4. Setting a hearing date. If your spouse (the Defendant) does NOT send you a copy of his/her Answer and more than thirty (30) days has gone by after he/she has been served, you should contact the Clerk's office to set your court date. If a Waiver and Answer is filed, the court date can be set when the Waiver and Answer is filed with the Clerk of Court.

Note: The thirty (30) day counting period begins on the date your spouse was **served** with the papers, not when the papers were **filed** with the Clerk of Court.

5. Notice of Hearing. After you have contacted the Clerk's office and received a court date, you must fill out a Notice of Hearing form to send the Defendant the date of your divorce hearing. The Notice of Hearing form must be delivered to the Defendant (your spouse) at least ten (10) days before the court date.

   Complete the Notice of Hearing form included in this packet and make two (2) extra copies. Give the original and both copies to the Clerk to file. The Clerk will stamp the original and copies "filed," put the original in the court file, and return the copies to you. One copy is for your records, and one copy must be served on the Defendant.

6. Service after the lawsuit is started. For all papers *after* the packet with the Complaint and Summons, you can serve the Defendant his/her copy by first-class mail, to his/her last known address. Documents that can be served through first-class mail include the Notice of Hearing and the Judgment of Absolute Divorce.

   When you serve these documents, you must complete the "Certificate of Service" at the end of the documents by writing the date you mailed the documents to the Defendant, the address you used, and signing.

STEP FIVE – GOING TO COURT

If you do not have an attorney to represent you, you will have to present your own case to the Judge. On the day of the court hearing, you must go to the County Courthouse and take a seat on one of the benches in the correct courtroom. At the beginning of the Court session, the Judge will announce the cases on the calendar. When the Judge calls your name, you should stand up and tell the Judge you are present. The Judge will ask if the Defendant is present. If so, both parties will be instructed to take a seat in front of the Judge. If the Defendant does not appear, the Judge will proceed without him/her.

When your case is called, the Clerk will swear you in (ask you to swear that the testimony you are about to give is the truth) and you will go up and sit in the witness box. The Judge will then review the file. If all forms are correct and filed appropriately, the Judge will proceed with the hearing. If not, the Judge may dismiss the lawsuit.

If the Judge proceeds with the hearing, he/she may ask you questions about your marriage and separation. The Judge may also tell you to go ahead and state your case. You can read the statements on your Complaint for Absolute Divorce, and tell the Judge that you would like a divorce from your spouse. Bring a copy of your Complaint with you to the witness stand so you can refer to it. If the Defendant is present, the Judge will allow the Defendant to ask any relevant questions. At that time, if the Judge is satisfied with the evidence, he/she will sign the Judgment of Absolute Divorce and dissolve the marriage. You should have the prepared Judgment of Absolute Divorce (included in this packet) to offer the Judge. Be prepared to offer the Judge three copies of the Judgment of Absolute Divorce.

If at any time during the court proceeding you do not feel that you can handle the proceedings, you should ***consult an attorney***. In the event you are unable to consult an attorney and do not feel that you can proceed on your own, you can file a Voluntary Dismissal (court form AOC-CV-405). Filing a Voluntary Dismissal without prejudice stops the case. You can file this at any time before the Judge enters his/her decision. However, if you voluntarily dismiss your case and later decide you want to try again, you must start all over again. ***You should only use the voluntary dismissal as a last resort.***

TIPS FOR PRESENTING YOUR CASE IN COURT

You will be expected to respect the proper rules of courtroom etiquette. Always remember to be respectful to the Judge and all court personnel.

- Arrive 10 to 15 minutes early.
- Dress appropriately and conservatively. Do not wear shorts, tank tops, strapless tops, skirts with high slits, or dresses or other clothes that are tight, clingy, sheer, or low-cut. Do not wear strongly-scented perfume, powder, or after-shave. Wear your hair in a style that allows your face and eyes to be seen. If you wear makeup, apply it conservatively. If you wear jewelry, avoid dangling items that clink as it will distract from your testimony.
- Do not use drugs or drink alcohol before your hearing.
- Stand when the Judge enters the courtroom.
- Be quiet in the courtroom. When the Judge announces your case, stand and tell him/her that you are there for an absolute divorce hearing. After the Judge has announced all the cases, he/she will ask if anyone's case has not been announced. If your case was not listed, you should stand up and let the Judge call on you. At that point, you should let the Judge know your name and that you are there for an absolute divorce.
- You should always stand when speaking to the Judge, whether in the gallery (benches in the courtroom) or at the Plaintiff's table.
- During your hearing for divorce, when the Judge is asking you questions, you must use clear and understandable words. You might say, "Yes, your Honor," or "No, your Honor." Do not whisper or speak too softly. The Judge must be able to hear and understand what you are saying.
- Other important points to remember:
    - ***Always tell the truth!*** Answer any questions that you are asked honestly, whether it is the Judge, the Defendant, or the Defendant's attorney asking you the questions.
    - Tell your story, but do not exaggerate any facts.
    - Keep your temper. Becoming angry will not help you.
    - Keep your answers short and to the point.
    - Try not to anticipate what you will be asked. Listen carefully to the question and think about your answer before beginning to answer a question.
    - Do not interrupt the person who is asking the question.
    - If you do not understand or hear a question, ask that it be repeated.
    - If you do not know the answer to the question, you can say that you do not know or you cannot remember.
- If you do not understand something the Judge has said or asked, say so. The Judge will usually explain what he/she can. Remember, though, the Judge cannot and will not give you legal advice. If you still have trouble understanding, the Judge will likely tell you to contact an attorney.

