



**26th Judicial District
SelfServe Center**

**NON-PARENT COMPLAINT FOR
CHILD CUSTODY**

DUE TO THE CHANGING NATURE OF THE LAW, the forms and instructions contained in this packet may become outdated.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

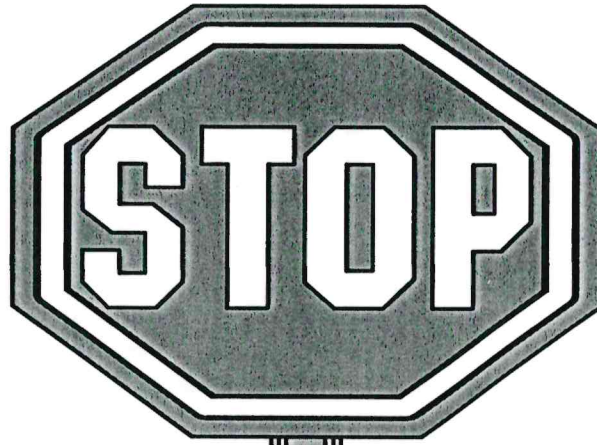
IN NO EVENT will the SelfServe Center Staff, Clerk of Court or anyone contributing to the production of these forms, instructions or guidelines be liable for any indirect or consequential damages resulting from use of the forms or information provided to you by the SelfServe Center.

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

USE THESE FORMS AT YOUR OWN RISK. THESE FORMS MAY OR MAY NOT BE APPROPRIATE IN YOUR PARTICULAR CASE. ANY DESIRED OUTCOME FROM THE USE OF THESE FORMS CANNOT BE PREDICTED OR GUARANTEED. IT IS STRONGLY RECOMMENDED THAT YOU SEEK LEGAL ADVICE!

Filing Fees are regulated by the North Carolina General Assembly and are subject to change. Please consult with the Staff of the Civil Filing Department or the SelfServe Center for the most up to date fees.

THE FILING FEE FOR THIS ACTION IS: _____
SHERIFF'S FEE: _____



**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 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.

INTRODUCTION

What is this packet?

This packet of information is provided for individuals who wish to pursue a case without the assistance of an attorney. This is called a *pro se* or self represented case. If you are not sure that you want or need to go to court, please ask the SelfServe Center staff to direct you to phone numbers for lawyer referral services or the list of local attorneys willing to provide “unbundled services” (*willing to represent you for a limited portion of your case on an hourly fee basis*). Please note that this is a *process* that you will be going through. If things do not proceed as quickly as you hoped, please be patient. The goal is to provide the best and safest environment for the child. That is not a one step procedure.

How will it help me?

If you do not plan to use an attorney, this packet will guide you through the process by providing the forms and filing instructions that you will need. Since you are representing yourself, it is YOUR responsibility to ensure that these are the correct and current forms for the nature of your case. Therefore, you should review and research *applicable laws* and *rules of procedure* that apply to your type of case. If you are not able to do this, you should talk with an attorney. If at any point during the process you become confused or wish to proceed with the help of an attorney, contact the Mecklenburg Bar Association Lawyer Referral Service at www.MeckBar.org/LRS, or the North Carolina Bar Lawyer Referral Service at (919) 677-8574.

What does this mean?

Certain legal terms will be found in italics throughout. A short definition of the terms will be contained in the text. A complete legal glossary is available for your convenience in the SelfServe Center. If you still do not understand the term, consult a legal dictionary or the SelfServe Center staff. Staff CANNOT provide legal advice but can provide procedural information and definitions of legal terminology.

What is Non-Parent Child Custody?

The packet available in the SelfServe Center allows a party to file for **permanent legal custody** of a child. If you are a grandparent or other non-parent relative, see the section below pertaining to your special situation.

What if I am a grandparent or other non-parent relative?

If you are grandparent or non-parent relative, you must make sure to list both living biological parents as Defendants on your forms. This is regardless of what sort of role they have played in the child’s life. Additionally, you **MUST** make sure to SERVE BOTH LIVING PARENTS. You ***must*** serve a defendant even if he/she is incarcerated. (Please see page on Service of Process).

Can or should I file for Non-Parent Child Custody?

