

Answer to Motion for Default Divorce Judgment

Instructions for Form OP3b: Answer and Counterclaim (*No Children*)

(Form OP3b: Answer and Counterclaim (*No Children*) is part of the Answer to Motion for Default Divorce Judgment. [Review the instructions for the packet of forms.](#))

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The Answer and Counterclaim (*No Children*) is one of a set of required documents that make up a written Answer to Motion for Default Judgment.

Important! If you already served an answer, or answer and counterclaim, to the summons and complaint, don't fill out, copy, or serve this form.

Skip this form and go to the next form – Form OP4b: Confidential Information Form (*No Children*).

Form OP3b: Answer and Counterclaim (*No Children*) is your, the Defendant's, proposed answer and counterclaim to the Plaintiff's summons and complaint.

Form OP3b: Answer and Counterclaim (*No Children*) is your, the Defendant's, written response to the Plaintiff's Complaint. The Answer must also state defenses to each of the claims in short, plain statements. The Counterclaim is your written demand to the court for judgment granting the relief you're seeking in the divorce.

You, the Defendant, arrange to serve the Answer and Counterclaim with all of the other documents listed on **Page 4**.

You, the Defendant, Complete and Sign This Form.

- ☐ **Top of Form (Caption):** Fill in the caption exactly as the caption on your Form OP1: Answer Brief is filled in.
- ☐ **First Sentence:** Fill in your name.

- ☐ **Paragraph 1:** Read carefully. This paragraph states you disagree with every paragraph of the Plaintiff's Complaint, except as specifically stated in Paragraphs 2 through 4 of the Answer.
- ☐ **Paragraph 2:** If you agree completely with a paragraph of the Plaintiff's Complaint, type or print the paragraph number from the Complaint.
- ☐ **Paragraph 3:** If you both agree and disagree with a paragraph of the Plaintiff's Complaint, use Paragraph 3 to respond. For each paragraph of the Plaintiff's Complaint that falls into this category, explain what part of the paragraph is admitted and what part is denied.
- ☐ **Paragraph 4:** If you don't have enough information to agree or disagree with a paragraph of the Plaintiff's Complaint, type or print the paragraph number of the Paragraph.

Affirmative Defenses:

An affirmative defense is a legal reason the Plaintiff should lose, even if the Plaintiff's claims are true. Some common affirmative defenses are listed in Paragraph 5. You may have other defenses that aren't listed. You may not have any affirmative defenses.

- ☐ **Paragraph 5:** Put a checkmark ☒ in the box indicating if you **don't** or **do** have an affirmative case. **Don't** check both.
 - If you put a checkmark ☒ in the **second box** indicating you have an affirmative defense, check any or all boxes that apply. You're required to prove all affirmative defenses you select later during the case. (*Fill in all information required in the blanks.*)
- ☐ **Paragraph 6:**
 - Fill in all information regarding your spouse, the Plaintiff.
 - Fill in all of your information.
- ☐ **Paragraph 7:** Fill in your marriage information.
- ☐ **Paragraph 8:** Put a checkmark ☒ in the box next to the statement that's true.

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.

Deploying or Deployed Parent – 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.

- ☐ **Paragraph 9:** Review carefully. *(If paragraph 9 doesn't fit your situation, you can't use this form).*

Irreconcilable Differences – *(also called No Fault)* substantial reasons for not continuing the marriage and which make it appear the marriage should be dissolved. The court only needs to find that irreconcilable differences exist.

- ☐ **Paragraph 10:** Review carefully. If this statement isn't true, you **can't** use this form.
- ☐ **Paragraph 11:** Put a checkmark ☒ in the box indicating whether you want to restore your name.
- ☐ **Paragraphs 12 & 13:** Review carefully. *(If any statements in Paragraphs 12 and 13 aren't true, you **can't** use this form.)*

Equitable Distribution *(also called Equitable Division)* – Marital property and debt is divided equitably *(fairly)* in a divorce. Equitable distribution doesn't mean equal distribution.

- ☐ **Paragraphs 14 through 16:** Review carefully. If any of paragraphs 14 through 16 don't fit your situation, **Stop!** You can't use this form.
- ☐ **Date and Signature:** You, the Defendant, must sign and date this Form OP3b: Answer and Counterclaim *(No Children)*.

What do I do next?

- ☐ Set aside your completed Form OP3b: Answer and Counterclaim. (You make copies later.)
- ☐ Complete the next form in the set. (Form OP4b: Confidential Information Form (*No Children*) is the next form.)
- ☐ Once you've completed all of the forms listed on Page 3, you serve this Form OP3b: Answer and Counterclaim (*No Children*).
- ☐ The originals are filed with the court in **Step 5**. Make sure to also file the Declaration of Service by Mail.