SUMMARY

To file for divorce in North Carolina:

1. You and your spouse must be separated (living separate and apart, where at least one person meant the separation to be permanent) for at least one (1) year and one (1) day.
2. One or both spouses have resided in North Carolina for the six (6) months before you file the lawsuit for divorce.
3. Fill out the Complaint for Absolute Divorce, Civil Summons, and Domestic Civil Action Cover Sheet.
4. **Take with you to the Clerk of Court for Filing:**
    a. Complaint for Absolute Divorce – original and two (2) copies
    b. Civil Summons – original (on white paper) and three (3) copies (on yellow paper)
    c. Domestic Civil Action Cover Sheet – original and two (2) copies
    d. $225.00 (*fee subject to change*) filing fee in the form of **cash, money order, cashier's check, or credit card/debit card**; personal checks are NOT accepted (or the Petition to Proceed as an Indigent if you are going to ask the Clerk to waive the filing fee)
    e. $30.00 (*fee subject to change*) for the Sheriff's service fee (unless you are going to serve the papers by certified mail)
5. Serve the Defendant with the documents.
6. Within about two (2) weeks after filing your documents with the Clerk, check back with the Clerk to determine if the Defendant has been served. If you served your spouse by certified mail, the date of service will be on the return receipt card ("green card"). If served by certified mail, don't forget to complete and file your Affidavit of Service with the Clerk. This is the proof of service of the papers that must be in the Court file.
7. Thirty (30) days after the Defendant has been served, get a court date from the Clerk of Court's office. Or, if the Defendant files a Waiver and Answer, you may get a court date from the Clerk when the Defendant files the Waiver and Answer.
8. Complete a Notice of Hearing form, filing the original with the Clerk and serving a copy on the Defendant (which can be done by regular mail). Mail the Notice of Hearing at least ten (10) days before the hearing.
9. Prepare three (3) copies of a proposed Judgment of Absolute Divorce that you will hand to the Judge at your hearing for entry if it is approved.
10. Keep a copy of everything you file with the Clerk of Court and send/serve on the Defendant.

REQUIREMENTS CHECKLIST

Document	Notary Required?	Copies Needed	Important Information	File with the Clerk of Court?
Complaint for Absolute Divorce	YES	Original + 2 copies	File *before* serving on other party	YES
Domestic Civil Action Cover Sheet	NO	Original + 2 copies	To be filed with the Summons and Complaint	YES
Civil Summons	NO	Original + 3 copies	File with Cover Sheet and Complaint	YES
Servicemembers Civil Relief Act Affidavit	YES	Original + 2 copies	To be filed with the Summons and Complaint	YES
Affidavit of Certificate of Service by Registered or Certified Mail	YES	Original + 2 copies	Use ONLY IF you completed service of process through registered mail; submit with the "green card" attached on a separate sheet of paper	YES
Judgment of Absolute Divorce	NO	Original + 2 copies	Prepare before your hearing to present to the Judge	YES (only after your hearing and Judge has signed it)
Petition to Proceed as an Indigent (this form is *optional* if you feel you cannot afford the filing fee)	YES	Original + 2 copies	Complete this form to apply for the filing fee to be waived. File at the same time as the Complaint, Cover Sheet, and Civil Summons	YES

