

# Instructions for Motion for Default Divorce Judgment

## **Important! Read Before Using this Packet of Forms.**

ND Legal Self Help staff and court employees **can't** help you fill out the form(s). If you're unsure if these forms and instructions suit your circumstances, consult a lawyer.

ND Legal Self Help Center forms **aren't** official court forms. Judges and courts aren't required to accept them. There's no guarantee Center forms will be accepted. **Use these instructions and forms at your own risk.**

If you need legal advice or legal representation, consult a lawyer licensed to practice in North Dakota. Go to [ndcourts.gov/legal-self-help/finding-a-lawyer](https://ndcourts.gov/legal-self-help/finding-a-lawyer) for information about finding a lawyer to represent you.

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

- State or federal laws that apply to your case, which include,
  - [Chapter 14-05 of the North Dakota Century Code](#) governing divorce;
  - [Chapter 14-09 of the North Dakota Century Code](#) governing custody, visitation, and child support; and
  - [Chapter 14-14.1 of the North Dakota Century Code](#) governing jurisdiction;
- 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 – specifically [Rule 55](#) – Default judgments;
  - North Dakota Rules of Court – specifically [Rule 3.2](#) – Motions;
  - North Dakota Rules of Evidence;
  - North Dakota Administrative Rules and Orders; and
  - Any local court rules.

Links to the state laws, case law, and court rules are available at [ndcourts.gov](https://ndcourts.gov).

A glossary with definitions of legal terms is available at [ndcourts.gov/legal-self-help](https://ndcourts.gov/legal-self-help).

**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.**

***These instructions and forms **aren't** a complete statement of the law. They cover the basic procedure for making a motion for a default divorce judgment in a North Dakota State District Court. The Center isn't responsible for any consequences that may result from the forms or information provided. Use these forms and instructions at your own risk.***

***Divorce can have serious long-term legal and financial consequences. Carefully consider all of your options before you represent yourself.***

## You May Use This Packet of Forms **Only if All** of the Following Statements are True.

1. Service of the Summons and Complaint on the Defendant was completed and you have proof of service.
2. The 21 day deadline for the Defendant to answer the Summons and Complaint has passed and the Defendant didn't respond in writing.
3. You, the Plaintiff, have lived in North Dakota for the last six months. (North Dakota's residency requirement for divorce.)
4. If there are minor children of the marriage, all of the children have lived in North Dakota with you or the Defendant for at least the past 6 months (or since birth);  
**\*Or\*** Within the past 6 months, North Dakota was the home state of all of the children **And** you or the Defendant still live in North Dakota.
5. This is the only legal action in North Dakota, or any other state, between you and Defendant regarding your marriage or your minor children.
6. The reason for your divorce is irreconcilable differences (*no-fault by either spouse*).
7. Neither you nor your spouse are currently in the military; **\*Or\*** one or both spouses are currently in the military but not deploying or deployed.

**Instructions for this packet of forms begins on Page 7.**

## What is a Motion for Default Divorce Judgment?

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

The spouse who starts the divorce is called the Plaintiff. The Plaintiff starts the divorce by arranging for a divorce Summons and Complaint to be served on the other spouse, called the Defendant.

The Defendant has 21 days after the date they were served to answer the Summons and Complaint in writing.

### You, The Plaintiff, May Ask for a Default Divorce Judgment if the Defendant Doesn't Answer the Summons and Complaint in Writing:

If the Defendant **doesn't answer** the divorce Summons and Complaint within 21 days after service, you may ask the judge, in writing, to grant the divorce without the Defendant's involvement.

The request is called a **Motion for a Default Divorce Judgment**. A judge may grant a default divorce judgment if **the Plaintiff proves the following, in writing**:

1. Proof of service of the divorce Summons and Complaint on the Defendant;
2. The 21 day deadline for the Defendant to answer the divorce Summons and Complaint has passed and the Defendant didn't respond **in writing**;
3. The North Dakota District Court has the authority (jurisdiction) to grant a divorce; and
4. You provided all other necessary information and proof to the District Court judge.

### **Effect of a Default Divorce Judgment:**

If the District Court judge grants a default divorce judgment, the Judgment has the same effect as a divorce judgment.

