

SUMMARY DIVORCE

DOMESTIC RELATIONS SUMMARY PROCEEDING (DRSP)

- Form 1 Information and Instructions
- Form 1 (a) Summons
- Form 1 (b) Notice of Hearing and Appearance

- Form 2 Petition
- Form 2 (a) Plaintiff's Financial Affidavit
- Form 2 (b) Plaintiff's Affidavit Continuation Sheet
Service Instructions to Plaintiff
- Form 2 (c) Plaintiff's Affidavit of Mailing/Personal Service
- Form 2 (d) Defendant's Admission of Service

- Form 3 Defendant's Answer and Counterclaim
- Form 3(a) Defendant's Financial Affidavit
- Form 3 (b) Defendant's Affidavit Continuation Sheet
Service Instructions to Defendant
- Form 3 (c) Defendant's Affidavit of Mailing/Personal Service
- Form 3 (d) Plaintiff's Admission of Service

- Form 4 Proposed Findings of Fact with instructions
Child Support Guideline Worksheet
- Form 4 (a) Appendix H
- Form 4 (b) Proposed Judgment
- Form 4 (c) Proposed Parenting Plan with Instructions

DOMESTIC RELATIONS SUMMARY PROCEEDING (DRSP) INFORMATION and INSTRUCTIONS

IMPORTANT: Court staff is not allowed to give legal advice and cannot help you complete these forms. If you are unsure how to proceed, you should consult an attorney.

To protect your rights, carefully read this information and any instructions to which you are referred.

These proceedings are designed so that people can present cases involving divorce and division of property less than \$50,000(not including the family home) to the court. Parties who meet the criteria may also bring child custody and visitation or child support issues to the court. The parties may choose to have an attorney represent them in these proceedings.

If the parties do not have any minor children, divorce forms are also available at www.ndcourts.gov which do not limit the value of property and do not require a hearing.

Neatly print the forms using dark ink. It is the responsibility of each party to make copies of the forms to serve on the other party and for their personal records.

Your case may be filed as a Domestic Relations Summary Proceeding (DRSP) if:

1. The **combined** net assets of the parties do not exceed a fair market value of \$50,000, not including your home (homestead).
2. The plaintiff has lived in North Dakota for at least six months.

Your case may be transferred into non-summary proceedings in District Court if:

1. Either party elects to use non-summary proceedings by filing a notice of election with the court no later than 15 days before the final hearing.
2. The court decides that the complexity of the case would be better handled in non-summary proceedings.

Hearing information:

1. Hearing times will be set by the clerk's office. Requests for changes to hearing times must be made in writing to the Court. Only the Court can approve changes to hearing times.
2. Parties are required to bring all forms and supporting documentation to the hearing.

DRSP forms include:

Information and Instructions - Form 1
Summons - Form 1(a)
Notice of Hearing & Appearance – Form 1(b)
Petition - Form 2
Plaintiff's financial affidavit - Form 2(a)
Plaintiff's affidavit continuation sheet – 2(b)
Service Instructions to Plaintiff
Plaintiff's Affidavit of Mailing / Personal Service – 2(c)
Defendant's Admission of Service – 2 (d)

Defendant's Answer and Counterclaim – Form 3
Defendant's Financial Affidavit – Form 3(a)
Defendant's affidavit continuation sheet - 3(b)
Service Instructions to Defendant
Defendant's Affidavit of Mailing/Personal Service – 3(c)
Plaintiff's Admission of Service – 3(d)
Proposed Findings of Fact with instructions – Form 4
Child Support Guideline Worksheet
Appendix H – Form 4(a)
Proposed Judgment – Form 4(b)
Proposed Parenting Plan with instructions – Form 4(c)

ALL FORMS must be as complete as possible prior to filing with the clerk.

Instructions to Plaintiff (Detailed instructions are attached to the forms where necessary).

STEP ONE: Complete the Petition - Form 2 and fill in the names only on the Summons – Form 1(a) and the Notice of Hearing – Form 1(b).