GLOSSARY OF LEGAL TERMS

Absolute Divorce	A court order dissolving a marriage relationship.
Affidavit	A written statement of facts, made voluntarily under oath before a person having authority to administer such oath or affirmation such as a Notary Public.
Alimony	Money paid to a spouse or ex-spouse for his or her support.
Answer	The written response to a Complaint, Petition or Motion.
Calendar Date	Date of court hearing.
Certified Mail	Form of mail similar to registered mail by which sender may require a return receipt when the recipient has received the document.
Child	The child of a parent, including biological children, adopted children, illegitimate children, and step-children.
Civil Summons	Document used to notify the defendant that (1) a case has been started against him/her; and (2) that he/she is to answer the lawsuit.
Clerk of Court	Files your court papers and keeps the official records of your case. The clerk cannot give you legal advice, but can help explain the system and the procedures to be followed. The clerk also has the power to accept or reject your papers.
Complaint for Absolute Divorce	A written request for the judge to grant you an absolute divorce. This document starts your case.
Court Date	The date that you receive from the Clerk's office. This is the day your case will be heard and your divorce either granted or denied.
Cross Examination	Questions you can ask the defendant and he/she can ask you.
Default	A party's failure to answer a Complaint, Motion, or Petition.
Defendant	The person who receives the Complaint for Absolute Divorce.
Direct Examination	The testimony you give, or the questions which you ask of your witnesses in order to have them tell their story.
Divorce	See Absolute Divorce, above.

Domestic Civil Action Cover Sheet	A form that tells the court what kind of case you are filing.
Domestic Violence	Any act or acts by your spouse or a member of your household that caused (or tried to cause) injury, or behavior that put you in fear of injury or harassment.
Equitable Distribution	The division of marital property or debt acquired by husband and/or wife during the marriage. The marital property must have been acquired during the marriage and can be in the husband's name, the wife's name, or in both names.
Evidence	Testimony of witnesses and documents which are presented to the court and considered by the court in making a decision.
Fees	There are fees involved when you file a lawsuit with the court. These fees are payable to the Clerk of Superior Court and are subject to change from time to time. You should contact the Clerk of Court to determine the appropriate filing fees.
File Number	Identification number given to your case.
Filing	Providing the Clerk of Court with the papers for your court file.
Grounds	Your reasons for filing the complaint.
Hearing	Trial in front of the judge.
Judge	The legal official who has the power to decide whether you receive a divorce.
Judgment	The judge's decision.
Notarize	To acknowledge or make legally authentic by a Notary Public.
Notary Public	A person who is authorized by the state or federal government to administer oaths, and to attest to the authenticity of signatures.
Notice of Hearing	Document that notifies the defendant and the court of your hearing date.
Motion	A request to the court, typically written and filed with the court.
Parties	In any court case there are two opposing parties: the plaintiff (you) because you started the case, and the defendant.

Perjury	Telling a lie when you are under oath in a courtroom or on an affidavit. Perjury is a crime.
Petition to Proceed as an Indigent	Form you must complete and file if you cannot afford to pay the filing fees and other costs associated with the divorce suit.
Postseparation Support	Money paid to a spouse for a specific period of time, usually temporary, until the court orders or denies an award of alimony
Property	Anything owned by a person, can include personal property (personal belongings such as furniture, clothing, tools, cars, trailer), real property (land or other real estate), and intangible property (financial assets, such as bank accounts, retirement accounts, and life insurance
Pro Se	Also called self-representation. Your case is a pro se case if you do not have an attorney representing you. You are representing yourself, acting as your own lawyer in court. You speak and act on your own behalf.
Separation of Spouses	The end of cohabitation (living together) of husband and wife by mutual agreement, or under a court decree. This is a statutory requirement for a divorce in North Carolina.
Serve/Service	To notify someone of something, or providing a copy of the papers being filed to the other side. You can serve someone through the sheriff, certified mail, or by publication.
Statutes	Laws or rules created by the legislature in North Carolina.
Subpoena	A form issued by the court requiring someone to appear in court and/or bring documents.
Testimony	Facts given by a competent witness under oath or affirmation.
True Copy	A copy of a document that is signed and certified by the Clerk of Court as an official copy.
Verify	To confirm or substantiate by oath or affidavit.

NEED MORE INFORMATION?

LAWYER REFERRAL SERVICE

If you want to consult a lawyer at any point in the process, you may find it helpful to use the North Carolina Bar Association's Lawyer Referral Service. This service matches members of the public with attorneys who agree to offer a one-time, 30-minute consultation for $50 (*fee subject to change*). The Lawyer Referral Service is available at 1-800-662-7660 or www.NCFindALawyer.org.

Remember, you should talk with a lawyer if you have questions about the information in this packet.

LEGAL AID OF NORTH CAROLINA DIVORCE CLINICS

Legal Aid of North Carolina, a not-for-profit law firm, offers free clinics with information about how to get a simple divorce. If you wish to find out about dates and locations of these clinics, you can go online at www.legalaidnc.org/get-help/self-help-clinics/simple-divorce, or call their Helpline at 1-866-219-5262.

DOMESTIC VIOLENCE HOTLINE

If you have experienced Domestic Violence in your marriage (see definition on page 21), you may find it helpful to speak with a Domestic Violence Advocacy agency before or while you are in the process of obtaining a Divorce. You can find the Domestic Violence Service Provider in your county at nccadv.org/get-help or by calling the National Domestic Violence Hotline at 1-800-799-7233.