However, at a later date the Defendant may make a written motion to the judge to re-open the default divorce judgment. If Defendant makes the written motion, the judge decides whether to re-open the default divorce judgment, or keep the default divorce judgment in place.

### **Protections for Active Military Service Members Against Default Judgments:**

Under Federal law, active duty 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, you must prove that the Defendant **isn't** on active duty with any branch of the United States military.

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

The [Servicemembers Civil Relief Act \(SCRA\) Website](#) may be of interest.

If the judge can't tell whether the Defendant is in active military service from the forms you file, before granting a default divorce judgment, the judge may require you to file a bond. The judge decides the dollar amount of the bond. If the Defendant is later found to be in active military service, the bond is used to compensate the Defendant against loss or damage resulting from the default divorce judgment.

## How to Calculate the 21 Day Deadline to Answer

### The Start of the 21 Day Deadline Depends on the Date the Defendant was Served:

Review [Rule 4 of the North Dakota Rules of Civil Procedure](#) for more information about service.

- **Personal Service by Sheriff or Person 18 Years or Older and Not Interested in the Case:** If you arranged to have your spouse, the Defendant, served the Summons and Complaint by a sheriff or other non-interested adult, **the Defendant is served on the date they were given the Summons and Complaint.**
- **Service by Certified Mail, Return Receipt Requested (Restricted Delivery):** If you arranged to have your spouse, the Defendant, served the Summons and Complaint by certified mail, return receipt requested, **the Defendant is served on the date the green card receipt shows actual delivery.**
- **Service by Publication in the Newspaper:** If you arranged to have your spouse, the Defendant, served the Summons by publication, **the Defendant is served 15 days after the first date the Summons was published in the newspaper.**

Remember, you must have proof of service of the Summons and Complaint on your spouse, the Defendant.

The judge assigned to your divorce case won't consider your motion for a default divorce judgment without proof of service.

### Count Forward 21 Days Starting the Day After the Defendant was Served:

**The Defendant's 21 day deadline to answer is calculated in calendar days.** This means you count weekdays, Saturdays, Sundays, and North Dakota state holidays.

1. On your calendar, go to the date the Defendant was served.
2. Starting with the day **after** the date the Defendant was served, count ahead 21 calendar days.
3. If the 21<sup>st</sup> calendar day lands on a Saturday, Sunday, or North Dakota state holiday, move ahead to the next calendar day that isn't a Saturday, Sunday, or North Dakota state holiday.

## Parties in a Motion for Default Divorce Judgment

**Plaintiff:** You, the spouse who started the divorce action with service of the Summons and Complaint on the other spouse.

**Defendant:** The spouse who was served the Summons and Complaint for divorce.

**Moving Party:** You, the Plaintiff bringing the Motion for Default Divorce Judgment.

**Opposing Party:** The Defendant. (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 Health and 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.

## Forms Suitable for Uncomplicated Divorces Only

**This packet of forms is only for divorces involving common and uncomplicated circumstances.**

If this packet of forms doesn't work for you, **Stop! You can't use this packet of forms.** Go to [ndcourts.gov/legal-self-help/divorce](https://ndcourts.gov/legal-self-help/divorce) for all other divorce forms and resources available through the ND Legal Self Help Center, or retain a lawyer to create the documents for you.

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## Forms for Filing the Motion for Default Divorce

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

**Each individual form has instructions attached.**

- MP1: Notice of Motion for Default Divorce Judgment;
- MP2: Motion for Default Divorce Judgment;
- MP3: Brief in Support of Default Divorce Judgment;
- MP4: Declaration of Default, Identification and Active Military Status;
- MP5a: Declaration of Proof for Default Divorce Judgment (*With Children*);
- MP6a: Proposed Findings of fact, Conclusions of Law, and Order for Default Divorce Judgment (*With Children*);
- MP7a: Proposed Judgment (*With Children*);
- MP8: Exhibit A: Confidential Division of Property & Debts & Values
  - Summary Real Estate Disposition Judgment (*if needed*);
- MP9: Exhibit B: Parenting Plan;
- MP10a: Confidential Information Form (*With Children*);
- MP11a: Declaration of Service by Mail.

