



ANSWER TO MOTION FOR DEFAULT DIVORCE JUDGMENT

An Informational Guide to a North Dakota State Civil Court Process

The North Dakota Legal Self Help Center provides resources to people who represent themselves in civil matters in the North Dakota state courts. The information provided in this informational guide isn't intended for legal advice but only as a general guide to a civil court process. **If you decide to represent yourself, you'll need to do additional research to prepare.**

When you represent yourself, you're expected to know and follow the law, including:

- State or federal laws that apply to your case;
- Case law, also called court opinions, that applies to your case; and
- Court rules that apply to your case, which may include:
 - North Dakota Rules of Civil Procedure;
 - North Dakota Rules of Court;
 - North Dakota Rules of Evidence;
 - North Dakota Administrative Rules and Orders;
 - Any local court rules.

Links to the laws, case law, and court rules can be found at ndcourts.gov.

A glossary with definitions of legal terms is available at ndcourts.gov/legal-self-help/glossary.

When you represent yourself, you're held to the same requirements and responsibilities as a lawyer, even if you don't understand the rules or procedures. If you're unsure if this information suits your circumstances, consult a lawyer.

- If you would like to learn more about finding a lawyer to represent you, go to ndcourts.gov/legal-self-help/finding-a-lawyer.

This information isn't a complete statement of the law.** This covers basic information about the process of answering a motion for a default divorce judgment in a North Dakota state district court divorce case. The Center isn't responsible for any consequences that may result from the information provided. The information can't replace the advice of competent legal counsel licensed in the state of North Dakota. **Use at your own risk.

WARNING!

DON'T IGNORE the Motion for Default Divorce Judgment!

You have a 14 or 17 day deadline to respond. If you fail to answer the motion, the court is allowed to grant a default divorce judgment without your input.

This informational guide is made up of three sections:

First Section: General information about motions for default divorce judgments and responding to a motion for a default divorce judgment. (Pages 4-12)

Second Section: The basic answer to motion for default divorce judgment process from beginning to end. (Pages 13-20)

Third Section: Appendix of formatting examples of common answer to motion for default divorce judgment documents. (Page 21)

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 The list of formatting examples is on page: 21

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INFORMATION ABOUT ANSWERING MOTIONS FOR DEFAULT DIVORCE JUDGMENTS

WHAT IS A MOTION FOR DEFAULT DIVORCE JUDGMENT?

Service of the Summons and Complaint for Divorce Starts the Divorce Case:

The spouse starting the divorce, the Plaintiff, must arrange for a divorce summons and complaint to be **served** on the other spouse, the Defendant.

The Defendant has 21 days from the date they were **served** to answer the summons and complaint in writing.

If the Defendant **doesn't answer** the divorce summons and complaint within the 21 day deadline, the Plaintiff may ask the court, in writing, to grant the divorce without the Defendant's involvement.

The written request the Plaintiff may make is called a Motion for Default Divorce Judgment. In order for a North Dakota state district court to grant a default divorce judgment, the Plaintiff must prove the following, in writing:

1. The Defendant was served a copy of the divorce summons and complaint (proof of service);
2. The 21 day deadline for the Defendant to answer the divorce summons and complaint in writing has passed and the Defendant didn't respond;
3. The District Court has the authority (jurisdiction) to grant a divorce; and
4. The Plaintiff has provided all other necessary information and proof for the District Court judge or judicial referee to grant a default divorce judgment.

The Plaintiff must arrange to have their Motion for Default Divorce Judgment documents served on the Defendant. The Defendant has either 14 or 17 days to answer the motion for default divorce judgment in writing.

When a Motion for Default Divorce Judgment is Granted:

If the Defendant doesn't answer the motion for default divorce judgment in writing, the District Court judge or judicial referee may grant the divorce without any input from the Defendant.

If a default divorce judgment is granted, the judgment has the same effect as a divorce judgment.