NORTH CAROLINA COURT SYSTEM

The North Carolina Court System has a helpful website (nccourts.gov), where you can find many of the forms included in this packet as well as addresses and phone numbers for each county's clerk's office.

FORMS YOU WILL NEED

Forms included in this section will be needed over the course of filing for an Absolute Divorce. Please remember to keep at least one copy of all the forms you file for your own records.

Forms included in this section:

Complaint for Absolute Divorce

Verification

Domestic Civil Action Cover Sheet

Civil Summons

Servicemembers Civil Relief Act

Notice of Hearing

Judgment of Absolute Divorce

Certificate of Service

Certificate of Absolute Divorce or Annulment

STATE OF NORTH CAROLINA
COUNTY OF _____

IN THE GENERAL ORDER OF JUSTICE
CIVIL DISTRICT DIVISION
FILE NO. _____ CVD _____

_____,)
(Type or print your name here))
Plaintiff)
)
Vs.)
)
_____,)
(Type or print your spouse's name here))
Defendant)
_____)

COMPLAINT FOR ABSOLUTE DIVORCE

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

1. Plaintiff is a resident of _____.
(insert county and state here)
2. Plaintiff has been a resident at the above location since _____.
(list length of residency)
3. The Defendant is a resident of _____.
(insert county and state here)
4. The Defendant has been a resident at the above location since _____.
(list length of residency)
5. The Plaintiff and Defendant were married on _____.
(insert date of marriage)
6. The parties separated on or about _____.
(insert day, month, and year of separation)
7. The parties have lived continuously separate and apart for at least one (1) year prior to the filing of this complaint.
8. The Plaintiff intended for this separation to be permanent.
9. That there were (check and complete appropriate information about any MINOR children (children who are now under the age of 18)):
   - ☐ There are no minor children who were born of the marriage of the parties
   - ☐ ___ *(number of minor children)* who were born to the marriage/parties, namely:

COMPLETE THE FOLLOWING ONLY IF THERE ARE MINOR CHILDREN

_____	_____	_____	_____
Full Name of Child	Date of Birth	Full Name of Child	Date of Birth
_____	_____	_____	_____
Full Name of Child	Date of Birth	Full Name of Child	Date of Birth

10. The Plaintiff acknowledges that he/she is not asking the Defendant for alimony or equitable distribution, and that he/she acknowledges that unless such claims are asserted by one or the other party or both parties (or settled outside of court) before the Judgment of Absolute Divorce is signed by the Judge and entered by the Court, he/she is forever waiving and discharging any claim against the defendant for alimony and/or equitable distribution by obtaining an absolute divorce.

11. ☐ *(check if applicable)* That the Plaintiff and Defendant executed an agreement settling property and other issues on _____. *(attach a copy of the agreement)*

12. ☐ *(check if applicable)* The Plaintiff desires to resume the use of his/her pre-marriage name. The name the Plaintiff desires to resume is

_____.

(insert name Plaintiff desires to use after the divorce)

WHEREFORE, Plaintiff prays the Court:

A. That the bonds of matrimony heretofore existing between the Plaintiff and Defendant be dissolved and a judgment of absolute divorce be granted to Plaintiff from Defendant.

B. That this verified Complaint be treated as an affidavit for purposes of Summary Judgment.

C. ☐ *(check if applicable)* That the Plaintiff be allowed to resume the use of his/her pre-marriage name. The name the Plaintiff desires to resume is

_____.

(insert name Plaintiff desires to use after the divorce)

This the _____ day of _____, 20____.

_____

(Signature)

STATE OF NORTH CAROLINA)
)
COUNTY OF _____)

VERIFICATION

I, _____, being duly sworn, deposes and says that s/he is the Plaintiff in the above entitled action, that s/he has read the foregoing Complaint and knows the contents thereof. That the same is true of his/her own knowledge except as to those matters and things stated upon information and belief, and as to those things, he/she believes them to be true.

_____
(Sign in the presence of a notary public)

Sworn to me and subscribed before me this the _____ day of _____, 20___.

_____
Notary Public

_____
(Printed Name of Notary Public)

My Commission Expires: _____

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STATE OF NORTH CAROLINA

_____ County

File No.

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

(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):

CLAIMS FOR RELIEF

(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.*

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STATE OF NORTH CAROLINA

_____ County

File No.