Please note that the SelfServe Center staff CANNOT 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 criteria to be eligible. **THE CHILD MUST HAVE LIVED IN NORTH CAROLINA FOR THE 6 MONTHS PRIOR TO FILING, OR SINCE BIRTH.** Additionally, if there is an **EXISTING CUSTODY ORDER**, you **must** notify the SelfServe Center staff. This will affect

which packet you receive. **Note:** If you have a Domestic Violence Protective Order, you may still use these forms to establish permanent legal custody rights regarding the child(ren).

What do I do first?

1. After you get your packet, **READ THE INSTRUCTIONS!** Then fill out the forms by typing or printing *neatly* in ink. You may fill them out at home or at the courthouse. Please read the forms carefully as some have a "Verification" page. This means that they must be signed in the presence of a Notary Public. If the document does require this, **do not sign until you are in front of a Notary**. Notaries can be found at banks, law firms, and/or insurance agencies. Notaries often charge a fee and require you to show a picture ID for their services. Be sure you have your documents already notarized when you take them to the Clerk's Office to file.
2. The SelfServe Center has a binder available on filing for child custody and/or visitation. It is suggested that you view it for procedural information.
3. After the forms are filled-out and notarized, you **MUST** take them to Room **3725** to be filed with the Clerk of Superior Court and you must pay the appropriate fee(s).
4. **There is a filing fee to file for Custody.** Please make certain that you have cash or a money order to pay for the filing fee associated with the action you are seeking to file. **Personal checks are not accepted.** If you want the sheriff of Mecklenburg County to serve the documents on the Defendant, please bring an additional **\$30.00** in (cash, or a cashier's check, or money order) **MUST** be made payable to the sheriff's office. If the Defendant lives outside of Mecklenburg County, pay the **Service of Process** fee to the sheriff of the county where the Defendant resides.

IMPORTANT REMINDERS BEFORE YOU BEGIN

Your case involves complicated legal issues! This packet describes the general process, but it is impossible to cover everything that may affect your rights. If you get confused, you should stop and seek advice from an attorney. The staff of the SelfServe Center, Clerk of Court, Judge, or the Trial Court Administrator's Office **CANNOT GIVE YOU LEGAL ADVICE!**

PLEASE...if you are thinking of contacting an attorney, do so as soon as possible. Unless there is an emergency, try to contact an attorney at least 30 days before your hearing. Waiting could decrease your chances of obtaining representation.

STEP 1

Review the Documents

*****CHECKLIST*****

Review your forms to make sure you have the necessary documents to complete this custody or visitation claim:

- Form 1- Domestic Civil Action Cover Sheet
- Form 2- Civil Summons
- Form 3- Complaint (Non-Parent)
- Form 4- Verification (**Must be completed in the presence of a Notary**)
- Form 5&6 – Servicemembers Civil Relief Act Declaration
- Form 7 - Affidavit of Service (**this is used only** if you are mailing the document to the defendant by certified mail.)

STEP 2

Filling-out the Documents

These documents (1-6) **MUST be completed**

- Complete Form 1; Domestic Civil Action Cover Sheet
- Complete Form 2; Civil Summons Sheet
- Complete Form 3; Complaint for Non-Parent Child Custody
- Complete Form 4; Verification (**Must be completed in the presence of a Notary**)
- Complete Form 5: Servicemember Civil Relief Act Declaration
- Complete Form 6: Servicemember Civil Relief Act Declaration

*****The Self-Serve Center has Notary Public staff available**

STEP 3

Filing Your Forms

Take all completed forms to Room 3725 to be filed with the Clerk of Superior Court and pay the appropriate fees. **The clerk will scan the forms and assign a File Number if required. Please keep track of your File Number.**

STEP 4

Service of Process

You are required to look in eCourts Portal to print a file stamped document to serve the other party. **To print documents, you may use the eCourts Kiosk which is in the SelfServe Center. A Credit or Debit card is required for payment of copies.**

You can access eCourts Portal at www.nccourts.org, Select Services, Portal (Court Records/Payments) eCourts Portal, Smart Search, enter your case/file number (Enter a Record Number or Name in Last, First Middle Suffix Format)

Please select, I'm not a robot, submit select your current file case number

***THERE YOU WILL FIND ALL CASE INFORMATION AND COURT FILING DOCUMENT**

North Carolina General Statutes require that you give notice to the defendant about the filing of your claim. This is known as “Service of Process.” The correct way to serve the defendant is determined by law. If the documents **are not** correctly served on the defendant, the court **will not** hear your case.

