

Instructions and Forms

Divorce: No Children

**Court Personnel Cannot Help You Fill out the Form(s) in
this Packet.**

**You may only use these forms if your answer to all
of the following statements is "yes"**

1. **The husband and wife agree on all issues and there are no issues on which they disagree. yes no**
2. **The husband and wife have no minor or dependent children nor will have children and are not expecting a child to be born of this marriage. yes no**
3. **One of the parties to this action has lived in North Dakota for the last six months. yes no**
4. **This is the only legal action pending between the husband and wife regarding this marriage. yes no**

If you answered "yes" to all of statements in 1-4 you may proceed.

If you answered "no" to any of the statements in 1-4 stop--you may not use these forms.

WARNINGS

- ! You have the right to be represented by an attorney of your choice. By using these forms you are agreeing to expressly waive that right and that you are freely and voluntarily representing yourself in this action.
- ! The court expects every person who appears in court without a lawyer to know and follow the law. If you act as your own lawyer, you must do what a lawyer would do.
- ! Court personnel **cannot** help you fill out the form(s) in this packet.
- ! You should see a lawyer if you don't know how to answer the questions on these forms or if you think the other party will hire a lawyer.
- ! As you fill out the form(s) in this packet you **must** follow the instructions.
- ! Type your answers or print neatly using dark ink.
- ! Dividing marital property and real estate is complicated. See an attorney if you have any questions.
- ! There may be tax consequences associated with spousal support or the division of marital assets. See your tax professional if you have any questions.

STEP 1
FILL OUT "SUMMONS" FORM

A "Summons" (FORM 1) tells your spouse that you have filed a lawsuit against him or her asking for a divorce, and also tells your spouse that if he or she does not file a written Answer to your lawsuit, the court may give you everything you ask for in your lawsuit. Filling out this form is required even though you and your spouse agree to the divorce.

Fill out the top part of the summons:

NOTE: The top part of each form is known as "the caption," and the information will be the same on every form you fill out.

- ! On the line marked "county," write the name of the county where you want the case to be heard.
- ! Do not fill in the "Civil No." The Clerk of Court will assign a case number after you file your papers with the Court.
- ! On the line marked "Plaintiff," write your full name (first, middle, and last). From now on you will be called the Plaintiff.
- ! On the line marked "Defendant," write the full name of your spouse (first, middle, and last). From now on your spouse will be called the Defendant.
- ! Have the Clerk of Court sign and date the Summons and fill in your name and address.
- ! Both parties are required to obey the Summons. **Read it carefully!**

STEP 2
FILL OUT THE “COMPLAINT” FORM

Fill out the “Complaint” form (FORM 2) included in this packet. The Complaint is divided into two parts. The first part gives the Court information about you, your spouse, and your property. The second part tells the Court and your spouse what you are asking for from the Court.

Fill in the top part of the form:

The information to fill out the top part of the form is the same as on the Summons.

! Fill in the name of the county where your case is located. Do not fill in the case number. Fill in the full name of the Plaintiff and the full name of the Defendant.

Answer or review questions 1-6 which give the court information about you and your spouse:

1. You or your spouse must be a resident of the State of North Dakota for at least the last six months. If you or your spouse are not a resident, you may not use these forms.
2. Fill in the date on which you and your spouse were married along with the city and state.
3. If you have minor children, or are expecting a child to be born of this marriage you may not use these forms.
4. You need not fill out anything for questions 4-6.
5. Sign and date the Complaint form and fill in your address.

FILLING OUT THE VERIFICATION (FORM 3):

Do not fill out the verification until you are in the presence of a notary public or clerk of court. Make sure to bring identification to show to the notary public or clerk of court. A notary public can usually be found at a bank and sometimes at the courthouse.

WARNING: By signing your name you are telling the Court that you are telling the truth and that you have a good faith reason for your requests. If you are not telling the truth or if you are misleading the Court of if you are serving or filing this document for an improper purpose, the Court could find you in contempt or you may be prosecuted for not telling the truth.

STEP 3
FILL OUT THE “SETTLEMENT AGREEMENT” FORM

NOTE: Fill out the “Settlement Agreement” form (FORM 4) ONLY if you and your spouse agree

on all issues. If no agreement has been reached, you may not use these forms.