In The General Court Of Justice
☐ District ☐ Superior Court Division

Name Of Plaintiff	
Address	**CIVIL SUMMONS** ☐ **ALIAS AND PLURIES SUMMONS (ASSESS FEE)**
City, State, Zip	
VERSUS	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)

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RETURN OF SERVICE

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

DEFENDANT 1

Date Served	*Time Served* ☐ AM ☐ PM	*Name Of Defendant*

☐ 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)

☐ Acceptance of service. Summons and complaint received by: ☐ Defendant 1. ☐ Other: *(type or print name)*	*Date Accepted*	*Signature*

☐ Other manner of service *(specify)*

☐ Defendant WAS NOT served for the following reason:

DEFENDANT 2

Date Served	*Time Served* ☐ AM ☐ PM	*Name Of Defendant*

☐ 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)

☐ Acceptance of service. Summons and complaint received by: ☐ Defendant 2. ☐ Other: *(type or print name)*	*Date Accepted*	*Signature*

☐ Other manner of service *(specify)*

☐ Defendant WAS NOT served for the following reason:

Service Fee Paid $	*Signature Of Deputy Sheriff Making Return*
Date Received	*Name Of Sheriff (type or print)*
Date Of Return	*County Of Sheriff*

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STATE OF NORTH CAROLINA

_____ County

File No.

In The General Court Of Justice

Name And Address Of Plaintiff	**SERVICEMEMBERS CIVIL RELIEF ACT DECLARATION**
VERSUS	
Name And Address Of Defendant	G.S. Ch. 127B, Art. 4; 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.*

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, Space Force, 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)

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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).

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STATE OF NORTH CAROLINA

COUNTY OF _____

IN THE GENERAL COURT OF JUSTICE

CIVIL DISTRICT DIVISION

FILE NO. ___-*CVD*-____

_____,
Plaintiff

Vs.

_____,
Defendant

NOTICE OF HEARING

PLEASE TAKE NOTICE that on the _____ day of _____, 20___ at 9:30 a.m., or as soon thereafter as the Court may hear it, the undersigned will bring on for hearing the following:

_____

_____

_____

The hearing will take place in Courtroom ___ of the _____ County Courthouse located at _____.

CERTIFICATE OF SERVICE

I certify that a copy of this Notice of Hearing has been served on the defendant by forwarding a copy thereof by First Class Mail, Postage Prepaid, addressed as follows:

_____

_____

_____

_____

This the _____ day of _____, 20 ___.

_____

(signature of plaintiff)

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STATE OF NORTH CAROLINA
COUNTY OF _____

IN THE GENERAL COURT OF JUSTICE
DISTRICT COURT DIVISION
FILE NO. ___ CVD _____

_____,

Plaintiff,

v.

_____,

Defendant,

JUDGMENT FOR ABSOLUTE DIVORCE

THIS CAUSE was heard before the undersigned District Court Judge upon Plaintiff's Complaint for an absolute divorce based on the grounds of one year's continuous separation of the parties; and from the record in this cause and the evidence presented, the Court makes the following:

FINDINGS OF FACT

1. Plaintiff is a resident of _____.

2. Defendant is a resident of _____.

3. ☐ Plaintiff ☐ Defendant has been a resident of North Carolina for more than six (6) months preceding the commencement of this action.

4. Defendant was properly served with a copy of the Summons and Complaint as required by Rule 4 of the North Carolina Rules of Civil Procedure.

5. Plaintiff and Defendant were married on _____ and separated on or about _____.

6. Plaintiff and Defendant have lived separate and apart from each other for more than one (1) year preceding the institution of this action, and at no time since their separation have the parties resumed the marital relationship which formerly existed between them.

7. The separation was intended to be permanent by at least one of the parties.

8. There were ____ children born of this marriage who are still minors.

9. ☐ (*Applicable if checked.*) Plaintiff/Defendant desires to resume the use of his/her pre-marriage name, which is _____.

Based upon the above findings, the Court makes the following:

CONCLUSIONS OF LAW

1. The court has jurisdiction over the parties and subject matter of this action.

2.Plaintiff is entitled to an absolute divorce based on one year's separation.

IT IS THEREFORE, ORDERED, ADJUDGED AND DECREED that:

1. The bonds of matrimony existing between Plaintiff and Defendant are dissolved, and Plaintiff is granted an absolute divorce from Defendant; and

2. (*Applicable if checked.*) ☐ Plaintiff/Defendant may resume the use of his/her pre-marriage name of: _____.

This the _____ day of _____, 20_____.

_____
District Court Judge Presiding

CERTIFICATE OF SERVICE

I certify that a copy of this Judgment for Absolute Divorce has been served on the defendant by forwarding a copy thereof by First Class Mail, Postage Prepaid, addressed as follows:

_____

_____

_____

_____

This the ____ day of _____, 20 ___.

_____

(signature of plaintiff)

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N.C. DEPARTMENT OF HEALTH AND HUMAN SERVICES
N.C. VITAL RECORDS

STATE OF NORTH CAROLINA

CERTIFICATE OF ABSOLUTE DIVORCE OR ANNULMENT

File Number: _____ County: _____

Type or print in permanent black ink.