PLEASE READ THIS SECTION VERY CAREFULLY
If you have concerns or are confused, consult with an attorney immediately!

In order, for your case to be binding against the Defendant, he/she must be given notice of the case, or served in a manner that is recognized by the court. **PLEASE NOTE** that **Service of Process must be completed successfully for your case to proceed and avoid dismissal**. This means that if you have the Sheriff serve the documents, **IT IS YOUR RESPONSIBILITY** to follow up and make sure service was completed. If you serve by Certified Mail, **YOU MUST** file the **Affidavit of Service of Process by Certified Mail** found in your packet along with the **green return-receipt card** that you received in the mail. The forms needed for **Service of Process** and the procedures that you must follow are complex and will vary. In order, to learn which steps to take next, review the following and choose the correct forms and procedures for your case.

Available Methods for Service of Process:

- I. **Service of Process by the Sheriff:** If the Defendant lives in North Carolina and you will need to pay a **\$30.00** service fee *per party served* (this is \$60 total for both biological parents if they are both living) to the Sheriff in the county where he/she resides to serve the papers.

- a. **If Defendant lives in Mecklenburg County:**

Step 1- Print from ePortal PDF File three (3) copies of the Civil Summons (Form 2), front and back on a single sheet and **two (2) copies** of the Complaint, (Form 3).

Step 2- These forms will be stamp filed by the clerk and you must take the stamped documents (Summons- Form 2 and Complaint- Form 3) and \$30 per Defendant to the Sheriff. **Remember to keep a copy for yourself.**

Step 3- After delivering these documents to the Sheriff’s Office, they will keep a copy of the summons detailing how the Complaint and Summons were delivered to the Defendant. The Sheriff’s Office will then file this information with the clerk of court. It is still your responsibility to make sure the forms were filed, so remember to check this.

Step 4- To find out if the Sheriff’s Office was successful or unsuccessful in attempting to serve the Defendant, you must check ePortal. You may also call the Mecklenburg Sheriff’s Office at 704-336-2543 to determine if service was successful.

b. If Defendant DOES NOT live in Mecklenburg County:

Step 1- If the Defendant does not live in Mecklenburg County, you must mail or deliver the Summons (Form 2) and Complaint (Form 3) to the Sheriff's Office in the county where they are located. The Summons should include the most recent address of the Defendant and any other information that will help the Sheriff's office locate him/her. (For example, if you want the Sheriff's Office to serve the Defendant prior to going to work at 8am, this should be specified)

Step 2- You should include a certified check or money order for the fee for service made payable to the Sheriff of that county. **Contact the Sheriff's office in the county where the Defendant is located to determine the fees and process associated with service of process.**

Step 3- If you wish to send your paperwork to the Sheriff's office to be served, you should send it by certified mail return receipt requested to provide evidence that your service request was received.

Step 4- In order to find out if the Sheriff was successful or unsuccessful in attempting to serve the Defendant, must check ePortal. You may also be able to contact the Sheriff's office over the phone to confirm whether service was successful or not.

c. Service of Process by Certified Return Receipt Requested Mail

Step 1- Service of Process by certified registered mail can be completed within the state and outside of the state, but within the US (please consult with an attorney if the Defendant is in the military or lives in another country) by mailing a **copy** of the Summons and Complaint by **certified mail, return receipt requested**, addressed to the Defendant and delivered to his/her address (or the address of the location where he/she can be contacted by mail). If you choose this type of service, you must file an Affidavit of Service of Process by Certified Mail after you receive the return receipt (the "green card"). **You MUST attach the original return receipt to your affidavit.**

The Affidavit of Service must be taken to and signed in the presence of a Notary Public. You can locate a Notary Public in the Self-Serve Center on the third (3rd) floor of the Mecklenburg County Courthouse.