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

**Each individual form has instructions attached.**

- MP1: Notice of Motion for Default Divorce Judgment;
- MP2: Motion for Default Divorce Judgment;
- MP3: Brief in Support of Default Divorce Judgment;
- MP4: Declaration of Default, Identification and Active Military Status;
- MP5b: Declaration of Proof for Default Divorce Judgment (*No Children*);
- MP6b: Proposed Findings of Fact, Conclusions of Law, and Order for Default Divorce Judgment (*No Children*);
- MP7b: Proposed Judgment (*No Children*);
- MP8: Exhibit A: Confidential Division of Property & Debts & Values;
  - Summary Real Estate Disposition Judgment (*if needed*);
- MP10b: Confidential Information Form (*No Children*);
- MP11b: Declaration of Service by Mail.

## All Forms Must be Filled out Completely!!

**Don't leave any of the paragraphs within the forms unanswered.**

If a section of the form doesn't apply to you, type or write "N/A" or "Not Applicable." Type or write \$0.00 if a dollar amount doesn't apply to you.

If a form isn't completely filled out, the clerk may not accept your forms for filing, or the court may send your forms back to you to complete. It could also mean the judge requires you to attend a hearing to explain why you left blanks in the forms.

**Follow and Carefully Read All Instructions!** In the instructions for each form there are checkboxes (☐) before each step. Check each box as you finish the step. Don't go to the next step **until** the previous step is completed.

### Step One

## File the Divorce Summons, Complaint, and Proof of Service with the Clerk of Court

(Find information about how to start a divorce at [ndcourts.gov/legal-self-help/divorce](https://ndcourts.gov/legal-self-help/divorce).)

☐ The District Court **Can't** consider your Motion for Default Divorce Judgment **Until** the following original, completed documents are filed with the Clerk of District Court:

- Summons;
- Complaint; and
- Proof of service of the Summons and Complaint on the Defendant.

You're required to pay a **\$160.00 filing fee**.

However, you may ask the court to waive the \$160.00 filing fee.

Forms to request the court waive the filing fee are available at [ndcourts.gov/legal-self-help/fee-waiver](https://ndcourts.gov/legal-self-help/fee-waiver). Fee waivers are based on inability to pay. The completed fee waiver request forms are filed at the same time as the Summons and Complaint.

If the Clerk of District Court accepts your documents for filing, a case number is assigned.

## Step Two

## Review All Forms and Instructions; Gather Information and Make Decisions

### ☐ Review **All** of the forms and instructions in this packet of forms:

Read these instructions **carefully**. Review **All** of the individual forms and their instructions **carefully**. Decide if the forms apply to your situation. If you don't know if you should use this packet of forms, [consult a lawyer](#) licensed to practice in North Dakota.

### ☐ Gather Information and Make Decisions:

You must gather information to help you make decisions about the following decisions related to divorce:

- Dividing marital property and debts.
  - Make a list of all assets and debts, including the value of each asset and amount of each debt.

If you have minor children of the marriage, you must gather information to help you make the following decisions about the children:

- Residential responsibility of the minor child(ren). (Also called custody.)
- Parenting time, including scheduling. (Also called visitation.)
- Decision making responsibility for the minor child(ren).
- Child support, including wages and other earnings information.
- Medical coverage, including health insurance premiums, copays, deductibles, etc.

### ☐ If there are **minor children** of the marriage, complete your child support calculations. If there are **no minor children**, skip this instruction:

If you already have a Child Support Order, get a copy of the Order to include with your completed packet of forms. You don't need new child support calculations.

If you **don't** already have a Child Support Order, you need to complete your child support calculations. **If you don't want to establish child support at this time, Stop! You can't use this packet of forms.**

**Warning:** If you attempt to file this packet of forms without completing the child support calculations, the judge will either require you to complete the calculations before making a decision on your divorce case, or dismiss your divorce case entirely.



The Child Support Division of the North Dakota Department of Health and Human Services created and provides support for the Child Support Guidelines Calculator.

Go to [childsupport.dhs.nd.gov/partners/lawyers/child-support-guidelines](https://childsupport.dhs.nd.gov/partners/lawyers/child-support-guidelines).

If the parents will have equal residential responsibility, you must calculate child support amounts for **both** parents.

If **one** parent will have primary residential responsibility (more than 50% of the residential responsibility), you must calculate the child support amount for the parent with **less** than 50% of the residential responsibility.