PLAINTIFF

	FIRST	MIDDLE	LAST
1. ❑ Husband/Spouse ❑ Wife/Spouse			

RESIDENCE – STATE	COUNTY
2a.	2b.

DEFENDANT

	FIRST	MIDDLE	LAST
3. ❑ Husband/Spouse ❑ Wife/Spouse			

RESIDENCE – STATE	COUNTY
4a.	4b.

MARRIAGE

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

_____ Signature ▶ _____

Date ❑ Clerk of Superior Court ❑ Assistant CSC ❑ Deputy CSC

DHHS 2089 (Revised 11/18)
N.C. Vital Records

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

FORMS YOU MIGHT NEED

Forms included in this section might be needed over the course of filing for an Absolute Divorce. Please remember to keep at least one copy of all the forms you file for your own records.

Forms included in this section:

Petition to Proceed as an Indigent

Civil Affidavit of Indigency

Affidavit of Service of Process by Registered or Certified Mail

Acceptance of Service

Waiver and Answer

STATE OF NORTH CAROLINA

_____ County

File No.

In The General Court Of Justice
☐ District ☐ Superior Court Division

Name Of Plaintiff

VERSUS

Name Of Defendant

PETITION TO PROCEED AS AN INDIGENT

G.S. 1-110; 7A-228

AFFIDAVIT

(check one of the four boxes below)

☐ **Petition To Assert Claims** - As a party in the above entitled action, I affirm that I am financially unable to advance the required costs for the prosecution of the claims I have asserted. Therefore, I now petition the Court for an order allowing me to assert my claims as an indigent.

☐ I am an inmate in the custody of the Division of Prisons of the Department of Adult Correction.
(**NOTE TO CLERK:** *If this block is checked, this Petition must be submitted to a Superior Court Judge for disposition provided on the reverse.*)

☐ **Petition To File Motions** - As a party in the above entitled action, I affirm that I am financially unable to advance the required costs to file a notice of hearing on a motion. Therefore, I now petition the Court for an order allowing me to file my motion as an indigent.

☐ **Petition To Appeal** - As the individual appellant in the above entitled small claims action, I affirm that I am financially unable to pay the cost for the appeal of this action from small claims to district court. Therefore, I now petition the Court for an order allowing me to appeal this action to district court as an indigent.

☐ **Petition To File Expunction Petition** - As the petitioner in the above entitled action, I affirm that I am financially unable to advance the required costs to file an expunction petition. Therefore, I now petition the Court for an order allowing me to file my expunction petition as an indigent.

(check one or more of the boxes below as applicable)

☐ I am presently a recipient of

☐ Supplemental Nutrition Assistance Program (SNAP/food stamps). ☐ Temporary Assistance for Needy Families (TANF).

☐ Supplemental Security Income (SSI).

☐ I am represented by a legal services organization that has as its primary purpose the furnishing of legal services to indigent persons, or I am represented by private counsel working on behalf of such a legal services organization. *(Attach a letter from your legal services attorney or have your attorney sign the certificate below.)*

☐ Although I am not a recipient of SNAP/food stamps, TANF, or SSI, nor am I represented by legal services, I am financially unable to advance the costs of filing this action or appeal.

SWORN/AFFIRMED AND SUBSCRIBED TO BEFORE ME

Date

Date | Signature

Signature Of Petitioner

Title Of Person Authorized To Administer Oaths

Name And Address Of Petitioner (type or print)

SEAL

Date Commission Expires

CERTIFICATE OF LEGAL SERVICES/PRO BONO REPRESENTATION

I certify that the above named petitioner is represented by a legal services organization that has as its primary purpose the furnishing of legal services to indigent persons or is represented by private counsel working on behalf of or under the auspices of such legal services organization.

Date | Signature

Name And Address (type or print)

ORDER

Based on the Affidavit appearing above, it is ORDERED that:

☐ the petitioner is authorized to assert claims or to file notices of hearing or petitions in this action as an indigent.

☐ the petition is denied.

