

Divorce When the Spouses Don't Agree Instructions for (Proposed) Judgment (No Children)

After the divorce trial, the judge signs their Findings of Fact, Conclusions of Law, and Order for Judgment. Once dated and signed, the clerk of court issues a Judgment, which officially ends the marriage.

These are the instructions for the (Proposed) Judgment (With Children) form.

The judge may require one or both parties to provide a proposed Judgment for the judge to review and clerk of court to sign!

If you're assigned to provide a proposed Judgment, you may find this form helpful.

****Pay attention to the judge's instructions or order regarding the deadline to serve and file your proposed Judgment.**

Important!! The final Judgment in a divorce depends on the unique circumstances of the marriage. It's impossible for a form to reflect every possible finding or order that may occur in a divorce trial.

The Judgment must reflect what the judge ordered at trial.

This (proposed) Judgment form must be an exact copy of the Conclusions of Law section found in your (Proposed) Findings of Fact, Conclusions of Law, and Order for Judgment form. Copy each paragraph exactly as it is in your the Conclusions of Law section.

This (Proposed) Judgment form is designed for common, uncomplicated divorces. This form won't work as is for many divorces.

If everything from the trial isn't included on this form and/or doesn't reflect what the judge ordered at trial, you need to create your own Judgment document.

You may use this form as a template to create your own document.

ND Legal Self Help Center Staff and Court employees can't help you fill out forms, or create documents for you. If you're unsure how to proceed, consult a lawyer.

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

Don't include this instruction sheet when you serve or file the completed form.

Follow and Carefully Read All Instructions! There are boxes () before each step. Check each box as you finish the step. Don't go on to the next step until the previous step is completed.

If this form doesn't reflect everything the judge ordered at the trial, you can't use this form. However, you may use this form as a template to create your own document.

Complete the (Proposed) Judgment (No Children)

The Judgment is the Court's written order made from the evidence presented at the divorce trial. This section contains the legal consequences of the facts the judge found to be true.

The ""Judgment" form is your **Proposed** Judgment to finalize your divorce.

The judge ultimately decides whether to grant your divorce. The judge also decides whether to use your proposed Judgment.

Fill in the Top of the Form:

The information to fill out the top part of the form ("the caption") is the same as the proposed Findings of Fact, Conclusions of Law, and Order for Judgment form.

Paragraph 1: This paragraph is the same as Paragraph 1 of your proposed Findings of Fact, Conclusions of Law, and Order for Judgment. Fill in the information exactly as you filled in Paragraph 1 of the proposed Findings of Fact, Conclusions of Law, and Order for Judgment form.

Paragraph 2: This paragraph states the judge issued their Findings of Fact, Conclusions of law, and Order for Judgment.

The Judgment must reflect what the judge ordered at trial.

This (proposed) Judgment must be an exact copy of the Conclusions of Law section found in your (Proposed) Findings of Fact, Conclusions of Law, and Order for Judgment form. Copy each paragraph exactly as it is in your Conclusions of Law section.

This (Proposed) Judgment form is designed for common, uncomplicated divorces. This form won't work as is for many divorces.

If everything from the trial isn't included on this form and/or doesn't reflect what the judge ordered at trial, you need to create your own Judgment document.

You may use this form as a template to create your own document.

- Paragraph 3. Jurisdiction:** This is an **exact** copy of paragraph 18 of the Conclusions of Law section in the Proposed Findings of Fact, Conclusions of Law, and Order for Judgment form.
- Paragraph 4. Divorce and Court Approval:** This is an **exact** copy of paragraph 19 of the Conclusions of Law section in the Proposed Findings of Fact, Conclusions of Law, and Order for Judgment form.
- Paragraph 5. Spousal Support:** Copy this paragraph **exactly** as paragraph 20 of the Conclusions of Law section in the Proposed Findings of Fact, Conclusions of Law, and Order for Judgment form.
- Paragraph 6. Property and Debt:** This is an **exact** copy of paragraph 21 of the Conclusions of Law section in the Proposed Findings of Fact, Conclusions of Law, and Order for Judgment form.
- Paragraph 7. Income Tax Returns:** This is an **exact** copy of paragraph 22 of the Conclusions of Law section in the Proposed Findings of Fact, Conclusions of Law, and Order for Judgment form.
- Paragraph 8. Plaintiff's Former Name:** Copy this paragraph **exactly** as paragraph 23 of the Conclusions of Law section in the Proposed Findings of Fact, Conclusions of Law, and Order for Judgment form.

- Paragraph 9. Defendant's Former Name:** Copy this paragraph **exactly** as paragraph 24 of the Conclusions of Law section in the Proposed Findings of Fact, Conclusions of Law, and Order for Judgment form.
- Paragraph 10. Remarriage:** This is an **exact** copy of paragraph 25 of the Conclusions of Law section in the Proposed Findings of Fact, Conclusions of Law, and Order for Judgment form.
- Paragraphs 11. Execution of Required Documents:** This is an **exact** copy of paragraph 26 of the Conclusions of Law section in the Proposed Findings of Fact, Conclusions of Law, and Order for Judgment form.
- Paragraph 12. Effects of Bankruptcy:** This is an **exact** copy of paragraph 27 of the Conclusions of Law section in the Proposed Findings of Fact, Conclusions of Law, and Order for Judgment form.
- Date and Signature:** **Stop!** Don't sign or put the case number in this section. This section is for the Clerk of Court's use.

