

How to File Your Divorce



Make sure you have all your court forms.

- ✓ It is very important that you read the instructions on this sheet.
- ✓ Take all your court forms with you to the court.

Follow these steps.

1st

Review your forms to make sure they are correct. If there is an error, re-enter I-CAN!, change your answer and re-print your forms.

Set One:

- *Domestic Civil Action Coversheet**
- *Civil Summons**
- *Complaint for Divorce*
- *Complaint for Divorce Verification*

Set Two:

- *Defendant's Answer to Divorce Complaint and Waiver*
- *Defendant's Acceptance of Service of Process and General Appearance*
- *Affidavit of Service by Registered or Certified Mail*

Set Three:

- *Motion for Summary Judgment and Notice of Hearing*
- *Certificate of Absolute Divorce and Annulment**
- *Judgment of Divorce*

2nd

Take your forms to a Notary Public. Sign any forms that require notarization in the presence of the Notary.

3rd

File your forms. Make two (2) copies of "Set One" of your forms. Take all three copies of "Set One" and file them with the Clerk of the Court. You will need to pay the filing fee with cash or a money order.

Filing Fees are regulated by the North Carolina General Assembly, and are subject to change. Please consult with the Staff of the Civil Filing Department or the SelfServe Center for the most up to date fees.

The address of the Clerk of the Court is:
Room 3725
832 E. Fourth Street
Charlotte, NC 28202

4th

Serve the other party. Once you have filed "Set One" of your forms with the Clerk of Court, you must serve the other party with a copy of "Set One" and the first two forms in "Set Two". (See page 2 *How to Serve your Divorce Forms*)

Notary Public:

- You can find a Notary Public at some banks, insurance companies and law firms, or in the Yellow Pages
- They often charge a small fee and require you to show a picture ID

*** Note:** The starred forms may be obtained from the SelfServe Center **between the hours of 8:30 AM and 12:00 PM**. After hours the *Certificate* may be obtained from the Clerk of the Court/Civil Department, Room 3725. The *Coversheet* and *Summons* may be obtained at www.nccourts.org. Click on the word "Forms" at the top center of the page and then type in the form number "CV-100". Click on the form number link and print the form. Repeat the same process to print form "CV-750".

How to Serve Your Divorce Forms



What is service?

- Service is when someone – **not you** – gives copies of your court forms to the defendant(s)
- If the Defendant lives in the US, you must get the Sheriff in the County where the Defendant lives to serve the papers.

How do you serve?

By Sheriff. Often, a clerk's office will take your papers and your service fee over to the sheriff's office for you. Sometimes, however, you must take the forms stamped by the clerk from the clerk's office to the sheriff's office. In either case, keep a copy of the stamped complaint and summons for your records.

The sheriff's deputy keeps a copy of the summons and fills out the back telling how the complaint and summons were delivered to the defendant. The deputy will then file this information with the clerk of court.

In order to find out if the sheriff was successful or unsuccessful in attempting to serve your spouse, you must check in person with the Clerk of Court (Room 3725). Your case cannot be heard in court if your spouse has not been notified of the divorce action. You may also call the Mecklenburg Sheriff's Office at 704-336-2543 to determine if service was successful.

By Mail. You may prefer to send the complaint and the summons to the defendant by mail, but this is more difficult.

You must send your papers yourself by registered or certified mail at the post office and ask for return receipt requested.

Then, fill out the *Affidavit of Service of Process by Certified or Registered Mail* and get it certified by a public notary.

A postal worker can help you fill out the necessary forms registered or certified mailing. If you choose this type of service, you must file an Affidavit of Service of Process by Certified or Registered Mail when you receive the return receipt (the "green card"). You must attach the original return receipt to your affidavit. The Affidavit of Service must be taken to and signed in the presence of a Notary Public. The Affidavit of Service must then be returned to the Clerk of Court (Room 3725) and filed.

Please note

It is your responsibility to follow up and make sure service was completed.

How to Complete Your Divorce

What Happens Next?

The other party may respond to your *Complaint* in one of the following two ways:

- A. The other party may respond by filing the forms in “Set Two”. If so, you will need to wait at least **31 days** from when your spouse filed the forms with the Clerk of Court before you can file “Set Three” of your forms.
- B. The other party may not file any forms in response to your *Complaint*. If so, wait **33 days** from the date of service in order to give the Defendant an opportunity to file an *Answer*.

Follow these steps.

1. **File “Set Three” of the forms** along with two self addressed and stamped envelopes with the Clerk of Court/Civil Office when the appropriate number of days has past (see above).
2. The Clerk of Court will assign you a hearing date and write the date on the *Motion for Summary Judgment and Notice of Hearing* form. **You do not need to come to court for your hearing.**
3. **Mail the Defendant** a copy of the *Motion for Summary Judgment and Notice of Hearing* by first class mail. It must arrive at least thirteen (13) days before your hearing date.
4. **Check that the Judgment of Divorce was entered.** A judge will review your file. If all of the forms from “Set One”, “Set Two” and “Set Three” are in the file and completed properly, a Judgment of Divorce will be entered.

Note: If a Judgment of Divorce is not entered, you will receive a letter from the court explaining why your divorce was not granted. For example: you did not properly complete any forms from one of the three sets, you are missing a form, or you do not meet the criteria to file (i.e. you have not been separated for at least a year at the time of filing and/or one or both spouses have not lived in North Carolina for the 6 months prior to filing).

It is **YOUR** responsibility to determine why your divorce was not granted and to take the necessary steps to correct the problem. This may require you to go back and complete some or all of the steps of the Divorce process and submit the filing fee again over again. If you have any questions about the divorce, you are advised to speak to an attorney.

Please note

A judge will review your file during the week of your hearing date. You do not need to come to the court or contact the judges' office about your divorce.