STEP TWO: Complete the Plaintiff's Financial Affidavit-Form 2(a) and if more space is needed, use Continuation Sheet, Form 2(b). If combined assets total more than \$50,000 net value, excluding the value of any homestead property, you may not file summary proceedings.

STEP THREE: Sign the financial affidavit **in the presence** of a notary public or a clerk of the district court.

STEP FOUR: Return the Petition and Financial Affidavit to the clerk of court and pay an \$80 filing fee. You must notify the clerk at this time if any matter related to custody or visitation is in dispute.

STEP FIVE: Clerk staff will give you a case number, file the Summons, Petition, Plaintiff's Financial Affidavit, and complete and file the Notice of Hearing and Appearance, setting a date for a hearing. If custody or visitation matters are in dispute, the clerk will refer your case for mediation.

STEP SIX: SERVE the defendant with one copy of each form listed here. Proof of service is an important step in the legal process. Detailed service instructions are provided.

1. **Information and Instructions - Form 1.**
2. **Completed Summons - Form 1(a).**
3. **Completed Notice of Hearing & Appearance – Form 1(b).**
4. **Completed Petition - Form 2.**
5. **Completed Plaintiff's financial affidavit - Form 2(a) and continuation sheet – 2(b) if used.**
6. **Defendant's Admission of Service Form 2 (d) if used.**
7. **Blank Defendant's Answer and Counterclaim – Form 3.**
8. **Blank Defendant's Financial Affidavit – Form 3(a).**
9. **Blank Defendant's Financial Affidavit continuation sheet - 3(b).**
10. **Service instructions to Defendant**
11. **Blank Defendant's Affidavit of Mailing/Personal Service – 3(c).**
12. **Blank Plaintiff's Admission of Service – 3(d)**

STEP SEVEN: Proof of service is an important step in the legal process and the document showing **proof of service must be filed with the clerk**. You may formally serve the papers on the defendant in one of three ways. You may complete the Affidavit of Mailing/Personal service, Form 2(c) and have the person mailing or serving it to the defendant sign the form in the presence of a notary or clerk. You may also have the sheriff serve the papers. In this case, he or she will provide you with a completed affidavit of service and Form 2(c) may be discarded. Finally, you may elect to use Form 2(d) where the defendant will admit receipt of the forms by signing the Admission of Service.

STEP EIGHT: Receive Defendant's forms.

STEP NINE: Attend mediation sessions to resolve custody and visitation issues if so ordered or referred.

STEP TEN: Work with Defendant to prepare proposed Findings of Fact, Conclusions of Law, and Order for Judgment. Form 4 includes much of the same information contained in the Petition and Financial Affidavits and will allow the Court to make legal findings based on that information. **File this form and supporting documentation with the clerk at least one week before your hearing.** Detailed instructions for completing the Findings of Fact are attached to the form.

STEP ELEVEN: Work with Defendant to prepare proposed the Judgment and Appendix H. The Judgment form includes much of the same information contained in the Petition and Financial Affidavits and will be signed by the Clerk to finalize your divorce. Parties are required to complete the confidential information form (Appendix H) to comply with court rules. **File these forms with the clerk at least one week before your hearing.** Detailed instructions for completing the Judgment and Appendix are attached to the forms.

STEP TWELVE: Work with the Defendant to prepare the proposed Parenting Plan. **File this form with the clerk at least one week before your hearing.**

YOU MUST COME TO COURT at the scheduled time for the hearing or the petition may be dismissed.

Instructions to Plaintiff (Detailed instructions are attached to the forms where necessary).

STEP ONE: Complete the Petition - Form 2 and fill in the names only on the Summons – Form 1(a) and the Notice of Hearing – Form 1(b).

STEP TWO: Complete the Plaintiff's Financial Affidavit-Form 2(a) and if more space is needed, use Continuation Sheet, Form 2(b). If combined assets total more than \$50,000 net value, excluding the value of any homestead property, you may not file summary proceedings.

STEP THREE: Sign the financial affidavit **in the presence** of a notary public or a clerk of the district court.

