



## **26<sup>th</sup> Judicial District SelfServe Center**

### **ABSOLUTE DIVORCE**

#### **NOTE:**

**THIS PACKET CONTAINS INFORMATION REGARDING A SIMPLE DIVORCE. THERE ARE NO FORMS OR INSTRUCTIONS IN THIS PACKET FOR SPOUSAL SUPPORT OR DIVISION OF MARITAL PROPERTY. IF YOU OBTAIN A DIVORCE WITHOUT FIRST PROPERLY FILING FOR OR OBTAINING THE APPROPRIATE SPOUSAL SUPPORT OR PROPERTY DIVISION, YOU WILL LOSE YOUR RIGHTS. IF YOU ARE SEEKING THESE RIGHTS, PLEASE CONSULT WITH A LAWYER.**

DUE TO THE CHANGING NATURE OF THE LAW, the forms and information contained in this packet may become outdated. Therefore, you should review and research statutes and rules of procedure referenced in the instructions to ensure that the forms are accurate and current.

IN NO EVENT will the SelfServe Center staff, Clerk of Court or anyone contributing to the production of these forms, instructions, or guidelines be liable for any indirect or consequential damages resulting from the use of the forms or information provided to you by the SelfServe Center.

IF THERE ARE ANY QUESTIONS in your mind concerning these forms, the use of these forms, or your legal rights, it is strongly recommended that you consult with or retain an attorney.

USE THESE FORMS AT YOUR OWN RISK. THESE FORMS MAY OR MAY NOT BE APPROPRIATE IN YOUR PARTICULAR CASE. ANY DESIRED OUTCOME FROM THE USE OF THESE FORMS CANNOT BE PREDICTED OR GUARANTEED. IT IS STRONGLY RECOMMENDED THAT YOU SEEK LEGAL ADVICE!

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**PLEASE CAREFULLY READ THE FORMS AND  
INSTRUCTIONS CONTAINED IN THIS PACKET.**

**IF YOU HAVE ANY QUESTIONS, PLEASE CONSULT  
WITH AN ATTORNEY.**

THESE ARE EDUCATIONAL FORMS DESIGNED TO  
ASSIST YOU, BUT YOU ARE REPRESENTING  
YOURSELF. PLEASE REVIEW AND FOLLOW THE  
DIRECTIONS TO IMPROVE YOUR PERFORMANCE IN  
YOUR CASE. FAILURE TO READ AND FOLLOW THE  
INSTRUCTIONS MAY ADVERSELY IMPACT YOUR  
CLAIM.

## **INTRODUCTION**

### **What is this?**

This packet of information is provided for individuals who wish to pursue a case without the assistance of an attorney. This is called a *pro se* or self represented case. If you are not sure that you want or need to go to court, please ask the Self Serve Center staff to direct you to a lawyer referral service or list of local attorneys willing to provide “unbundled services” (*representation for a limited portion of a case at an hourly rate*).

### **How will it help me?**

If you do not plan to use an attorney, this packet will start the process for you by providing certain forms you will need. Since you are representing yourself, it is YOUR responsibility to ensure that these are the correct forms for the nature of your case. Therefore, you should review and research *applicable laws* and *rules of procedure* that apply to your type of case. If you are not able to do this, you should talk with an attorney. If at any point during the process you become confused or wish to proceed with the help of an attorney, contact the Mecklenburg County Bar Lawyer Referral Service at (704) 375-0120 or the North Carolina Bar Lawyer Referral Service at (800) 662-7660.

### **What does this mean?**

Certain legal terms will be used throughout your case. A complete legal glossary is available for your convenience in the SelfServe Center. If you still do not understand the term, consult a legal dictionary or the SelfServe Center staff. Staff CANNOT provide legal advice, but can provide procedural information and definitions of legal terms.

### **What is an Absolute Divorce?**

An Absolute Divorce is **a complete divorce that allows the parties to marry again after their divorce has become final**. State law REQUIRES that the parties be separated for one year prior to filing for divorce. An Absolute Divorce begins when a document called a *Complaint* is filed. The laws (or *statutes*) that control divorce proceedings in North Carolina are found in Chapter 50 of the North Carolina General Statutes. Please review this section. It can be found in the SelfServe Center, at [www.ncga.state.nc.us](http://www.ncga.state.nc.us) and the local law library [1211 E. Morehead St., (704) 971-8500].

### **Can or should I file for an Absolute Divorce?**

Please note that the SelfServe Center staff CANNOT provide legal advice. Therefore, we cannot tell you if you should file or what you should file, but we can tell you that you must meet certain criteria to be eligible. The *Plaintiff* is the person beginning the divorce proceedings against the *Defendant*, who is the spouse (husband/wife) of the Plaintiff. The Plaintiff may file a Complaint for divorce in North Carolina **IF** the Plaintiff or his/her spouse has been a resident of North Carolina for at least 6 months prior to the filing. **The couple also must have lived continuously separate and apart for at least one year before the divorce can be filed.**