Make 2 Copies of the (Proposed) Judgment

- Make two copies: one for you, one for your spouse.

Make Sure You Have Completed the Proposed Exhibit A:

If you haven't completed the (Proposed) Exhibit A: Confidential Division of Property and Debt and Values, do it now!

Serve the Proposed Documents

You must serve the following proposed documents upon your spouse or their lawyer, if represented.

- (Proposed) Findings of Fact, Conclusions of law, and Order for Judgment;
- (Proposed) Judgment; and
- (Proposed) Exhibit A: Confidential Division of Property and Debt and Values.

Caution Regarding Domestic Violence

If there is a domestic violence protection order or disorderly conduct restraining order in effect, review the order to see if you're allowed to contact or serve your spouse! **Be careful not to violate the order!** Violating the order could have legal consequences for you and/or your spouse.

Before serving your spouse, consult a lawyer or a domestic violence intervention center in your area to help you navigate your situation. **Only follow the steps below once you know you can serve your spouse.**

Serve your spouse the documents listed above:

- The person serving by mail must be at least 18 years old.
- Put the copy in an envelope.
- Address the envelope with your spouse's last known address.
- **If you know your spouse is currently represented by a lawyer, address the envelope with the lawyer's address, not your spouse's.**
- List your address as the return address on the envelope.
- Put the correct first class postage on the envelope.
 - Postage must be prepaid.
 - **It's very important to put the correct postage on the envelope.** If you don't, the envelope may be returned to you causing you to miss the service deadline.
- Put the envelope in the U.S. mail.
- Service by mail is complete upon mailing.

The person who mailed the envelope completes the following form:

- Declaration of Service by Mail.

The person who mailed the envelope must complete the Declaration of Service by Mail form. (If the envelope is mailed at a United States Post Office, the United States Post Office employee doesn't complete Declaration of Service by Mail form.)

Service by mail is a common way to serve motion documents. However, there are other ways to serve your documents. To review other service options, go to ndcourts.gov/legal-self-help/service-in-a-civil-action. Scroll to the "Service After a District Court Civil Action Has Started" section of the webpage.

- Prepare the Declaration of Service by Mail** (*This form is completed by the person who served the documents.*)
 - Fill in the Top Part of the Form:** The information to fill out the top part of the form (“the caption”) is the same as on the proposed Judgment.
 - Paragraph 1:** Fill in your name.
 - Paragraph 2:** The following documents are already listed for you:
 - (Proposed) Findings of Fact, Conclusions of law, and Order for Judgment;
 - (Proposed) Judgment; and
 - (Proposed) Exhibit A: Confidential Division of Property and Debt and Values.
 - Paragraph 3:** Review.
 - Paragraph 4:** Fill in the date you served the documents by mail.
 - Paragraph 5:** List the name of the person served (your spouse or your spouse’s lawyer) and the mailing address.
 - Paragraph 6:** Review carefully.
 - Date and Signature:**
 - Fill in the date, city, county, state, and country where you signed this document.
 - Sign the signature line.
 - Type or print your name.
 - Fill in the address lines. (*If there’s a physical address and a mailing address, type or write both addresses using the lines provided, and the space next to the address lines.*)
 - Fill in your phone number.
 - Fill in your email address.

File the Proposed Documents

You must now file the proposed documents with the Clerk of Court:

- (Proposed) Findings of Fact, Conclusions of law, and Order for Judgment;
- (Proposed) Judgment;
- (Proposed) Exhibit A: Confidential Division of Property and Debt and Values; and
- Declaration of Service by Mail.

What Do I Do Next?

Once you complete all the steps above, you must wait to hear from the Court on your proposed documents.

The Court will let you know if it wants you to serve your spouse with the final documents (once issued by the Court) along with a Notice of Entry of Judgment . (A form and instructions will follow.)

STATE OF NORTH DAKOTA

IN DISTRICT COURT

COUNTY OF _____

_____ JUDICIAL DISTRICT

_____)
)
 PLAINTIFF,)
)
 vs)
)
 _____)
)
 DEFENDANT.)

Case No. _____

Judgment
(No Children)

1. The above-entitled proceeding for divorce came on for hearing before the above-named Court on _____ (*date*), and was heard by the Honorable _____ District Judge, in the District Court, _____ County, North Dakota. Plaintiff did did not appear personally. Defendant did did not appear personally.

2. The Court being fully advised and having made its Findings of Fact, Conclusions of Law and Order for Judgment:

IT IS HEREBY ORDERED AND ADJUDGED AND DECREED AS FOLLOWS:

3. **JURISDICTION.** The District Court has jurisdiction over the parties and subject matter of the present action and this Court is the proper venue of this action.