The “Settlement Agreement” form tells the court that you and your spouse have reached an agreement settling all of the issues involved in your divorce case. It also tells the court exactly what the terms of the agreement are. Fill out the “Settlement Agreement” by following these instructions:

Fill in the top part of the form:

The information to fill out the top part of the form is the same as on all of the other forms you have filled out.

- ! Fill in the name of the county where your case is located. Do not fill in the case number yet. Fill in your full name (Plaintiff) and your spouse’s full name (Defendant).

Fill in the introductory paragraph:

- a. Write the date that your spouse was handed the Summons (FORM 1) and Complaint for Divorce (FORM 2). You can find this date on your copy of the Admission of Service (FORM 5).

AGREEMENT REGARDING FACTS: QUESTIONS 1-24

NOTE: The instructions which follow are numbered the same as the questions on the form.

1. Print your full name, street address, city, county, state, zip code, social security number, and date of birth.
2. Print your spouse’s full name, street address, city, county, state, zip code, social security number, and date of birth.
3. Write the date (month, date, year) in which you and your spouse were married and the city, county, and state in which you were married.
4. You need not write anything in for question 4. If the statement is not true, you may not use these forms.
5. Check YES or NO regarding whether you are a member of the armed forces stationed in North Dakota for the last six months.
6. Check YES or NO regarding whether your spouse is a member of the armed forces stationed in North Dakota for the last six months.
7. You do not need to write anything for this question.
8. Check YES or NO regarding whether an Adult Abuse Protection Order or Restraining Order is currently in effect to protect you or your spouse. If there is an Adult Abuse

Protection Order or Restraining Order, check off who is being protected by the order, and fill in the name of the county where the Order was issued and the date the Order was issued.

9. You do not need to write anything for this question. If the statement is not true, you may not use these forms.
10. List all of the sources of your income and describe the source of income (e.g. name of employer, type of public assistance, disability income). List the amount of the monthly income from each source.
11. List all of your spouses sources of income and describe the source of income (e.g. name of employer, type of public assistance, disability income). List the amount of the monthly income from each source.

WARNING FOR QUESTIONS 12 - 22:

In deciding to award spousal support and divide property and debts, the court would consider the following factors: the respective ages of the parties, their earning ability, the duration of the marriage and conduct of the parties during the marriage, their station in life, the circumstances and necessities of each, their health and physical condition, their financial circumstances as shown by the property owned at the time, its value at the time, its income-producing capacity, if any, whether accumulated before or after the marriage and, such other matters as may be material. Once spousal support is awarded, or reserved the court can change or set the amount or the length of time the spousal support is paid under certain circumstances. The division of property once approved by the court is final and can only be changed under limited circumstances. **PROCEED CAREFULLY AND SEE A LAWYER IF YOU HAVE ANY QUESTIONS.**

12. Check YES or NO whether you need spousal support from your spouse. If YES, fill in your age, how long you've been married, your present job, and your monthly income and expenses, and explain why you need spousal support.
13. Check YES or NO whether your spouse needs spousal support from you. If YES, fill in your spouse's age, how long you've been married, your spouse's present job, and your spouse's monthly income and expenses, and explain why your spouse needs spousal support.

WARNING FOR QUESTION 14:

Creditors are not bound by the agreement of the parties. If one of your debts is awarded to the other party and he or she does not make payment, the creditor can still seek payment from you. **PROCEED CAREFULLY AND SEE A LAWYER IF YOU HAVE ANY QUESTIONS.**

14. List all of the debts you and your spouse now have, even if only one of you created the debt. Include credit card bills, gas bills, water bills, telephone bills, school loans, car

loans, home loans and mortgages, and other bills and loans. List to whom the debt is owed (such as “Visa”), the purpose of the debt (such as “clothing for the children), who created the debt (Plaintiff, Defendant, or both parties), the current balance due, and the monthly payment. Attach another sheet of paper if you need more space.

15. List all vehicles (cars, trucks, boats, RVs, snowmobiles, jet skis, motorcycles) owned by you, your spouse, or both of you together. List the vehicle even if it is not working, or not licensed, or uninsured. Include the type of vehicle, year/make/model, whose name is on the title, the balance owed (if any), and the monthly payment (if any). Attach another sheet of paper if you need more space.
16. You need not write anything for question 16. If the statement is not true, you may not use these forms.
17. Check YES or NO whether you and your spouse own any real property together. If YES, (1) fill in the street address, city, county, and state where your property is located; (2) Fill in the legal description of the property (the legal description is not the same as the street address); (3) State the date the property was purchased and its purchase price; (4) State the amount of any existing loans or mortgages; (5) State the market value of the property (this can be found on the most recent property tax statement).
18. Check YES or NO whether you own any real property in your own name. If YES, fill in the same information requested (see instructions for Question 17).
19. Check YES or NO whether your spouse owns any real property in his or her own name. If YES, fill in the same information requested (see instructions for Question 17).