**Warning:** If you plan to ask the judge to allow a parent to pay a different amount of child support than the Child Support Guidelines Calculator amount, [consult a lawyer](#) for help. The Calculator amount is presumed to be the correct amount of child support. The parent asking for a different amount than the Calculator amount must prove they meet one of the limited exceptions for deviation, **and** the deviation is in the best interests of the child(ren). See [North Dakota Century Code Section 14-09-09.7](#) and [North Dakota Administrative Code Section 75-02-04.1-09](#).

Court personnel and staff of the ND Legal Self Help Center **Can't** help you with your child support calculations.

You may be able to apply for services with [North Dakota Child Support](#) (701-328-5440; 800-231-4255). If your application for full services is approved by North Dakota Child Support, they can help to establish an order for child support and medical support in a separate child support case.

### Step Three

### You, the Plaintiff, Complete the Forms in the Motion for Default Divorce Judgment Packet of Forms

**You**, the Plaintiff (also called the Moving Party) are **required to complete all** Motion for Default Divorce Judgment forms.

Instruction sheets are provided with each Motion for Default Divorce Judgment form mentioned below. The forms are described on Pages 10 through 13:

## Divorce **With** Children Forms (*use if there are minor children of the marriage*)

Form Title	Description
<b>Form MP1: Notice of Motion for Default Divorce Judgment</b>	A required written advisory that tells the Defendant that you, the Plaintiff, request a default divorce judgment from the Court. The Notice of Motion tells the Defendant that the motion will be decided on the documents alone.
<b>Form MP2: Motion for Default Divorce Judgment</b>	A written request to the court for a default divorce judgment.
<b>Form MP3: Brief in Support of Motion for Default Divorce Judgment</b>	A written explanation of why you, the Plaintiff, should have your Motion granted. The Brief takes the rules and laws that support your Motion and explains how they apply to the facts of your particular situation.
<b>Form MP4: Declaration of Default, Identification and Active Military Status</b>	Your, the Plaintiff's, written statement of the Defendant's default, your address and employer, the Defendant's address and employer, and the Defendant's military status.
<b>Form MP5a: Declaration of Proof for Default Divorce Judgment (<i>With Children</i>)</b>	Your, the Plaintiff's, written statement of the jurisdictional and factual matters in the divorce complaint, including the factual basis for the grounds of the divorce.
<b>Form MP6a: Proposed Findings of Fact, Conclusions of Law and Order for Default Divorce Judgment (<i>With Children</i>)</b>	Findings of Fact are the judge's written determination of the facts made from the evidence you present. Conclusions of Law are the rulings of law made by the judge based on, or in connection with, the Findings of Fact. These are your <b>proposed</b> findings of fact and conclusions of law. The judge decides whether to use them or prepare their own.
<b>Form MP7a: Proposed Judgment (<i>With Children</i>)</b>	A written order of the judge's decision. <b>You aren't divorced until the judgment is signed and filed.</b> This is your <b>proposed</b> judgment, which is based on the conclusions of law section of your proposed Findings of Fact, Conclusions of Law, and Order for Default Judgment ( <i>With Children</i> ).

## Divorce **With** Children Forms (*use if there are minor children of the marriage*)

Form Title	Description
<b>Form MP8: Exhibit A: Confidential Division of Property &amp; Debts &amp; Values</b>	<p>Listing of the value of the assets and liabilities of both parties and shows how you propose to divide the assets and liabilities of both parties.</p> <p>Exhibit A <b>must</b> be filed with the (Proposed) Findings of Fact, Conclusions of Law, and Order for Judgment and Judgment (<i>With Children</i>)</p>
<b>Summary Real Estate Disposition Judgment</b>	<p>Judgment which is filed in the County Recorder's Office to transfer ownership of real estate.</p> <p><b>Note!</b> You only need this form if you're transferring ownership of real estate. If you aren't, you don't need this form.</p>
<b>Form MP9: Exhibit B: Parenting Plan</b>	<p>Every divorce involving children requires a parenting plan.</p> <p>Exhibit B <b>must</b> be filed with the (Proposed) Findings of Fact, Conclusions of Law, and Order for Judgment and Judgment (<i>With Children</i>) <b>because there are minor child of the marriage.</b></p>
<b>Form MP10a: Confidential Information Form (<i>With Children</i>)</b>	<p>Lists the full protected, or confidential, information that isn't allowed to appear in other documents filed with the court. This form is a part of the court record that isn't seen by the public.</p>
<b>Form MP11a: Declaration of Service by Mail (<i>With Children</i>)</b>	<p>Proof of service on Defendant. Lists the address of the Defendant and all documents served.</p> <p>Signed by the person who serves the Defendant (mails the documents).</p>