However, at a later date the spouse listed as Defendant may make a written motion to the court to re-open the default divorce judgment. If the other spouse makes this written motion, the court will decide whether to re-open the default divorce judgment for further action, or to allow the default divorce judgment to remain in place.

Contested Divorce Informational Guide & Service Information and Affidavits (Proof) of Service Forms:

[An Informational Guide to Contested Divorce](https://ndcourts.gov/legal-self-help/divorce) is available at ndcourts.gov/legal-self-help/divorce. The guide includes the basic steps through the contested divorce process in North Dakota for both the Plaintiff and Defendant.

[Information about the type of service required to start a divorce action](https://ndcourts.gov/legal-self-help/service-in-a-civil-action) and the proof of service that must be filed with the district court are available at ndcourts.gov/legal-self-help/service-in-a-civil-action. See the “Service to Start a District Court Civil Action” section.

Protections for Active Military Service Members Against Default Judgments:

Under Federal law, active duty military service members have protections against default judgments.

Before a North Dakota state district court judge or judicial referee may grant a Motion for Default Divorce Judgment, the Plaintiff must prove that the Defendant **isn't** on active duty with any branch of the United States military.

The Plaintiff **must** attempt to find out if the Defendant is an active duty service member and include the steps the Plaintiff took and the outcome in the Motion for Default Divorce Judgment documents.

WHAT IS AN ANSWER TO A MOTION FOR DEFAULT DIVORCE JUDGMENT?

When the spouse listed as Defendant in a divorce case is served a Motion for Default Divorce Judgment, if the Defendant doesn't agree with the motion, the Defendant must prepare, serve and file a written answer to the motion.

The Defendant has either a 14 or 17 day deadline to serve and file the written answer to the motion.

If the Defendant doesn't serve and file a written answer to the motion, the court may consider the failure an admission that the Defendant believes the Plaintiff's Motion for Default Divorce Judgment has merit.

If the Defendant was served by personal delivery or at their office, the Defendant has 14 calendar days to serve and file their written answer to the motion.

- The date of service is the date the motion was personally delivered or left at the office.

If the Defendant was served by mail or third-party commercial carrier, the Defendant has 17 calendar days to serve and file their written answer to the motion.

- The date of service is the date the motion was mailed.

WHAT IF I MISSED THE DEADLINE TO ANSWER TO A MOTION FOR DEFAULT DIVORCE JUDGMENT?

If the Defendant missed the deadline to answer a motion for default divorce judgment AND the judge or judicial referee grants the divorce, the Defendant may make a motion for relief from the default divorce judgment.

A motion for relief from the default divorce judgment asks the judge or judicial referee to re-open the divorce case and void the default judgment.

This informational guide doesn't provide process information for making a motion for relief from a default divorce judgment.

If you missed the deadline to answer a motion for default divorce judgment and you want to make a motion for relief from a default divorce judgment, email the ND Legal Self Help Center at ndselfhelp@ndcourts.gov for information about the process.

DOES THE ND LEGAL SELF HELP CENTER HAVE ANSWER TO MOTION FOR DEFAULT DIVORCE JUDGMENT FORMS?

Names and descriptions of the documents you'll need to create and prepare are found throughout this guide. Fillable formatting examples of common answer to motion for default divorce judgment documents are available at ndcourts.gov/legal-self-help/divorce/default-answer.

You may also find the forms in the Legal Services of North Dakota Family Law Manual of interest. The Legal Services of North Dakota Family Law Manual contains a variety of family law forms that were created for lawyers to use as examples in family law cases. The Legal Services of North Dakota website is legalassist.org.

(References to the Legal Services of North Dakota Family Law Manual are for your convenience only. The ND Legal Self Help Center doesn't endorse, warrant, or accept responsibility for the content or uses of the Family Law Manual. You must independently determine the legal sufficiency of the forms in the Family Law Manual. Use at your own risk.)

IS THERE HELP AVAILABLE FOR CREATING LEGAL DOCUMENTS?

If you'd like assistance creating your legal documents, consult a lawyer licensed to practice in North Dakota.