4. **DIVORCE AND COURT APPROVAL.** The Plaintiff is awarded an absolute Decree of Divorce on the grounds of irreconcilable differences, all in accordance with the provisions of the North Dakota Century Code.

5. SPOUSAL SUPPORT (*choose one*):

Neither Plaintiff nor Defendant will be awarded permanent or rehabilitative spousal support and the court shall be divested from any jurisdiction to make any awards of spousal support in the future.

Defendant must pay to Plaintiff the amount of \$ _____ per month as and for spousal support for a period of _____, beginning _____.

Plaintiff must pay to Defendant the amount of \$ _____ per month as and for spousal support for a period of _____, beginning _____.

6. PROPERTY AND DEBT: Plaintiff and Defendant shall be awarded the property, debts, and liabilities as stated on Exhibit A: Confidential Division of Property and Debt and Values. Exhibit A is incorporated by reference into this Judgment.

7. INCOME TAX RETURNS (*Paragraph 7 continues on next page*): The parties agree to share historical accounting and tax information, documents and records with the other as may be necessary for each to prepare a complete and accurate income tax return for subsequent tax years. Each party must execute any IRS or similar forms as may be necessary for each to prepare a complete and accurate income tax return for subsequent tax years.

In accordance with the Affordable Care Act (ACA), the party providing, or who has provided health insurance coverage for a child being claimed as a dependent, must supply the other party proof of coverage (IRS Form 1095-A, IRS Form 1095-B, or IRS Form 1095-C) on or

before January 31, or as soon thereafter as proof of coverage is received, of every applicable calendar year.

8. PLAINTIFF'S FORMER NAME (*choose one*):

Plaintiff's name did not change with the marriage and does need to be restored.

Plaintiff does not want to restore their name.

Plaintiff, presently known as _____

and year of birth _____, will be restored to their former name of

_____ in any Judgment issued herein

and will be known thereafter as _____.

9. DEFENDANT'S FORMER NAME (*choose one*):

Defendant's name did not change with the marriage and does need to be restored.

Defendant does not want to restore their name.

Defendant, presently known as _____

and year of birth _____, will be restored to their former name of

_____ in any Judgment issued herein

and will be known thereafter as _____.

10. REMARRIAGE: There are no restrictions on remarriage.

11. EXECUTION OF REQUIRED DOCUMENTS (*Paragraph 11 continues on next page*): The

parties must, within ten (10) days from the date of Entry of Judgment, or upon presentation,

whichever occurs first, execute any document, transfer papers, titles or other documents

required to effect the terms and provisions of the Judgment and Decree.

In the event a party fails to sign transfer papers, as required, the Judgment shall operate to transfer title to property, as awarded.

12. EFFECTS OF BANKRUPTCY: The division of property set forth in this judgment, including the payment of debts, is made with the understanding that the party assuming such debt shall and will have sufficient assets and income to serve the debts, and that neither party will file bankruptcy. The net value of the property received by one party will be substantially impaired if the other party would be required to pay debts or obligations assumed by that party as set forth in this judgment. Accordingly, if either party files bankruptcy and it results in the other party having to pay any debts or obligations by the parties set forth in this judgment, then the aggrieved party shall be entitled to relief under Rule 60 of the North Dakota Rules of Civil Procedure and grounds for relief will exist within the meaning of Rule 60.

Witness the hand and seal of this Court is the City of _____,
State of North Dakota, on _____, Clerk of the District Court,
County of _____.

(Clerk of the District Court)

Civil No. _____

STATE OF NORTH DAKOTA

IN DISTRICT COURT

COUNTY OF _____

_____ JUDICIAL DISTRICT

_____)
)
 PLAINTIFF,)
)
 vs)
)
 _____)
 DEFENDANT.)

Case No. _____

DECLARATION OF SERVICE BY MAIL

The person serving court documents by mail states:

1. My name is _____ (*name of person who mailed documents in Paragraph 2*) and I am at least 18 years of age.

2. List of Court Documents Served:

- (Proposed) Findings of Fact, Conclusions of Law and Order for Judgment (*No Children*)
- (Proposed) Judgment (*No Children*)
- (Proposed) Exhibit A: Confidential Division of Property & Debt & Values

3. Service by Mail:

As required by Rule 5(b)(3) of the North Dakota Rules of Civil Procedure, I served a true and correct copy of each of the court document(s) listed in Paragraph 2 by mailing them, enclosed in an envelope, by First-Class mail, postage prepaid, and by depositing them in the United States Mail, directed to the person listed in Paragraph 5.

4. Date of Service by Mail:

Date Court Documents Were Served by Mail: _____

5. Person Served by Mail:

Name of Person Served: _____

Mailing Address: _____

City, State, Zip Code: _____

6. I declare, under penalty of perjury under the law of North Dakota, that everything I stated in this Declaration of Service by Mail is true and correct.

Signed on _____ (date) in _____ (city),
_____ County, _____ (state), _____ (country).

Signature of Person Who Mailed Documents

Printed Name of Person Who Mailed Documents

Address

City, State, Zip Code

Telephone Number

Email Address