Date | Signature | ☐ Assistant CSC ☐ Clerk Of Superior Court ☐ Judge

NOTE TO CLERK: *If the petitioner is NOT a recipient of SNAP/food stamps, TANF, SSI or is NOT represented by legal services or a private attorney on behalf of legal services, you may ask for additional financial information to determine whether the petitioner is unable to pay the costs.*

(Over)

ORDER - APPEAL FROM MAGISTRATE JUDGMENT IN SMALL CLAIMS ACTION

The undersigned considered the following information and evidence in addition to the Affidavit appearing above:

(choose 1 or 2 if authorizing the petitioner to appeal as an indigent)

☐ 1. The Court finds that the petitioner is unable to pay the costs of appeal and meets the following criteria listed in G.S. 1-110(a):

- ☐ Petitioner receives electronic food and nutrition benefits.
- ☐ Petitioner receives Work First Family Assistance.
- ☐ Petitioner receives Supplemental Security Income (SSI).
- ☐ Petitioner is represented by a legal services organization that has as its primary purpose the furnishing of legal services to indigent persons.
- ☐ Petitioner is represented by private counsel working on the behalf of or under the auspices of a legal services organization that has as its primary purpose the furnishing of legal services to indigent persons.

☐ 2. The Court finds that the petitioner does not meet any of the criteria listed in G.S. 1-110(a), but is unable to pay the costs of appeal based on the following:

Based on the Affidavit and findings appearing above, it is ORDERED that:

☐ the petitioner is authorized to appeal in this small claims action as an indigent.

☐ the petition is denied.

Date	*Signature*	☐ *Assistant CSC* ☐ *Clerk Of Superior Court* ☐ *Judge* ☐ *Magistrate*

ORDER - DIVISION OF PRISONS INMATES

The undersigned superior court judge of this district finds that the petitioner is an inmate in the custody of the Division of Prisons of the Department of Adult Correction and that the complaint

☐ is not frivolous.

☐ is frivolous.

It is ORDERED that

☐ the petitioner is authorized to sue in this action as an indigent.

☐ the petitioner is not authorized to sue as an indigent.

☐ the action is dismissed.

Date	*Name Of Superior Court Judge (type or print)*	*Signature Of Superior Court Judge*

CERTIFICATION

I certify that this Petition has been served on the party named by depositing a copy in a post-paid properly addressed envelope in a post office or official depository under the exclusive care and custody of the United States Postal Service.

Date	*Signature*	☐ *Deputy CSC* ☐ *Assistant CSC* ☐ *Clerk Of Superior Court*

NOTE: *G.S. 1-110(b) provides: "The clerk of superior court shall serve a copy of the order of dismissal upon the prison inmate."*

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(TYPE OR PRINT IN BLACK INK)

STATE OF NORTH CAROLINA

_____ County

File No.

In The General Court Of Justice
☐ District ☐ Superior Court Division

Name Of Applicant	**CIVIL AFFIDAVIT OF INDIGENCY**
Street Number And Street Name, Including Apartment Or Unit Number If Applicable	
City, State And Zip Code	
Full Permanent Mailing Address Of Applicant (if different than above)	
Telephone Number Of Applicant / *Date Of Birth*	G.S. 7A-450 et seq.
☐ *Plaintiff* ☐ *Defendant*	**Applicant:** *(answering this question is optional)* Have you ever served in the United States Armed Forces? ☐ Yes ☐ No

MONTHLY INCOME (money you make)		**MONTHLY EXPENSES (money you pay out)**	
Employment - Applicant	$	Number Of Dependents	_____
Name And Address Of Applicant's Employer *(If not employed, state reason; if self-employed, state trade)*		Shelter ☐ *Buying* ☐ *Renting*	$
		Food *(including Food Stamps)*	$
		Utilities *(power, water, heating, phone, cable, etc.)*	$
Other Income *(Welfare, Food Stamps, S/S, Pensions, etc.)*	$	Health Care	$
Employment - Spouse	$	Installment Payments ☐ *Vehicle* ☐ *Other*	$
Name And Address Of Spouse's Employer		Car Expenses *(gas, insurance, etc.)*	$
		Support Payments	$
		Other: *(specify)*	$
Total Monthly Income	$	**Total Monthly Expenses**	$

DESCRIPTION OF ASSETS AND LIABILITIES	**ASSETS (things you own)**	**LIABILITIES (amounts you owe)**
Cash On Hand And In Bank Accounts *(list name of bank and account type, do not list account no.)*	$	
Money Owed To Or Held For Applicant	$	
Motor Vehicles *(list make, model, year)*	$ *(Fair Market Value)*	$ *(Balance Due)*
Real Estate	$ *(Fair Market Value)*	$ *(Balance Due)*
Personal Property	$ *(Fair Market Value)*	$ *(Balance Due)*
Other Debts		$
Last Income Tax Filed 20 _____ ☐ *Refund* ☐ *Owe*	$	$
Other	$	$
Total Assets And Liabilities	$	$

Bond Type	*Amount*	*By Whom Posted*
	$	

NOTE: *Read the notice on the reverse side before completing this form.*

(Over)

NOTICE TO PERSONS REQUESTING INDIGENCY OR PARTIAL INDIGENCY DESIGNATION

1. When answering the questions on the Affidavit Of Indigency *(reverse side of this form)*, please do not discuss your case with the interviewer. The interviewer can be called as a witness to testify about any statements made in his/her presence. Please wait and speak with your lawyer. Do not ask the interviewer for any advice or opinion concerning your case.