Ask the lawyer about Limited Legal Representation. Lawyers licensed to practice in North Dakota may agree to help you with part of your divorce action, such as preparing legal documents, while you handle the rest of your divorce action.

You and the lawyer must agree in writing to Limited Legal Representation.

WHAT ARE NORTH DAKOTA LAWS AND RULES RELATED TO MOTIONS AND ANSWER TO MOTIONS FOR DEFAULT DIVORCE JUDGMENTS?

Chapter 14-05 of the North Dakota Century Code governs divorce and legal separation.

ndlegis.gov/cencode/t14c05.html

Chapter 14-09 of the North Dakota Century Code governs parenting rights and responsibilities, such as custody, visitation, and child support. ndlegis.gov/cencode/t14c09.html

Chapter 14-12.2 of the North Dakota Century Code governs enforcement and modification of child support and spousal support orders issued by other states or countries.

ndlegis.gov/cencode/t14c12-2.html

Chapter 14-14.1 of the North Dakota Century Code governs child custody and visitation jurisdiction. ndlegis.gov/cencode/t14c14-1.html

Chapters 14-05, 14-09, 14-12.2, AND 14-14.1 are Chapters within Title 14 of the North Dakota Century Code. There are many other laws related to families in Title 14. You may find them of interest. ndlegis.gov/cencode/t14.html

The North Dakota Rules of Civil Procedure apply to civil matters in North Dakota state district courts. The rules are found at ndcourts.gov/legal-resources/rules/ndrcivp. See particularly:

- Rule 55 (Default; Default Judgment).

The North Dakota Rules of Court apply to civil matters in North Dakota state district courts. The rules are found at ndcourts.gov/legal-resources/rules/ndrct. See particularly:

- Rule 3.2 (Motions).

The North Dakota Rules of Evidence apply to civil matters in North Dakota state district courts. The rules are found at ndcourts.gov/legal-resources/rules/ndrev.

North Dakota case law (court decisions) is useful for interpreting what the law means for your individual circumstances.

When the decision of a case is appealed from a North Dakota State District Court to the North Dakota Supreme Court, the Supreme Court writes their opinion to explain how and why they interpreted the laws or rules to decide the appeal the way they did. The opinions are case law and are followed by North Dakota courts deciding later cases with similar facts and issues.

One way to research case law related to motions for default judgments, is to use the print version of the North Dakota Century Code to find the short summaries of case law after each Section of the Century Code. Case law summaries directly follow the text of the Century Code Section. To view the full text of the opinion, go to ndcourts.gov and click on “Supreme Court Opinions.”

Laws constantly change through legislation, administrative rulings and case law (court decisions). To determine how a law applies to your situation, review the applicable law or laws, administrative rulings and case law (court decisions). Notes of case law (court decisions) related to North Dakota law can be found in the print editions of the North Dakota Century Code. Print editions of the North Dakota Century Code are found in many North Dakota public and academic libraries.

Only a lawyer licensed to practice in North Dakota who has agreed to represent you can give you legal advice. Legal advice includes interpreting how the laws and rules apply to your situation.

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WHAT ARE THE DEFINITIONS OF SOME OF THE COMMONLY USED TERMS IN MOTIONS AND ANSWER TO MOTIONS FOR DEFAULT DIVORCE JUDGMENT?

*****The following definitions are intended to be helpful, BUT they aren't intended to constitute legal advice OR address every possible meaning of the terms in this section.*****

Active Military Service – Under the Federal Servicemembers Civil Relief Act:

- In the case of a servicemember who is a member of the Army, Navy, Air Force, Marine Corps, or Coast Guard active military service is full-time duty in the active military service of the United States. This includes full-time training duty, annual training duty, and attendance, while in the active military service, at a school designated as a service school by law or by the Secretary of the military department concerned. This doesn't include full-time National Guard duty.
- In the case of a member of the National Guard active military service includes service under a call to active service authorized by the President or the Secretary of Defense for a period of more than 30 consecutive days under section 502(f) of title 32 for purposes of responding to a national emergency declared by the President and supported by Federal funds.
- In the case of a servicemember who is a commissioned officer of the Public Health Service or the National Oceanic and Atmospheric Administration, active military service is active service.
- Any period during which a servicemember is absent from duty on account of sickness, wounds, leave, or other lawful cause.

