

# Divorce When the Spouses Don't Agree

## Instructions for Declaration for Service by Publication

ND Legal Self Help Center Staff and Court employees can't help you fill out forms. If you're unsure how to proceed, you should 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 at your own risk.

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

### I Want to File for Divorce But I Don't Know Where my Spouse is

#### **Service by Publication**

**Proof of service must** be filed before the divorce action can be filed. But what happens if you can't find your spouse (Defendant)? Below is information regarding service by publication.

#### **How to locate your spouse's (Defendant's) address**

You **must show** the court you diligently tried to locate your spouse's (Defendant's) address. Following are examples of ways to find your spouse for service:

- Last known address.
  - Contact the U.S. Post Office for information on how to determine if the defendant left a forwarding address.
- Friends, family, employers.
- Online search engines.
- Government entities, such as Department of Motor Vehicles or County Recorder.
- North Dakota business entity search, available at the ND Secretary of State website.
- Social Security Death Index.
- Utility companies.
- Social networking websites.
- Reverse directories.
  - A reverse directory allows someone to search by phone number to find an address. (Your local library may have access to reverse directories.)

If, after a diligent search, you're unable to determine your spouse's address or location, you may serve the divorce Summons by publication. See [Rule 4\(e\) of the North Dakota Rules of Civil Procedure](#).

### **Step One: Complete the Declaration for Service by Publication**

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

- Fill in the full, legal name of the spouse who will be listed as the Defendant.
  - Leave case number blank. When all of the completed documents are accepted for filing, the Clerk of Court assigns a case number.
- I, \_\_\_\_\_: Fill in your full name.
- Paragraph 1:** Read this statement carefully. If this statement isn't true, you can't use this form.
- Paragraph 2:** Fill in your spouse's (Defendant's) full name.
- Paragraph 3:** Fill in the month and year you became a resident of North Dakota.
- Paragraph 4:** Write down all diligent efforts you made to find your spouse (Defendant). Review page 1 regarding ways to try to locate your spouse. **Make sure you write down every attempt you made!**
- Paragraph 5:** Put a checkmark  next to the statement that is true.
- If you made attempts to serve your spouse (Defendant), list those.
- Paragraph 6:** Review carefully! You're stating that you've done everything you could to try to locate your spouse (Defendant).
- Paragraph 7:** Write down your spouse's (Defendant's) last known address.
- Paragraph 8:** Review carefully! You're declaring, under penalty of perjury under the laws of North Dakota, that everything you stated on this form is true and correct.

#### ❑ Signature Block:

- Fill in the date you are signing this document;
- Fill in the city, county, state, and country where you signed this document.
- Sign your name;
- Print your name;
- Fill in your address;
- Fill in your city, state, and zip code.
- Fill in your phone number;
- Fill in your email address.

### Step Two: File Your Documents With the Court

File the following documents with the court:

1. Summons (*signed **and** dated by the clerk of court*);
2. Complaint for Divorce;
3. Confidential Information Form; and
4. Declaration for Service by Publication.

Get a signed copy of the Summons with the case number. You need this for your records and to give to the newspaper for publishing.

### Step Three: Publish the Summons

Publish the Summons in a newspaper in the North Dakota county where you filed your divorce documents. If no newspaper is published in that county, publication may be made in a newspaper having general circulation in the county.

- First publication of the Summons must be made **within sixty (60) days after filing the Declaration for Service by Publication.**
- Service by publication is made by publishing the Summons **three (3) times, once each week for three (3) consecutive weeks.**
- Service by publication is **complete fifteen (15) days after the first publication of the Summons.**

### **Step Four: Mail or Deliver Copies to Your Spouse (Defendant)**

Mail a copy of the Summons, Complaint for Divorce, and Declaration for Service by Publication to your spouse (Defendant) as soon as they are accepted for filing.