STEP FOUR: Return the Petition and Financial Affidavit to the clerk of court and pay an \$80 filing fee. You must notify the clerk at this time if any matter related to custody or visitation is in dispute.

STEP FIVE: Clerk staff will give you a case number, file the Summons, Petition, Plaintiff's Financial Affidavit, and complete and file the Notice of Hearing and Appearance, setting a date for a hearing. If custody or visitation matters are in dispute, the clerk will refer your case for mediation.

STEP SIX: SERVE the defendant with one copy of each form listed here. Proof of service is an important step in the legal process. Detailed service instructions are provided.

1. **Information and Instructions - Form 1.**
2. **Completed Summons - Form 1(a).**
3. **Completed Notice of Hearing & Appearance – Form 1(b).**
4. **Completed Petition - Form 2.**
5. **Completed Plaintiff's financial affidavit - Form 2(a) and continuation sheet – 2(b) if used.**
6. **Defendant's Admission of Service Form 2 (d) if used.**
7. **Blank Defendant's Answer and Counterclaim – Form 3.**
8. **Blank Defendant's Financial Affidavit – Form 3(a).**
9. **Blank Defendant's Financial Affidavit continuation sheet - 3(b).**
10. **Service instructions to Defendant**
11. **Blank Defendant's Affidavit of Mailing/Personal Service – 3(c).**
12. **Blank Plaintiff's Admission of Service – 3(d)**

STEP SEVEN: Proof of service is an important step in the legal process and the document showing **proof of service must be filed with the clerk**. You may formally serve the papers on the defendant in one of three ways. You may complete the Affidavit of Mailing/Personal service, Form 2(c) and have the person mailing or serving it to the defendant sign the form in the presence of a notary or clerk. You may also have the sheriff serve the papers. In this case, he or she will provide you with a completed affidavit of service and Form 2(c) may be discarded. Finally, you may elect to use Form 2(d) where the defendant will admit receipt of the forms by signing the Admission of Service.

STEP EIGHT: Receive Defendant's forms.

STEP NINE: Attend mediation sessions to resolve custody and visitation issues if so ordered or referred.

STEP TEN: Work with Defendant to prepare proposed Findings of Fact, Conclusions of Law, and Order for Judgment. Form 4 includes much of the same information contained in the Petition and Financial Affidavits and will allow the Court to make legal findings based on that information. **File this form and supporting documentation with the clerk at least one week before your hearing.** Detailed instructions for completing the Findings of Fact are attached to the form.

STEP ELEVEN: Work with Defendant to prepare proposed the Judgment and Appendix H. The Judgment form includes much of the same information contained in the Petition and Financial Affidavits and will be signed by the Clerk to finalize your divorce. Parties are required to complete the confidential information form (Appendix H) to comply with court rules. **File these forms with the clerk at least one week before your hearing.** Detailed instructions for completing the Judgment and Appendix are attached to the forms.

STEP TWELVE: Work with the Defendant to prepare the proposed Parenting Plan. **File this form with the clerk at least one week before your hearing.**

YOU MUST COME TO COURT at the scheduled time for the hearing or the petition may be dismissed.

Instructions to Defendant (Detailed instructions are attached to the forms where necessary). If you feel that your case does not qualify for summary proceedings, you may request that the court use non-summary proceedings.

STEP ONE: Receive the Summons, Notice of Hearing, Petition, Plaintiff's affidavits, and blank Defendant forms.

STEP TWO: Complete the Defendant's Answer and Counterclaim – Form 3, Defendant's Financial Affidavit – Form 3a, and Continuation sheet – Form 3b if used. If Plaintiff and Defendant's combined assets total more than \$20,000 net value, excluding the value of any homestead property, summary proceedings may not be filed.

STEP THREE: Sign the Financial affidavit **in the presence of a notary public or clerk of court**, file the Defendant's Answer and Financial Affidavit with the clerk of court, and pay a \$50 Answer fee.