Best Interests of the Child – The 13 factors the District Court uses when deciding the residential responsibility and parenting time arrangements that are in the best interests of the child. The 13 factors are listed in North Dakota Century Code Section 14-09-06.2.

ndlegis.gov/cencode/t14c09.pdf#nameddest=14-09-06p2

Child support – Money paid by a parent for the financial benefit of a child. Child support is based on guidelines set by the North Dakota Department of Human Services. If a parent can show a different ability to earn income than the guidelines show, the court may order a higher or lower child support payment.

The Child Support Division of the North Dakota Department of Human Services created and provides support for the Child Support Guidelines Calculator. The Calculator is available at childsupport.dhs.nd.gov/lawyers/child-support-guidelines.

Custody – See Residential Responsibility.

Decision making responsibility – The responsibility to make decisions concerning the minor child. The term may refer to decisions on all issues or on specific issues, but not child support issues.

Deploying or deployed parent – A deploying, or deployed parent is a uniformed service member who has been notified of orders of movement or mobilization for more than ninety days, but less than eighteen months AND the orders are designated as unaccompanied, not authorized for dependent travel, or don't permit family members to move to the deployment location.

Divorce – The only way to legally end your marriage. In other words, the two married individuals become unmarried once their divorce is granted by a court.

Home state – The state in which a minor child lived with a parent for at least six consecutive months immediately before the commencement of a child custody proceeding. In the case of a child less than six months of age, home state means the state in which the child lived from birth with a parent. A period of temporary absence of any of the mentioned persons is part of the period.

Jurisdiction – The power of a North Dakota state district court to inquire into the facts, apply the law, and determine and pronounce judgment. In general, there are two types of jurisdiction. Both are required for a court to have jurisdiction:

- Subject Matter Jurisdiction: The court's power to hear and determine the type of case or controversy involved in the civil action, which comes from the constitution and laws.
- Personal Jurisdiction: The court's power over the parties in the case.

Marital property – All of the assets and debts owned by either spouse, whether owned jointly or individually.

Obligor – The person ordered by the court to pay child support or spousal support.

Obligee – The person receiving child support or spousal support ordered by the court.

Parental rights and responsibilities – All the rights and responsibilities a parent has concerning the parent's minor child.

Parenting plan – A written plan describing each parent's rights and responsibilities.

Parenting schedule – The schedule of when the minor child is in the care of each parent.

Parenting time – The time when the minor child is to be in the care of a parent. (Also known as visitation.)

Primary residential responsibility – A parent with more than fifty percent of the residential responsibility.

Residential responsibility – A parent's responsibility to provide a home for the child. (Also known as custody.)

Spousal support – Money paid by one spouse to the other after they separate or divorce. (Also known as alimony or maintenance.)

Visitation – See Parenting Time.

WHO ARE THE PARTIES IN A MOTION FOR DEFAULT DIVORCE JUDGMENT?

Plaintiff: The spouse listed as the Plaintiff in the divorce action. Also, the spouse who started the divorce action with service of the summons and complaint on the other spouse.

Defendant: The spouse listed as the Defendant in the divorce action. Also, the spouse who was served the summons and complaint for divorce.

Moving Party: The spouse bringing the Motion for Default Divorce Judgment. The Moving Party is also the Plaintiff in motions for default divorce judgments.

Opposing Party: The other spouse. The Opposing Party is also the Defendant in motions for default divorce judgments. (Also called the Non-moving party.)