- A copy of the Summons, Complaint for Divorce, and Declaration for Service by Publication must be deposited in a post office in North Dakota, first-class, postage prepaid, and directed to your spouse (Defendant) to be served at your spouse's (Defendant's) last reasonably ascertainable address.
- The copy of the Summons, Complaint for Divorce, and Declaration for Service by Publication must be mailed or delivered after the filing of the Declaration for Service by Publication and **no later than fourteen (14) days after the first publication of the Summons in the newspaper** in the county where the action is pending.
- The person who deposited the copy of the Summons, Complaint for Divorce, and Declaration for Service of Publication in a post office in North Dakota must complete a Declaration of Service by Mail

### **Step Five: Complete the Declaration of Service by Mail**

- The information to fill out the top part of the form ("the caption") is the same as on the Summons form.
  - Fill in the full, legal name of the spouse who is listed as the Defendant.
  - Fill in in the case number the Clerk of Court assigned when your documents were accepted for filing
- Paragraph 1:** Fill in your full name.
- Paragraph 2:** Review the information to make sure you served all of the documents listed. If you didn't, you can't use this form.
- Paragraph 3:** Review the information to make sure it's correct. If it isn't, you can't use this form.
- Paragraph 4:** Fill in the date you mailed the documents.
- Paragraph 5:** Fill in the name of your spouse (Defendant) and the mailing address you used to serve the documents.

**Paragraph 6:** Review carefully! You're declaring, under penalty of perjury of the laws of North Dakota, that everything you stated on the Declaration form is true and correct.

**Signature Block:**

- Fill in the date you signed this Declaration;
- Fill in the city, county, state, and country where you signed this Declaration.
- Sign your name;
- Print your name;
- Fill in your address;
- Fill in your city, state, and zip code.
- Fill in your phone number;
- Fill in your email address.

**Step Six: File Proof of Service with the Clerk of Court**

File the following documents:

1. Declaration of Publication from newspaper; and
2. Declaration of Service by Mail.

**Note:** The Defendant must respond to the Summons within fifteen days after the first publication. If they don't, you may request a motion for default divorce judgment. See [ndcourts.gov/legal-self-help/divorce/default-motion](https://ndcourts.gov/legal-self-help/divorce/default-motion).

STATE OF NORTH DAKOTA

IN DISTRICT COURT

COUNTY OF \_\_\_\_\_

\_\_\_\_\_ JUDICIAL DISTRICT

\_\_\_\_\_)  
 \_\_\_\_\_) PLAINTIFF,  
 vs \_\_\_\_\_) )  
 \_\_\_\_\_) )  
 \_\_\_\_\_) DEFENDANT. )  
 \_\_\_\_\_)

Case No. \_\_\_\_\_

**DECLARATION FOR SERVICE  
BY PUBLICATION**

I, \_\_\_\_\_ (*Plaintiff's name*), the undersigned, state as follows:

1. I am the Plaintiff in the above entitled action.
2. I make this Declaration for Service by Publication in support of service of process on the Defendant, \_\_\_\_\_ (*Defendant's name*) by publication under Rule 4(e) of the North Dakota Rules of Civil Procedure.
3. Under Rule 4(e)(1), service by publication is permitted because the above entitled action is for divorce, I am currently a resident of North Dakota, and have been a resident since \_\_\_\_\_ (*list the month and year you became a resident of North Dakota*).
4. I made the following diligent efforts to locate the Defendant in order to serve the summons and complaint for divorce (*list your specific efforts to locate the Defendant*):

*(Paragraph 4, continued.)*

5. *(Choose one)*

- I was unable to locate the Defendant in order to serve the summons and complaint for divorce, so I did not attempt to serve the Defendant.
- I made the following attempts to serve the Defendant the summons and complaint for divorce *(list your specific attempts to serve the Defendant)*:

6. I state that after diligent inquiry personal service of the summons cannot be made on the Defendant in this state to the best of my knowledge, information, and belief.

7. The Defendant's last, reasonably ascertainable address is:

\_\_\_\_\_  
\_\_\_\_\_.

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

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

\_\_\_\_\_  
*Signature of Plaintiff*

\_\_\_\_\_  
*Printed Name of Plaintiff*

\_\_\_\_\_  
*Address*

\_\_\_\_\_  
*City, State, Zip Code*

\_\_\_\_\_  
*Telephone Number*

\_\_\_\_\_  
*Email Address*



STATE OF NORTH DAKOTA  
COUNTY OF \_\_\_\_\_

IN DISTRICT COURT  
\_\_\_\_\_ 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 document(s) in Paragraph 2*) and I am at least 18 years of age.

**2. List of Court Documents Served:**

- Summons
- Complaint for Divorce
- Declaration for Service by Publication

**3. Service by Mail:**

As required by Rule 4(e)(4) 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*