If you choose this type of service, you must file an Affidavit of Service of Process by Certified Registered Mail when you receive the return receipt (the "green card"). **You must attach the original return receipt to your affidavit.**

d. If Defendant DOES NOT live in North Carolina

Step 1- If the Defendant does not live in North Carolina, you may mail or deliver the Summons (Form 2) and Complaint (Form 3) to the Sheriff in the state where they are located. The Summons should include the most recent address of the Defendant and any other information that will help the Sheriff's Office locate him/her. (For example, if you want the Sheriff to serve the Defendant prior to going to work at 8am, this should be specified)

Step 2-You should include a certified check or money order for the fee for service made payable to the Sheriff of that state. Contact the Sheriff's office in the state where the Defendant is located to determine the fees and process associated with service of process.

Step 3-If you wish to send your paperwork to the Sheriff's Office to be served, you should send it by certified mail return receipt requested to provide evidence that your service request was received.

Step 4-In order to find out if the Sheriff was successful or unsuccessful in attempting to serve the Defendant, you may check *ePortal*. You may also be able to contact the Sheriff's office over the phone to confirm whether service was successful or not.

e. Service of Process by Publication (THIS SHOULD BE YOUR LAST RESORT)

You **Do NOT** know where the Defendant Is Located, you **will need** to serve him/her by "publication". If you know where the Defendant is located, or can find out his/her address, this process **should not be used**. Publication is a complex process using the newspaper to run notice of the child custody proceeding. You should speak to an attorney regarding this type of service.

STEP 5

Other Important Information

Family Court (Room 3520) will mail an **Order to attend Child Custody Mediation Orientation and Parent Education to both parties**. In addition, please remember the following:

1. The order will include a date, time, and location for the Custody Mediation Orientation and the Parent Education classes
2. There is a fee for the Parent Education class

ATTENTION: Please note that in Mecklenburg County, it is mandatory that all parties complete a parent education course and participate in custody/visitation mediation unless the judge finds good cause otherwise. **Failure to attend could result in contempt and a monetary fine.**

STEP 6

Attendance

- I. Be sure to attend **all** scheduled court events on time and dressed appropriately (as if you were going to a job interview). This is very important!

Lawyer Referral Services:

Mecklenburg County Bar Lawyer Referral Service: www.MeckBar.org/LRS

North Carolina Lawyer Referral Service:

(919) 677-8574

Child Custody or Visitation Procedural Flowchart

Step 1- Complete all five forms	<ul style="list-style-type: none"> • Form 1- Domestic Civil Action Cover Sheet • Form 2- Civil Summons • Form 3-Complaint • Form 4- Verification Form 5- Affidavit of Service (this form is used only if you are mailing the document to the defendant by certified mail).
Step 2- Filing of Documents	<ul style="list-style-type: none"> • File papers with the Clerk of Court • Payments are due upon filing (Cash or Money Order) • Retain your case number for future reference
Step 3- Service of Process	<p>Three ways to be served:</p> <ul style="list-style-type: none"> • Certified/Registered Mail-RRR (Return Receipt Requested) • Sheriff • Publication
Step 4- Check for Dates	<p>After service has been properly conducted:</p> <ul style="list-style-type: none"> • Please look in ePortal for information
Step 5- Attend classes	<ul style="list-style-type: none"> • Be sure to attend all scheduled court events on time and dressed appropriately (as if you were going to a job interview). This is important.

Three Service of Process Methods

Option 1- By Sheriff	Option 2- Registered Certified Mail	Option 3- Publication
<ul style="list-style-type: none"> • You may serve by Sheriff in the county or state where the Defendant lives. • Pay fee to the Sheriff • Provide Sheriff with Forms 1 & 2 • Check ePortal or call the Sheriff's office to find out if service was successful. 	<ul style="list-style-type: none"> • Mail a copy of Form 1&Form 2 to the Defendant by registered certified mail • Once you receive the return receipt from Post Office, and Form 4, you must file at Clerk's Office. 	<ul style="list-style-type: none"> • If the defendant CANNOT be located, you may use this option. Consult an attorney for further instructions. • This is considered the last resort.

- Once all documents have been served upon the defendant, the Plaintiff must wait thirty days from the date the Defendant was served to continue with the action.

STATE OF NORTH CAROLINA

File No.