Real Party in Interest – (Also known as the Statutory Real Party in Interest.) The State of North Dakota is added as a real party in interest to divorce actions only when:

- Child support will be established or modified, and a minor child receives assistance through programs administered by the North Dakota Department of Human Services, such as temporary assistance to needy families, Medicaid, and foster care;
- Child support will be established or modified, and an application was made and accepted for services provided by the Child Support Division of the North Dakota Department of Human Services; or
- Child support or spousal support will be established or modified and North Dakota or the Child Support Division of the North Dakota Department of Human Services is required to be involved in proceedings related to support orders of other states or countries under the Uniform Interstate Family Support Act.

WHAT IS THE NORTH DAKOTA RESIDENCY REQUIREMENT FOR A MOTION FOR DEFAULT DIVORCE JUDGMENT?

The North Dakota residency requirement applies to the divorce case that was started by the Plaintiff.

For the Plaintiff to meet the residency requirement for divorce, the Plaintiff must have been a North Dakota resident for six consecutive months before starting the divorce case with service of the Summons and Complaint.

LAWYER RESOURCES AND LIMITED LEGAL REPRESENTATION

You aren't required to hire a lawyer to bring a civil action in North Dakota State District Court. If you decide to represent yourself, you must follow all of the rules, laws and procedures that a lawyer is required to follow.

Lawyer Resources

If you decide to find a lawyer to represent you, you may find the following options of interest.

- **Legal Services of North Dakota** is a non-profit organization, providing free legal assistance to North Dakota residents in a variety of matters based on income. Legal Services of North Dakota can also determine whether an applicant meets the income requirements for the Volunteer Lawyers program that offers low-cost legal assistance based on income. The phone number is (800) 634-5263 and the website is legalassist.org.
- **The State Bar Association of North Dakota** provides a lawyer referral service to match paying clients in need of legal services with lawyers. The phone number is (866) 450-9579 and the website is sband.org. The cost is \$30.00 for a 30 minute consultation with a lawyer.
- For a list of all lawyers who are licensed to practice in North Dakota, go to the North Dakota Supreme Court website at ndcourts.gov/Lawyers. You can narrow your search by name or location.

Limited Legal Representation

Lawyers licensed to practice in North Dakota may provide Limited Legal Representation in civil actions. Limited Legal Representation (sometimes called "unbundling") is a way that a lawyer can help you with part of your case while you do the rest of your case. You pay for the part of the case the lawyer handled.

For example:

- You may want an attorney to give you an expert opinion about your options, or your legal rights and responsibilities;
- You can consult with an attorney to prepare or review your legal documents, but attend hearings yourself;
- You can represent yourself through the whole case, and periodically consult with an attorney who can coach you on the law, procedures and strategy;
- You can do the preparation yourself and hire an attorney just to make court appearances for you.

You and the lawyer must agree in writing to Limited Legal Representation.

THE ANSWER TO MOTION FOR DEFAULT DIVORCE JUDGMENT PROCESS IN NORTH DAKOTA STATE DISTRICT COURT

PART ONE: OPPOSING PARTY CALCULATES DEADLINE TO ANSWER; RESEARCHES THE LAWS & RULES; GATHERS INFORMATION

Read this court process information **carefully**. Review the formatting examples of answer to motion for default divorce judgment documents at ndcourts.gov/legal-self-help/divorce/default-answer.

If you don't know if you should use this informational guide and the formatting examples of answer to motion for default divorce judgment documents, consult a lawyer who is licensed to practice in the state of North Dakota.

Calculate your deadline to answer the motion for default divorce judgment:

If you were served by personal delivery or at your office, you have 14 calendar days to serve and file your written answer to the motion.

- The date of service is the date the motion was personally delivered or left at the office.

If you were served by mail or third-party commercial carrier, you have 17 calendar days to serve and file your written answer to the motion.

- The date of service is the date the motion was mailed.

When calculating days for filing and service:

- Don't include the day of the event that triggers the start of the period;
- Count by calendar days, including Saturdays, Sundays, and legal holidays; and
- Include the last day of the period, but if the last day is a Saturday, Sunday, or legal holiday, the period continues to run until the end of the next day that is not a Saturday, Sunday, or legal holiday.