STEP FOUR: SERVE the Plaintiff with copies of the Defendant's Answer and Financial Affidavit. Proof of service is an important step in the legal process and the document showing **proof of service must be filed with the clerk**. You may formally serve the papers on the plaintiff in one of three ways. You may complete the Affidavit of Mailing/Personal service, Form 3(c) and have the person mailing or serving it to the plaintiff sign the form in the presence of a notary public or clerk of the district court. You may also have the sheriff serve the papers. In this case, he or she will provide you with a completed affidavit of service and Form 3(c) may be discarded. Finally, you may elect to use Form 3(d) where the plaintiff will admit receipt of the forms by signing the Admission of Service.

STEP FIVE: Attend mediation sessions to resolve custody and visitation issues if so ordered or referred.

STEP SIX: Work with Plaintiff to complete the proposed Findings of Fact, Conclusions of Law, and Order for Judgment – Form 4. Form 4 includes much of the same information contained in the Petition and Financial Affidavits and will allow the Court to make legal findings based on that information. **File this form and supporting documentation with the clerk at least one week before your hearing.** Detailed instructions for completing the Findings of Fact are attached to the form.

STEP SEVEN: Work with Plaintiff to complete Appendix H –Form 4(a) and the proposed Judgment – Form 4(b). The Judgment form includes much of the same information contained in the Petition and Financial Affidavits and will be signed by the Clerk to finalize your divorce. Parties are required to complete the confidential information form (Appendix H) to comply with court rules. **File these forms with the clerk at least one week before your hearing.** Detailed instructions for completing the Judgment and Appendix are attached to the forms.

STEP EIGHT: Work with Plaintiff to complete the proposed Parenting Plan – Form 4(c). The Parenting plan contains information required by law regarding proposed custody and visitation. **File this form and with the clerk at least one week before your hearing.**

YOU MUST COME TO COURT at the scheduled time for the hearing or a default order may be entered.

COUNTY OF _____

CIVIL NO: _____

_____,
Plaintiff,

vs.

SUMMONS

_____,
Defendant.

The State of North Dakota to the above named defendant.

You are hereby summoned and required to appear and defend against the Petition in this case, which is herewith served upon you. You must serve an Answer and Financial Affidavit on the other party and file the documents with the clerk within twenty (20) days after the service of this Summons upon you, excluding the day of service. If you fail to do so, judgment by default may be taken against you for the relief demanded in the Petition.

NOTICE OF TEMPORARY RESTRAINING PROVISIONS:

Under Rule 8.4 of the North Dakota Rules of Court, upon service of this Summons, you and your spouse are bound by the following restraints:

- (1) Neither spouse shall dispose of, sell, encumber, or otherwise dissipate any of the parties' assets, except:
 - a. For necessities of life or for the necessary generation of income or preservation of assets; or
 - b. For retaining counsel to carry on or to contest the proceeding.
 If a spouse disposes of, sells, encumbers, or otherwise dissipates assets during the interim period, that spouse shall provide to the other spouse an accounting within thirty (30) days.
- (2) Neither spouse shall harass the other spouse.
- (3) All currently available insurance coverage must be maintained and continued without change in coverage or beneficiary designation.
- (4) Neither spouse shall remove any of their minor children from North Dakota without the written consent of the other spouse or order of the court except for temporary periods.

IF EITHER SPOUSE VIOLATES ANY OF THESE PROVISIONS, THAT SPOUSE MAY BE IN CONTEMPT OF COURT.

Dated this _____ day of _____, 20_____.

BY: _____
Clerk or Deputy Clerk of Court

STATE OF NORTH DAKOTA

IN DISTRICT COURT

COUNTY OF _____

CIVIL NO: _____

Plaintiff,

vs.

NOTICE OF HEARING and APPEARANCE

Defendant.

TO: THE ABOVE-NAMED PARTIES:

PLEASE TAKE NOTICE that on the _____ day of _____, 20____, at _____ o'clock _____.m., you are required to appear and answer the above Petition and participate in a hearing before Honorable _____ at the _____ County Courthouse, _____, North Dakota. Appearance may be telephonic if arrangements are made prior to the hearing in writing.

Dated this _____ day of _____, 20_____.

Clerk of Court

BY: _____

Clerk or Deputy Clerk of Court