For divorces **(With Children)**, the following forms are required:

- OP1: Answer Brief in Opposition to Motion for Default Divorce Judgment;
- OP2: Declaration in Support of Answer Brief in Opposition to Motion for Default Divorce Judgment;
- OP3a: Answer and Counterclaim (*With Children*);
 - If you already served an answer or answer and counterclaim to the summons and complaint, you don't fill out, copy, or serve this form.
- OP4a: Confidential Information Form (*With Children*);
- OP5a: Declaration of Service by Mail (*With Children*).

For divorces **(No Children)**, the following forms are required:

- OP1: Answer Brief in Opposition to Motion for Default Divorce Judgment;
- OP2: Declaration in Support of Answer Brief in Opposition to Motion for Default Divorce Judgment;
- **OP3b: Answer and Counterclaim (*No Children*)**;
 - If you already served an answer or answer and counterclaim to the summons and complaint, you don't fill out, copy, or serve this form.
- OP4b: Confidential Information Form (*No Children*);
- OP5b: Declaration of Service by Mail (*No Children*).

Don't include these instruction sheets when you serve or file the completed form.

State of North Dakota

In District Court

County of _____

_____ Judicial District

Plaintiff,
vs

Defendant.

)
)
)
)
)
)

Case No. _____

Answer and Counterclaim
(Divorce No Children)

Answer

_____ (*Defendant's name*), the Defendant
in this divorce action, submits this Answer to the allegations in Plaintiff's Complaint:

1. Defendant denies each and every allegation in Plaintiff's Complaint unless specifically admitted to in Paragraphs 2 through 3 below.

2. Defendant admits to the allegations in the following paragraphs in Plaintiff's Complaint
(*list each paragraph number with which you completely agree*): _____

_____.

3. Defendant admits part and denies part of the allegations in the following paragraphs in Plaintiff's Complaint (*list the paragraph number and explain the part of the paragraph with which you agree and the part with which you disagree*):

a. Paragraph #____: _____

b. Paragraph #____: _____

c. Paragraph #____: _____

d. Paragraph #____: _____

e. Paragraph #____: _____

4. Defendant does not have sufficient knowledge to either admit or deny the allegations in the following paragraphs in Plaintiff's Complaint (*list each paragraph number you don't have enough information with which to agree or disagree*): _____

_____.

Affirmative Defenses (N.D.R.C.P. Rule 8)

5. (*Choose one*)

- ☐ Defendant does not have any affirmative defenses.
- ☐ Defendant has the following affirmative defenses (*select all that apply. You'll be required to prove all affirmative defenses you select*):
- ☐ Defendant was not served a copy of the summons and complaint.
 - ☐ Defendant received a copy of the summons and complaint, but was not properly served.
 - ☐ A divorce case, dissolution of marriage case, or legal separation case has already started in (*name of court*) _____ of (*name of State or tribe*) _____, Case Number _____.
 - ☐ Other _____.

Counterclaim for Divorce

6. The identifying information of Plaintiff and Defendant is as follows (*Paragraph 6 continues on next page*):

- a. Plaintiff's full legal name is: _____.
- Plaintiff's address is: _____
- _____.
- Plaintiff's employer's name and address: _____
- _____.
- Plaintiff's birth year: _____ & last 4 digits of social security number: _____.

b. Defendant's full legal name is: _____.

Defendant's address is: _____

_____.

Defendant's employer's name and address: _____

_____.

Defendant's birth year: _____ & last 4 digits of social security number: _____.

7. Plaintiff and Defendant were married on _____ (date), at _____ (city), _____ (state) and ever since have been married.

8. (Choose one)

☐ Neither Plaintiff nor Defendant is currently in the Armed Services of the United States of America or its allies.

☐ (Choose all that apply) ☐ Plaintiff/ ☐ Defendant is/are currently in the Armed Services of the United States of America or its allies but is not/are not currently deployed or notified of deployment.

☐ (Choose all that apply) ☐ Plaintiff/ ☐ Defendant is/are currently in active military service.

9. Irreconcilable differences have arisen between Plaintiff and Defendant making continuation of the marriage impossible.

10. Plaintiff and Defendant have no minor children together and are not expecting any children to be born of the marriage.

11. (Choose one)

☐ Defendant wants to restore their name.

☐ Defendant does not want to restore their name.

12. Plaintiff and Defendant are owners of property, which should be divided by the Court and an equitable portion awarded to each party.

13. Plaintiff and Defendant have accumulated a certain amount of debt throughout the marriage, which should be divided, and an equitable portion assessed to each party.

WHEREFORE, Defendant asks for the following relief on the Answer and Counterclaim:

14. The bonds of matrimony presently existing between Plaintiff and Defendant be wholly dissolved and that Defendant be granted an absolute decree of divorce from Plaintiff.

15. For a fair and equitable division of the assets and liabilities accumulated and incurred by the parties.

16. For such further and additional relief as this Court may deem just and proper.

Dated _____.

_____, Defendant
Signature of Defendant

Typed or Printed Name of Defendant

Address

City State Zip Code

Telephone Number

Email Address