Research Rule 55 of the North Dakota Rules of Civil Procedure, Rule 3.2 of the North Dakota Rules of Court, & Other Applicable Laws:

Research default judgment requirements in [Rule 55 of the North Dakota Rules of Civil Procedure](#).

Research basic motion and answer to motion requirements in [Rule 3.2 of the North Dakota Rules of Court](#).

Research how the statutes (laws) enacted by the North Dakota Legislature and case law apply to your specific situation.

Gather Information:

Including:

- Your copy of the Summons and Complaint for the divorce action.
 - If you don't have a copy, you contact the Clerk of North Dakota District Court in the North Dakota county where the divorce case is filed.
 - Ask the Clerk how you can get copies of the Summons and Complaint filed in your case.
 - You may be required to pay a copy fee.
- Proof of service of the Summons and Complaint for divorce action on you, the Defendant.
 - Contact the Clerk of North Dakota District Court in the North Dakota county where the divorce case is filed. Ask how you can get a copy of the proof of service filed in your case.
 - If the Summons and Complaint was served by a sheriff or other law enforcement officer, proof of service is a Certificate of Service.
 - If the Summons and Complaint was served by an individual other than a sheriff or other law enforcement officer, proof of service is an Affidavit of Service.

- If you served a written answer, or an answer and counterclaim, to the Summons and Complaint for the divorce action on the Plaintiff or the Plaintiff's attorney:
 - Your copy of your written answer, or your answer and counterclaim; and
 - Your copy of proof of service of your written answer on the Plaintiff, or the Plaintiff's attorney.
 - If served by a sheriff or other law enforcement officer, proof of service is a Certificate of Service.
 - If served by an individual other than a sheriff or other law enforcement officer, proof of service is an Affidavit of Service.
- Other supporting documentation that you plan to refer to in your answer to motion documents.
 - Any supporting documentation to which you refer in your answer to motion documents **must** be served on the Moving Party and filed with the Court.

PART TWO: OPPOSING PARTY CREATES THEIR ANSWER TO MOTION FOR DEFAULT DIVORCE JUDGMENT DOCUMENTS

You, the Opposing Party, are required to create, serve and file their answer to motion for default divorce judgment documents.

Create the Following Documents:

(The Caption, or top, of each document is filled out EXACTLY as the Caption of the Summons for the divorce case is filled out.)

- **Answer Brief in Opposition to Motion for Default Divorce Judgment –**
 - See OP1: Answer Brief in Opposition to Motion for Default Divorce Judgment – formatting example at ndcourts.gov/legal-self-help/divorce/default-answer.
 - A written document that explains why you, the Opposing Party, are answering the motion for default divorce judgment.
 - In other words, why you oppose the motion for default judgment.
 - Your, the Opposing Party's, response to each argument in the Moving Party's brief in support of motion for default judgment.
 - An explanation of each law, case law or court rule that supports your, the Opposing Party's, argument(s) and an application of each to your specific set of facts.

- **Affidavit in Support of Answer Brief in Opposition to Motion for Default Divorce Judgment –**
 - See OP2: Affidavit in Support of Answer Brief in Opposition to Motion for Default Divorce Judgment – formatting example at ndcourts.gov/legal-self-help/divorce/default-answer.
 - Your, the Opposing Party’s, written statement of the facts.

- **Answer and Counterclaim** (if you didn’t already serve a written Answer to the Plaintiff’s Summons and Complaint for divorce) –
 - See OP3a: Answer and Counterclaim (With Children) – formatting example at ndcourts.gov/legal-self-help/divorce/default-answer.
 - For divorces **with** minor children.
 - See OP3b: Answer and Counterclaim (No Children) – formatting example at ndcourts.gov/legal-self-help/divorce/default-answer.
 - For divorces **without** minor children.
 - This is your, the Opposing Party’s, proposed answer to the Plaintiff’s Summons and Complaint. You may serve and file your proposed written answer as part of your answer to the motion for default divorce judgment.
 - If the Court doesn’t grant the motion for default divorce judgment, and allows the divorce case to move forward, the Court will decide whether to accept your proposed answer to the Plaintiff’s Summons and Complaint.
 - Review the requirements for an Answer and Counterclaim in a civil case. Specifically:
 - ndcourts.gov/legal-self-help/answering-a-civil-action; click on the “Answering a Civil Summons and Complaint – Checklist” link.
 - Review the requirements and formatting examples of an Answer and Counterclaim for divorce in the Contested Divorce Informational Guide. Specifically:
 - ndcourts.gov/legal-self-help/divorce; click on the “Contested Divorce for Plaintiff and Defendant” link.
 - The Answer and Counterclaim requirements are in Section Two, Part Two of the Informational Guide.