WARNING FOR QUESTIONS 20 AND 21:

Dividing pension plans and retirement accounts is extremely complicated. The parties are responsible for making sure these assets are divided, which will likely require a separate court order to divide these assets. Proceed carefully! You are strongly advised to see a lawyer if you are dividing these assets.

20. Check YES or NO whether you or your past or present employer or union or other group pays or has paid money into a pension, profit-sharing plan, individual retirement account, or other retirement plan for you. If YES, describe the plan by listing the employer, union, or other group which provides the plan; the date you started working at the job or date you joined the union or group plan; the type of pension or retirement plan, and the present value. For an individual retirement account, list the account number, the bank which has the individual retirement account, and the present account balance.
21. Check off whether your spouse or your spouse’s past or present employer or union or other group pays or has paid money into a pension, profit-sharing plan, individual retirement account or other retirement plan for your spouse. If YES, describe the plan by listing the employer, union, or other group which provides the plan; the date your spouse

started working at the job or date your spouse joined the union or group plan; the type of pension or retirement plan, and the present value. For an individual retirement account, list the account number, the bank which has the individual retirement account, and the present account balance.

22. Make a list of all of your financial or other assets not already mentioned. Include checking accounts, savings accounts, money market accounts, IRA's, Certificates of Deposit, life insurance policies and/or business assets or interests. Include where the asset is located, account numbers or policy numbers and the value of each asset. Write the name of the party who will be awarded the asset in the space provided by writing either "Plaintiff" or "Defendant" in the last box on the line that describes the asset.
23. Check YES or NO whether you want to change your name. If YES, print EXACTLY how your new name should be listed (first, middle, and last). **Do not use initials.**
24. Check YES or NO whether your spouse wants to change his or her name. If YES, print EXACTLY how your spouse's new name should be listed (first, middle, and last). **Do not use initials.**

STIPULATED TERMS FOR JUDGMENT: QUESTIONS 1-18 STARTING ON PAGE 21

NOTE: The instructions which follow are numbered the same as the questions on the form.

1. This means you and your spouse agree that your marriage should be dissolved. You do not need to write anything here.
2. If your spouse will pay spousal support to you, check box 2(a). Fill in the amount of spousal support your spouse will pay to you each month and how long the payments will be made. If you will pay spousal support to your spouse, check box 2(b). Fill in the amount of spousal support you will pay to your spouse each month and how long the payments will be made. If you and your spouse agree that neither of you will receive spousal support, then check box 2(c). If you and your spouse agree that the court should decide the issue of spousal support later, then check box 2(d).
3. Write down all of your and your spouse's vehicles and who will receive each vehicle. Attach another sheet of paper if you need more room.
4. Check whether you and your spouse have already divided your marital property to each of your satisfaction. List the marital property you will receive and the marital property your spouse will receive.
5. List your and your spouse's marital debts and who will be responsible for paying each debt.
6. Check off whether you (Plaintiff) or your spouse (Defendant) will be awarded the marital

home (if you and your spouse own one), and then list the street address, city, county, and state where the marital home is located, and then write the EXACT legal description. If this section does not apply to you, check “N/A.”

7. If you and your spouse own other real property either separately or together, check off whether you (Plaintiff) or your spouse (Defendant) will be awarded that real property, and then list the street address, city, county, and state where the real property is located, and then write the EXACT legal description. Attach another sheet of paper if you need more room. If this section does not apply to you, check “N/A.”
8. Describe EXACTLY how your pension, profit sharing, retirement, or individual retirement account plan will be divided. If this section does not apply to you, check “N/A.”
9. Describe EXACTLY how, your spouse’s pension, profit sharing, retirement, or individual retirement account plan will be divided. If this section does not apply to you, check “N/A.”
10. Describe each asset you own including checking accounts, savings accounts, money market accounts, IRA’s, Certificates of Deposit, life insurance policies and/or business assets or interests. Refer to question number 22 in the previous section and include where the asset is located, account numbers or policy numbers and the value of each asset. Write the name of the party who will be awarded the asset in the space provided by writing either “plaintiff” or “defendant” in the last box on the line that describes the asset.
11. If your name will be changed, print **EXACTLY** how your new name will be listed (first, middle, and last). Do not use initials. If this section does not apply to you, check “N/A.”
12. If your spouse’s name will be changed, print **EXACTLY** how your spouse’s new name will be listed (first, middle, and last). Do not use initials. If this section does not apply to you, check “N/A.”
- 13-18. You do not need to write anything for statements 13-18. **You must read these paragraphs carefully.**