*(List of forms for divorces **without** children start on next page.)*

## Divorce **No** Children Forms (*use if **no** minor children of the marriage*)

Form Title	Description
<b>Form MP1: Notice of Motion for Default Divorce Judgment</b>	A required written advisory that tells the Defendant that you, the Plaintiff, request a default divorce judgment from the Court. The Notice of Motion tells the Defendant that the motion will be decided on the documents alone.
<b>Form MP2: Motion for Default Divorce Judgment</b>	A written request to the court for a default divorce judgment.
<b>Form MP3: Brief in Support of Motion for Default Divorce Judgment</b>	A written explanation of why you, the Plaintiff, should have your Motion granted. The Brief takes the rules and laws that support your Motion and explains how they apply to the facts of your particular situation.
<b>Form MP4: Declaration of Default, Identification and Active Military Status</b>	Your, the Plaintiff's, written statement of the Defendant's default, your address and employer, the Defendant's address and employer, and the Defendant's military status.
<b>Form MP5b: Declaration of Proof for Default Divorce Judgment (No Children)</b>	Your, the Plaintiff's, written statement of the jurisdictional and factual matters in the divorce complaint, including the factual basis for the grounds of the divorce.
<b>Form MP6b: Proposed Findings of Fact, Conclusions of Law and Order for Default Divorce Judgment (No Children)</b>	Findings of Fact are the judge's written determination of the facts made from the evidence you present. Conclusions of Law are the rulings of law made by the judge based on, or in connection with, the Findings of Fact. These are your <b>proposed</b> findings of fact and conclusions of law. The judge decides whether to use them or prepare their own.
<b>Form MP7b: Proposed Judgment (No Children)</b>	A written order of the judge's decision. <b>You aren't divorced until the judgment is signed and filed.</b> This is your <b>proposed</b> judgment, which is based on the conclusions of law section of your proposed Findings of Fact, Conclusions of Law, and Order for Default Judgment ( <i>No Children</i> ).

## Divorce **No** Children Forms *(use if **no** minor children of the marriage)*

Form Title	Description
<b>Form MP8: Exhibit A: Confidential Division of Property &amp; Debts &amp; Values</b>	<p>Listing of the value of the assets and liabilities of both parties and shows how you propose to divide the assets and liabilities of both parties.</p> <p>ExhibitA <b>must</b> be filed with the (Proposed) Findings of Fact, Conclusions of Law, and Order for Judgment and Judgment (<i>No Children</i>)</p>
<b>Summary Real Estate Disposition Judgment</b>	<p>Judgment which is filed in the County Recorder's Office to transfer ownership of real estate.</p> <p><b>Note!</b> You only need this form if you are transferring ownership of real estate. If you aren't, you don't need this form.</p>
<b>Form MP9: <b>Not Required</b></b>	<b>This form isn't required for divorces without children.</b>
<b>Form MP10b: Confidential Information Form (<i>No Children</i>)</b>	<p>Lists the full protected, or confidential, information that isn't allowed to appear in other documents filed with the court. This form is a part of the court record that isn't seen by the public.</p>
<b>Form MP11b: Declaration of Service by Mail (<i>No Children</i>)</b>	<p>Proof of service on Defendant. Lists the address of the Defendant and all documents served.</p> <p>Signed by the person who serves the Defendant (mails the documents).</p>

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## Step Four (Optional)

## You, the Plaintiff, Get a Proposed Qualified Domestic Relations Order (QDRO)

Complete Step Four **Only** if you plan to divide an individual plan for pension or retirement plans between you and the Defendant.

If neither you nor Defendant have pension nor retirement plans, **Or** you don't plan to divide an individual pension or retirement plan, skip this step and go to Step Five.

### Caution! Individual Courts may have a Differently Ordered Process And/Or Additional Requirements to the QDRO Process!