2. **A designation of indigency relieves your obligation to pay all of the arbitration fee. A designation of partial indigency requires you to pay your appropriate percentage of your pro rata share of the arbitration fee prior to arbitration. Failure to pay the arbitration fee will result in the entry of a civil judgment against you, which will accrue interest at the legal rate set out in G.S. 24-1 from the date of the entry of judgment. Your North Carolina Tax Refund and/or North Carolina Lottery winnings may be taken.**

3. The information you provide may be verified, and your signature below will serve as a release permitting the interviewer to contact your creditors, employers, family members, and others concerning your eligibility for an indigency designation. A false or dishonest answer concerning your financial status could lead to prosecution for perjury. See G.S. 7A-456(a) ("A false material statement made by a person under oath or affirmation in regard to the question of his indigency constitutes a Class I felony.").

Under penalty of perjury, I declare that the information provided on this form is true and correct to the best of my knowledge, and that I am financially unable to pay all or part of the arbitration fees prior to the arbitration. I now request that I be designated indigent or partially indigent. I authorize the Court to contact my creditors, employers, or family members, any government agencies or any other entities listed below concerning my eligibility for such designation.

I further authorize my creditors, employers, or family members, any governmental agencies or any other entities listed below to release financial information concerning my eligibility for such designation upon request of the Court.

Governmental Agencies Or Other Entities Authorized To Be Contacted And/Or To Release Information

SWORN/AFFIRMED AND SUBSCRIBED TO BEFORE ME		*Date*
Date	*Signature*	*Signature Of Applicant*
☐ *Deputy CSC* ☐ *Assistant CSC* ☐ *Clerk Of Superior Court* ☐ *Magistrate*		*Name Of Applicant (type or print)*
☐ *Notary*	*Date My Commission Expires*	☐ *Plaintiff* ☐ *Defendant*
SEAL	*County Where Notarized*	

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STATE OF NORTH CAROLINA
COUNTY OF _____

IN THE GENERAL COURT OF JUSTICE
DISTRICT COURT DIVISION
FILE NO ____-CVD-_____

_____,
(Type or print Plaintiff's name)
Plaintiff

Vs.

_____,
(Type or print Defendant's name)
Defendant

AFFIDAVIT OF SERVICE OF PROCESS BY CERTIFIED MAIL

I, _____, did mail by ☐ registered ☐ certified mail, return receipt requested, a copy of _____ in this case to:

Name: _____
Address: _____
_____
_____

Further, that a copy of _____ was in fact received by the above-named individual as evidenced by the attached receipt.

IN WITNESS whereof, I have unto set my hand this the ___ day of _____ _____, 20 ___.

_____
(Signature of Movant - Sign in Presence of Notary)

Sworn and subscribed to me this the _____ day of _____, 20 ____.

_____
Notary Public

Printed Name: _____
My Commission Expires: _____

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NORTH CAROLINA
COUNTY OF _____

IN THE GENERAL COURT OF JUSTICE
DISTRICT COURT DIVISION
FILE NO: ___ CVD _____

_____	)	
Plaintiff,	)	
	)	
vs.	)	ACCEPTANCE OF SERVICE
	)	
_____,	)	
Defendant.	)	

I, _____, the Defendant herein, on this date do hereby willingly and voluntarily accept service of the Summons and Complaint in the above captioned action and hereby submit to the jurisdiction of the North Carolina General Court of Justice for all purposes.

This the _____ day of _____, 20____.

_____
Signature of Defendant

Sworn to and subscribed before me,
This the _____ day of _____, 20____.

_____
Notary Public

_____
(Printed Name of Notary Public)

My Commission Expires: _____

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NORTH CAROLINA
COUNTY OF _____

IN THE GENERAL COURT OF JUSTICE
DISTRICT COURT DIVISION
FILE NO: ___ CVD _____

_____	)	
Plaintiff,	)	
	)	
vs.	)	WAIVER AND ANSWER
	)	
_____,	)	
Defendant.	)	

NOW COMES the Defendant, waiving notice and answering the allegations contained in Plaintiff's Complaint and says as follows:

1. The Defendant admits the allegations contained in the Plaintiff's Complaint.
2. The Defendant waives any further notice in this matter, and waives the right to a hearing.

WHEREFORE, the Defendant requests that the Court grant the Plaintiff an absolute divorce.

This the _____ day of _____, 20___.

_____
Defendant

Sworn to and subscribed before me this the _____ day of _____, 20_____.

_____
Notary Public

_____
(Printed Name of Notary Public)

My Commission Expires: _____