- **Confidential Information Form –**
 - See OP4: Confidential Information Form – formatting example at ndcourts.gov/legal-self-help/answering-a-civil-action.

- Review [Rule 3.4](#) of the North Dakota Rules of Court. Lists the full confidential information that isn't allowed to appear in documents filed with the court. This form isn't a part of the public court record.
- Also available online, in Appendix H of the North Dakota Rules of Court.

Write the case number from the motion for default divorce judgment documents on the first page of ALL of your answer to motion documents.

Make a copy of each of your motion documents to serve on the Moving Party in Part Three.

Make an additional copy to keep for your records.

PART THREE: OPPOSING PARTY ARRANGES FOR SERVICE OF COPIES OF THE DOCUMENTS ON MOVING PARTY

You, the Opposing Party, are required to serve copies of your answer to motion for default divorce judgment documents on the Moving Party.

Service is providing copies of your completed answer to motion for default divorce judgment documents and other supporting documents on the Moving Party.

You, the Opposing Party, will also be required to complete and file an Affidavit of Service. An Affidavit of Service provides the District Court judge or judicial referee with proof that you served the Moving Party.

The District Court judge or judicial referee **won't** act on your answer to motion documents, unless you file proof of service with the court.

The Opposing Party is required to serve one copy of each of the following documents on the Moving Party:

- Answer Brief in Opposition to Motion for Default Divorce Judgment;
- Affidavit in Support of Answer Brief in Opposition to Motion for Default Divorce Judgment;
- Answer and Counterclaim (if you didn't already serve a written answer to the Plaintiff's Summons and Complaint); and
- Any other supporting documentation you referenced in your answer to motion documents.

DON'T serve a copy of the Confidential Information Form on the Opposing Party.

Service by Mail:

You may arrange for service of the copies of the documents by mail by an individual who is at least 18 years old.

- Put the copies in an envelope;
- Either:
 - Address the envelope with the Moving Party's last known address; OR
 - If you know the Moving Party is currently represented by a lawyer, address the envelope with the lawyer's address; and
- List your address as the return address on the envelope.

The individual who is at least 18 years old takes the envelope to a United States Post Office and mails the envelope. Postage must be prepaid.

Service by mail is complete upon mailing.

Complete the Affidavit of Service by Mail:

An Affidavit of Service by Mail form is available at ndcourts.gov/legal-self-help/service-in-a-civil-action. See the "Service After a Civil Action Has Started" section.

The individual who took the envelope to a United States Post Office and mailed it must complete the Affidavit of Service by Mail.

Caption:

- Complete the Caption exactly as the Caption of the Summons for the divorce case is filled out.

Paragraphs 1-7:

- Follow the directions on the form.

Date and Signature: (TO BE DONE BY THE PERSON WHO IS SIGNING THE AFFIDAVIT)

- Fill in the State, County, and Country where the form was signed.
- Fill in the day, month, and year the form was signed.
- Sign your name.
- Fill in the printed name, address, telephone number, and email address.

Make ONE COPY of the completed Affidavit of Service by Mail form for your records. You'll file the original with the Clerk of District Court in Step Four.

Additional Service Information for Motions:

There are other service options available for motions. Go to ndcourts.gov/legal-self-help/service-in-a-civil-action. See the “Service After a Civil Action Has Started” section.