The QDRO process is extremely complicated. The information that follows is the basic process for QDROs. However, there are many possible variations to this process.

Individual state district courts may require you to follow a differently ordered process than the basic process that follows. Individual state district courts may have additional requirements to those that follow.

If you need assistance, [consult a lawyer](#) licensed to practice in North Dakota.

ND Legal Self Help Center staff **Can't** provide any assistance beyond the information below. The Center **doesn't** have QDRO forms or instructions and **can't** help you get a QDRO.

**Dividing pension plans and retirement accounts is extremely complicated.** You're responsible for making sure these assets are divided, which requires a separate court order dividing the assets.

**The separate court order is called a qualified domestic relations order (QDRO).** You're responsible for getting a proposed QDRO and presenting the proposed QDRO to the judge. **The judge won't draft a QDRO document or an order including a QDRO.**

For more information about QDRO's, go to [dol.gov/agencies/ebsa/workers-and-families/separation-and-divorce](https://dol.gov/agencies/ebsa/workers-and-families/separation-and-divorce) and scroll to the "Retirement" section.

Contact the plan administrator early in the process. Some plan administrators have sample QDRO documents for you to follow when drafting your own QDRO. Even if you use a plan administrator's samples, you may want a lawyer to advise you if you're giving up any rights.

**Don't sign the proposed QDRO.** The QDRO is signed by the judge.

## Step Five

## You, the Plaintiff, Make Copies of the Completed Forms

❑ **Make copies of the Motion for Default Divorce forms.** The originals are filed with the court.

- Make one copy for your records.
- Make one copy to be served on the Defendant.
- If there is a “Real Party in Interest”, such as Child Support, make a copy to be served on them.

The forms to be filed are listed below and continue on Page 16:

### For divorces **(With Children)**, copy the following forms:

- MP1: Notice of Motion for Default Divorce Judgment – Signed by you (Plaintiff);
- MP2: Motion for Default Divorce Judgment – Signed by you (Plaintiff);
- MP3: Brief in Support of Default Divorce Judgment – Signed by you (Plaintiff);
- MP4: Declaration of Default, Identification and Active Military Status – Signed by you (Plaintiff);
- MP5a: Declaration of Proof for Default Divorce Judgment (*With Children*) – Signed by you (Plaintiff)
- MP6a: Proposed Findings of fact, Conclusions of Law, and Order for Default Divorce Judgment (*With Children*) – **Do Not Sign**;
- MP7a: Proposed Judgment (*With Children*) – **Do Not Sign**;
- MP8: Exhibit A: Confidential Division of Property & Debts & Values – Signed by you (Plaintiff)
  - Summary Real Estate Disposition Judgment (*if needed*) – **Do Not Sign**;
- MP9: Exhibit B: Parenting Plan – Signed by you (Plaintiff)
- MP10a: Confidential Information Form (*With Children*) – Signed by you (Plaintiff);
- MP11a: Declaration of Service by Mail (*With Children*) – Signed by person who served the forms; and
- Child Support Calculations.

### Other forms you may need to copy:

- Qualified Domestic Relations Order (QDRO), if you’re dividing a pension or retirement plan.
- Any other exhibits or attachments.

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

- MP1: Notice of Motion for Default Divorce Judgment – Signed by you (Plaintiff);
- MP2: Motion for Default Divorce Judgment – Signed by you (Plaintiff);
- MP3: Brief in Support of Default Divorce Judgment – Signed by you (Plaintiff);
- MP4: Declaration of Default, Identification and Active Military Status – Signed by you (Plaintiff);
- MP5b: Declaration of Proof for Default Divorce Judgment (*No Children*) – Signed by you (Plaintiff);
- MP6b: Proposed Findings of Fact, Conclusions of Law, and Order for Default Divorce Judgment (*No Children*) – **Do Not Sign**;
- MP7b: Proposed Judgment (*No Children*) – **Do Not Sign**;
- MP8: Exhibit A: Confidential Division of Property & Debts & Values – Signed by you (Plaintiff);
  - Summary Real Estate Disposition Judgment (*if needed*) – **Do Not Sign**;
- MP10b: Confidential Information Form (*No Children*) – Signed by you (Plaintiff);
- MP11b: Declaration of Service by Mail (*No Children*) – Signed by person who served the forms.