County

In The General Court Of Justice
District Court Division

Name And Address Of Plaintiff 1

Name And Address Of Plaintiff 2

DOMESTIC

CIVIL ACTION COVER SHEET

☐ INITIAL FILING ☐ SUBSEQUENT FILING

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

VERSUS

Name Of Defendant 1

Jury Demanded In Pleading? ☐ No ☐ Yes

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

Summons Submitted ☐ Yes ☐ No

Name Of Defendant 2

Telephone No.

Cellular Telephone No.

NC Attorney Bar No.

Attorney E-Mail Address

Summons Submitted ☐ Yes ☐ No

☐ Initial Appearance in Case

☐ Change of Address

Counsel for

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

Name Of Firm

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 (EQU)
- ☐ 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.

STATE OF NORTH CAROLINA

File No.

County

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

Name Of Plaintiff

Address

City, State, Zip

VERSUS

Name Of Defendant(s)

Date Original Summons Issued

Date(s) Subsequent Summons(es) Issued

CIVIL SUMMONS

☐ ALIAS AND PLURIES SUMMONS (ASSESS FEE)

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

To Each Of The Defendant(s) Named Below:

Name And Address Of Defendant 1

Name And Address Of Defendant 2



IMPORTANT! You have been sued! These papers are legal documents, **DO NOT** throw these papers out! You have to respond within 30 days. You may want to talk with a lawyer about your case as soon as possible, and, if needed, speak with someone who reads English and can translate these papers!

¡IMPORTANTE! ¡Se ha entablado un proceso civil en su contra! Estos papeles son documentos legales. **¡NO TIRE** estos papeles!

Tiene que contestar a más tardar en 30 días. ¡Puede querer consultar con un abogado lo antes posible acerca de su caso y, de ser necesario, hablar con alguien que lea inglés y que pueda traducir estos documentos!

A Civil Action Has Been Commenced Against You!

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

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

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

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

Date Issued

Time

☐ AM ☐ PM

Signature

☐ Deputy CSC☐ Assistant CSC☐ Clerk Of Superior Court☐ ENDORSEMENT (ASSESS FEE)

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

Date Of Endorsement

Time

☐ AM ☐ PM

Signature

☐ Deputy CSC☐ Assistant CSC☐ Clerk Of Superior Court

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

(Over)

RETURN OF SERVICE

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

DEFENDANT 1

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

STATE OF NORTH CAROLINA
COUNTY OF MECKLENBURG

IN THE GENERAL COURT OF JUSTICE
DISTRICT COURT DIVISION
_____-CV _____

_____,)
_____,)
_____,)
Plaintiff(s),)
vs.)
_____,)
(Natural Mother))
_____,)
(Natural Father))
Defendant(s),)

NON-PARENT COMPLAINT
FOR
CHILD CUSTODY

Plaintiff, complaining of defendant, alleges and says:

PARTIES, JURISDICTION AND VENUE

1. Plaintiff is a citizen and resident of _____.
(County and State)
2. Plaintiff's address is _____.
3. Defendant (Natural Mother) is a citizen and resident of _____.
(County and State)
4. Defendant (Natural Mother) resides at _____
_____.
(Street Address, City, State & Zip Code).
5. Defendant (Natural Father) is a citizen and resident of _____.
(County and State)
6. Defendant (Natural Father) resides at _____
_____.
(Street Address, City, State & Zip Code).
7. The name(s), age(s) and birth date(s) of the child or children at issue in this case is/are as follows:

8. Explain your standing to bring this civil action (e.g., I am the relative of the child/children):

9. The natural mother should not have a priority position because:

10. The natural father should not have a priority position because:

11. That during the past five years (or since birth if the child is less than five years old), the (child) (children) have lived with:

Name of child _____, birthdate _____, birthplace _____.

PERIOD	ADDRESS	PERSON LIVED WITH	PRESENT ADDRESS (of person lived with)
___ to present	_____	_____	_____
___ to _____	_____	_____	_____
___ to _____	_____	_____	_____
___ to _____	_____	_____	_____

Name of child _____, birthdate _____, birthplace _____.

PERIOD	ADDRESS	PERSON LIVED WITH	PRESENT ADDRESS (of person lived with)
___ to _____	_____	_____	_____
___ to _____	_____	_____	_____
___ to _____	_____	_____	_____
___ to _____	_____	_____	_____

(If there are more than two children, insert additional sheets.)