! **DO NOT sign and date the Settlement Agreement until you are in the presence of a Notary Public or Clerk of Court.** Check off whether you are or are not represented by an attorney and, if you are, have the attorney sign the agreement and fill in his or her name, address, and phone number.

<p>STEP 4 MAKE COPIES OF FORMS</p>
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1. Make TWO copies of the completed Summons (FORM 1) and TWO copies of the completed Complaint (FORM 2). Keep one copy for yourself and send one copy to the defendant.

2. Send the original “Admission of Service” form (FORM 5) to the defendant after filling out the “Caption.” Ask the defendant to fill in the date he or she received the “Summons” and “Complaint” forms (FORMS 1 and 2) in the space provided and have the defendant sign the “Admission of Service” form. The defendant should make a copy of the signed Admission of Service and return it to you.
3. Once you have signed the completed Settlement Agreement (FORM 4), mail it or take it to the defendant to be signed. The defendant should make a copy of the signed Settlement Agreement and return the original Settlement Agreement to you.
4. Step 6 tells you what to do with the original forms.
5. After all documents have been signed by the defendant and returned to you, proceed to Step 5.

STEP 5
FILL OUT THE AFFIDAVIT OF PROOF FORM

Fill in the top part of the form (form 6):

The information to fill out the top part of the form is the same as on the Summons.

- ! Fill in your full name in the space provided.
- ! For question 3, print the date of your marriage.
- ! **DO NOT sign and date the Affidavit of Proof until you are in the presence of a Notary Public or Clerk of Court.** Check off whether you are or are not represented by an attorney and, if you are, have the attorney sign the agreement and fill in his or her name, address, and phone number.

STEP 6
FILE THE FORMS WITH THE COURT

1. Take or mail the ORIGINAL of each of the following documents to the Clerk of Court’s Office in the County where your case is located:
 - ! “Summons” (FORM 1)
 - ! “Complaint” (FORM 2)
 - ! “Admission of Service” (FORM 5)
 - ! “Affidavit of Proof” (FORM 6)
 - ! “Settlement Agreement” (FORM 4)
 - ! Filing fee (see number 2 below)

2. You will need to pay a filing fee. The filing for a divorce is currently \$80.

If you cannot afford to pay the filing fee, the judge may waive it under certain circumstances. Ask the Clerk of Court for a Petition for Order Waiving Fees and Financial Affidavit. You need to fill out this application and sign it in front of a Notary Public. This application will be reviewed by a judge who will determine whether you must pay the filing fee. If the judge does not sign the order which waives the fee, you must be prepared to pay the filing fee or the Clerk of Court cannot accept your legal papers. See instructions: Petition for Order Waiving Fees, North Dakota Approved Family Law Forms.

3. The original documents will be kept in the court file. The Clerk of Court will assign a case number to your case and will send you a letter telling you the case number and the date that your papers were filed.
4. After the court reviews all of the paperwork, the court may require a hearing. You will be notified of the date and time and location of the hearing by the clerks office. You must attend the hearing. If you fail to attend the hearing the court may not grant your divorce. If the court approves the Settlement Agreement then the Clerk of Court will send you and your spouse a letter and copy of the judgment telling you the judge has signed the "Findings of Fact, Conclusions of Law, and Order for Judgment" and the "Judgment and Decree" has been filed which means your divorce is final. If you need a certified copy of the judgment and decree you may obtain one for a fee through the Clerk of Court's office.
5. If the court does not require a hearing then, the Clerk of Court will send you and your spouse a letter and a copy of the judgment telling you the judge has signed the "Findings of Fact, Conclusions of Law, and Order for Judgment" and the "Judgment and Decree," has been filed which means your divorce is final.

WARNING: You are not divorced until the judgment has been filed.