**Other forms you may need to copy:**

- Qualified Domestic Relations Order (QDRO), if you're dividing a pension or retirement plan.
- Any other exhibits or attachments.

**Step Six**

**You, the Plaintiff, Arrange to Serve Copies of the Completed Forms on the Defendant**

- ☐ **Serve the forms listed in Step Five on Defendant.**

**Remember:** Don't serve the Confidential Information Form (Forms MP10a Or 10b)

- If there is a "Real Party in Interest", such as Child Support, serve the forms on them as well.

**NOTE:** Review the instructions for Forms 11a & 11b carefully!



## Step Seven

### You, the Plaintiff, File the Originals of the Completed Forms with the Clerk of Court

- ☐ **Take or mail the completed originals of each of the forms listed in Step Five to the Clerk of Court in the North Dakota county listed where you filed your Summons and Complaint.**

If you filed your Summons and Complaint in Step One, you're not required to pay another filing fee.

If you haven't filed your Summons and Complaint, you're required to pay the \$160.00 filing fee. See Step One for more information.

## Step Eight

### Wait for the Defendant's (Opposing Party's) Answer to Your Motion for Default Divorce Judgment

**The Defendant (Opposing Party) must answer the motion within 14 or 17 days after service of your motion for default divorce judgment documents.**

If you arranged to serve the motion documents by personal delivery or at their office, the Defendant has 14 days after the date they were served to serve and file their answer brief and supporting documents.

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

If you arranged to serve the motion documents by mail or third-party commercial carrier, the Defendant has 17 days after the date they were served to serve and file their answer brief and supporting documents.

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

If the Defendant doesn't serve and file an answer brief and supporting documents, the judge may consider the failure an admission by the Defendant that your motion has merit.

#### **Calculate days for service:**

- Starting with the day **after** the date the Defendant was served, count ahead 14 or 17 calendar days.
- If the 14<sup>th</sup> or 17<sup>th</sup> day lands on a Saturday, Sunday, or North Dakota state holiday, move ahead to the next day that isn't a Saturday, Sunday, or North Dakota state holiday.

## Step Nine

### The Judge Decides Whether to Grant You a Default Divorce Judgment

After the deadline passes for motion documents to be served and filed, if neither you nor the Defendant request a hearing, the judge reviews the motion documents filed by the you and the Defendant.

If the Defendant didn't serve and file an answer brief and supporting documents, your Motion for Default Divorce Judgment documents must still prove you meet the requirements for a default divorce judgment.

#### If the Judge **doesn't** Grant Your Motion for Default Divorce Judgment:

If the Defendant served and filed an answer brief and supporting documents **and** the judge **doesn't grant** your Motion for Default Divorce Judgment, the divorce moves forward as a contested matter. **You can no longer use the Motion for Default Divorce instructions or remaining forms.**

Go to [Steps You Must Take Before the Court Can Grant a Divorce \(Divorce Case Management\)](#) for the next steps in a contested divorce.

#### If the Judge **Grants** Your Motion for Default Divorce Judgment:

Go to Step Ten.

## Step Ten

### You, the Plaintiff, Receive a Copy of the Default Divorce Judgment

If the judge grants your Motion for Default Divorce Judgment, the judge signs a Findings of Fact, Conclusions of Law and Order for Default Divorce Judgment.

After the judge signs the Findings of Fact, Conclusions of Law and Order for Default Divorce Judgment, the clerk of court signs the 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 Divorce Judgment document signed by the judge.

**You **Aren't Divorced** until the signed Judgment is filed.**

You receive a copy of the signed Judgment.

## Step Eleven

### You, the Plaintiff, Prepare and Serve the Notice of Entry of Judgment

Within 14 days after the divorce judgment is filed, you **must serve** a Notice of Entry of Judgment on the Defendant.

A Notice of Entry of Default Divorce Judgment and Declaration of Service by Mail for the Notice of Entry are included in this packet of forms.

## Step Twelve

### You, the Plaintiff, File the Notice of Entry of Judgment and Declaration of Service by Mail

**After you serve Defendant, file the following with the Clerk of Court:**

- Original of Notice of Entry of Default Divorce Judgment; and
- Declaration of Service by Mail.