12. That I (have)/(have not) participated as a (party)/(witness)/(other capacity) in litigation concerning the custody of the minor child in (this) (another) State; namely,

_____ on _____, ____.
(If answer is affirmative, give details, stating capacity, name, and address of court.)

13. That I (have) (do not have) information of any other custody proceeding concerning the minor child(ren) mentioned above pending in a Court of this or any other State.

(If answer is affirmative, give details) _____

14. That I (know) (do not know) of any other person(s), not a party to the case, who has physical custody of the minor child. Namely,

(Name)

(Address)

15. That I (know) (do not know) of any other person(s) who claims to have custody or visitation rights with respect to the child. Namely,

(Name)

(Address)

(Name)

(Address)

16. I attest that nothing of value has been paid or given, offered to be paid or given, or promised, directly or indirectly, in exchange for the minor child. Money or property offered or paid by the parent of the minor child to the nonparent as support for the minor child shall not be considered value given in exchange for the custody of the child for purposes of NCGS 50-13. (a2)

17. The District Court of Mecklenburg County has personal jurisdiction over the parties and subject matter jurisdiction (including jurisdiction under the Uniform Child Custody Jurisdiction Act) to decide the claim(s) and render a custody determination in this action.

18. Venue of this action is pro in Mecklenburg County, North Carolina.

CUSTODY OR VISITATION CLAIM

19. Defendant(s) have lost their priority status as biological parents of the minor children.
20. Plaintiff is a fit and proper person to have primary custody/visitation of the aforesaid minor child/children and an award of custody/visitation to her/him would best promote the interests and welfare of the aforesaid minor child/children.

PRAYER FOR RELIEF

WHEREFORE, plaintiff prays the Court for relief as follows:

1. That custody/visitation of the minor child/children be awarded to plaintiff.
2. ____ That defendant be taxed with the costs of this action.
3. That plaintiff have and recover such other and further relief as the court may deem just and proper.

This ____ day of _____, ____.

(Signature of Plaintiff)

ADDRESS AND TELEPHONE NUMBER OF PLAINTIFF:

STATE OF NORTH CAROLINA)
)
COUNTY OF MECKLENBURG)

VERIFICATION

I, _____, being first duly sworn, deposes and
(insert your name here)
says that he/she is the Plaintiff in this matter, that he/she has read and understood this
COMPLAINT and knows the contents to be true of his/her own personal
knowledge, except for those matters and things set forth upon information and
belief, and as to those matters and things, he/she believes them to be true.

(Sign in the Presence of the Notary Public)

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

Notary Public

My commission expires: _____.

STATE OF NORTH CAROLINA)
)
COUNTY OF MECKLENBURG)

VERIFICATION

I, _____, being first duly sworn, deposes and
(insert your name here)
says that he/she is the Plaintiff in this matter, that he/she has read and understood this
COMPLAINT and knows the contents to be true of his/her own personal
knowledge, except for those matters and things set forth upon information and
belief, and as to those matters and things, he/she believes them to be true.

(Sign in the Presence of the Notary Public)

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

Notary Public

My commission expires: _____.

STATE OF NORTH CAROLINA

File No.

County

In The General Court Of Justice

Name And Address Of Plaintiff

VERSUS

Name And Address Of Defendant

SERVICEMEMBERS CIVIL RELIEF ACT DECLARATION

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:

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

(Over)

Information About Servicemembers Civil Relief Act Affidavits And Declarations

1. Plaintiff to file affidavit/declaration

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

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

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

2. Appointment of attorney to represent defendant in military service

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

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

3. Defendant's military status not ascertained by affidavit/declaration

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

4. Satisfaction of requirement for affidavit/declaration

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

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

5. Penalty for making or using false affidavit/declaration

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

STATE OF NORTH CAROLINA

File No.

County

In The General Court Of Justice

Name And Address Of Plaintiff

VERSUS

Name And Address Of Defendant

SERVICEMEMBERS CIVIL RELIEF ACT
DECLARATION

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)

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.

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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).

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

Defendant.

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

(Please attach the original return receipt to this affidavit)

IN WITNESS WHEREOF, I have hereunto set my hand and seal this the _____
day of _____, _____.
(insert month) (insert year) *(Insert date)*

(sign here in the presence of a Notary Public)

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

(Notary Public)

My Commission Expires: _____