PART FOUR: OPPOSING PARTY FILES THEIR ANSWER TO MOTION FOR DEFAULT DIVORCE JUDGMENT DOCUMENTS WITH THE CLERK OF COURT

You, the Opposing Party, are required to file your original answer to motion for default divorce judgment documents and other supporting documents with the Clerk of District Court.

The original, completed documents to file:

- Answer Brief in Opposition to Motion for Default Divorce Judgment;
- Affidavit in Support of Answer Brief in Opposition to Motion for Default Divorce Judgment;
- Answer and Counterclaim (if you didn't already serve a written answer to the Plaintiff's Summons and Complaint);
- Confidential Information Form;
- Affidavit of Service; and
- Any other supporting documentation you referenced in your answer to motion documents.

You won't be required to pay a filing fee.

PART FIVE: THE MOVING PARTY MAY REPLY TO THE OPPOSING PARTY'S ANSWER TO MOTION WITHIN 7 OR 10 DAYS OF SERVICE

The Moving Party may serve and file a written reply brief to your answer to motion for default divorce judgment. The written reply brief must be served and filed within either 7 or 10 days of service of your answer to motion on the Plaintiff.

If you, the Opposing Party, arranged to serve your answer to motion by personal delivery or at their office, the Plaintiff has 7 calendar days to serve and file their reply brief.

If you arranged to serve your answer to motion by mail or third-party commercial carrier, the Plaintiff has 10 calendar days to serve and file their reply brief.

See Part One for calculating days for filing and service.

PART SIX: THE COURT DECIDES WHETHER TO GRANT A DEFAULT DIVORCE JUDGMENT

After the deadline passes for motion, answer to motion, and reply to answer documents to be served and filed, if neither party requested a hearing, the judge or judicial referee assigned to your divorce case will review the motion documents filed by the Moving Party and the Opposing Party.

If the Judge or Judicial Referee DOESN'T Grant the Motion for Default Divorce Judgment:

If the judge or judicial referee doesn't grant the motion for default divorce judgment, the divorce moves forward as a contested matter.

Review the [Informational Guide to Contested Divorce](#) starting at Part Three for the basic steps in the process of contested divorce after the Summons and Complaint are served.

- The guide is available at ndcourts.gov/legal-self-help/divorce.

If the Judge or Judicial Referee GRANTS the Motion for Default Divorce Judgment:

If the judge or judicial referee grants the motion for default divorce judgment, the judge or judicial referee will sign a findings of fact, conclusions of law and order for default judgment.

After the judge or judicial referee signs the findings of fact, conclusions of law and order for default judgment, the clerk of district court will sign a judgment. The judgment is an exact duplicate of the conclusion of law section of the findings of fact, conclusions of law and order for default judgment document signed by the judge or judicial referee.

You AREN'T DIVORCED until the signed judgment is filed.

You will receive a copy of the signed judgment.

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APPENDIX OF FORMATTING EXAMPLES OF COMMON MOTION FOR DEFAULT DIVORCE JUDGMENT DOCUMENTS

Formatting examples of the common answer to motion for default divorce judgment documents listed below are available at ndcourts.gov/legal-self-help/divorce by scrolling to the “Answer to Motion for Default Divorce Judgment – For Defendant” link.

The direct link to the formatting examples is ndcourts.gov/legal-self-help/divorce/default-answer.

The documents ARE fillable. You may also print and hand write in blue or black ink, or copy and paste into word processing software, such as MS Word or Google Docs.

Documents ALL Opposing Parties Will Need:

- **OP1: Answer Brief in Opposition to Motion for Default Divorce Judgment**
- **OP2: Affidavit in Support of Answer Brief in Opposition to Motion for Default Divorce Judgment**
- **OP4: Confidential Information Form**

Document Opposing Parties WITH Children MAY Need:

- **OP3a: Answer and Counterclaim (With Children)**

Document Opposing Parties WITHOUT Children MAY Need:

- **OP3b: Answer and Counterclaim (No Children)**