### **What do I do first?**

1. After you get the packet, **READ THE INSTRUCTIONS!** Then fill out the forms by typing or printing *neatly* in ink. You may fill them out at home or at the courthouse. Please read the forms carefully as some have a "Verification" page. This means that they **MUST** be signed in the presence of a Notary Public. If the document does require verification, do not sign until you are in front of a Notary. They can be likely found at banks, insurance agencies and law firms. A few may also be found in the Yellow Pages. Notaries often charge a small fee and require you to show a picture ID for their services. Be sure to have your documents already notarized when you take them to the Clerk's Office to file.
2. The SelfServe Center has a video available on filing for an absolute divorce. It is suggested that you view it for procedural information.
3. After the forms are filled out and notarized, you must make 2 COPIES (one for yourself, one for the other party and the original for the file).
4. There is a **\$135.00 filing fee** to file for an Absolute Divorce. Please make sure that you have cash or a money order. Personal checks are not accepted. If you want the Sheriff of Mecklenburg County to serve the documents on the defendant, please bring an additional \$15.00 (cash, cashier's check or money order) made payable to the sheriff's office. If the defendant lives outside of Mecklenburg County, pay the service of process fee to the sheriff of the county where the defendant resides. (Please refer to the "Service of Process" sheet in this packet for more information).
5. Take your completed forms, 2 copies, filing fee, and fee for the Sheriff to serve (if desired) to the Civil Filing Department (Clerk's Office) at 832 E. Fourth Street, Room 3725.
6. Please remember that if you are a female and would like to resume a former name (maiden or name of former husband with whom you have living children) then you may do so at this time. Simply write the name you would like to resume on Judgment of Divorce form on line 7.

### **IMPORTANT REMINDERS BEFORE YOU BEGIN**

Your case involves complicated legal issues! Note that your divorce will also terminate your rights to any equitable distribution of marital property and to post-separation support and/or alimony **UNLESS** such claims have been already been determined or have been properly filed prior to the entry of the divorce judgment.

This packet describes the general process, but it is impossible to cover everything that may affect your rights. If you get confused during the process, you should stop and get advice from an attorney. Judges, Clerk of Court, SelfServe Center staff or the Trial Court Administrator's Office **CANNOT** give you legal advice.

## **STEP 1**

### **Filing out the documents**

\*\*\*CHECKLIST\*\*\*

You must complete the following documents:

- ◆ **COMPLAINT**
- ◆ **CIVIL SUMMONS**
- ◆ **DOMESTIC CIVIL ACTION COVER SHEET**

**YOU MUST COMPLETE ALL DOCUMENTS IN STEP 1 BEFORE  
PROCEEDING TO STEP 2!**

## **STEP 2**

### **Filing the documents**

Take these documents, two copies and the \$135.00 filing fee to the Civil Filing Department 832 E. Fourth St., Room 3725) for filing. At that time, a case number will be assigned to your divorce. Until you receive that number from the clerk, leave the upper right hand corner of the documents blank. Once you have been assigned a case number, however, please make a note of it and print or type it on the upper right hand corner of ALL of your papers filed with the court in this case.

## **STEP 3**

### **Service of Process**

Once you have filed the documents to initiate your divorce (Complaint, Domestic Civil Action Cover Sheet, Civil Summons and Verification), you must "serve" (give notice to) the opposing party of the action. **YOU CANNOT SERVE THE PAPERS ON THE DEFENDANT UNTIL YOU HAVE FILED THEM IN THE CLERK'S OFFICE.** At this point, there are two ways your case can proceed:

- 1. DEFENDANT AGREES TO THE DIVORCE:** If the Defendant agrees to the divorce, he/she may file the enclosed Defendant's documents labeled "**Acceptance of Service of Process and General Appearance**" and "**Defendant's Answer to Divorce Complaint and Waiver.**" Please provide these forms to the Defendant and request that he/she fill them out (including the case number), have them properly notarized, and file them in the Clerk's Office. The Defendant may not file these documents before or at the time you (Plaintiff) file the initial Complaint. The Defendant must wait until **AFTER** the Plaintiff has filed the initial Complaint to file his/her documents. Once the Defendant has filed both of these documents, no other notification need be given to the other party at this point. Please read the instructions in this packet on setting your court date, the Certificate of Absolute Divorce,

Judgment of Divorce and Certification of Forms. You may proceed with this last portion **30 days** after the Defendant has filed his/her documents.

- 2. DEFENDANT DOES NOT AGREE TO ACCEPT SERVICE OF PROCESS OR DOES NOT AGREE TO USE THE FORMS PROVIDED HEREIN FOR THE DEFENDANT:** If the Defendant has a lawyer, does not agree to use the forms, or refuses to discuss the divorce with you, you must serve the Defendant (or lawyer if he/she has retained one) with the court papers. Please consult with the sheet in this packet entitled "Service of Process." After Service of Process has been successfully completed, you must wait **30 days** from the date of service in order to give the Defendant an opportunity to file an "Answer" (response) to the Complaint. Once the 30-day period has elapsed, then you may proceed with setting the divorce hearing date.

## **STEP 4**

### **Setting a date for your case to be heard**

You must have the following documents in your file before you can get a court date:

#### **◆ Proof of Service**

- Affidavit of Service of Process By Registered or Certified Mail (if you served the original documents by certified or registered mail)
- Return by Sheriff

#### **◆ Certificate of Absolute Divorce**

*This form is required by the state of North Carolina and is in your packet. One copy goes into your file and the other goes to the NC Bureau of Vital Records. You must have this before the judge on the date of your divorce. You can do this by completing the form and giving it back to the clerk at the time you file for the divorce so that it will be in your court file, or when you set your hearing date. You should make a copy for your own records.*

**\*\*\*If the Certificate of Absolute Divorce is not filled out or is not filled out accurately and completely, the judge WILL NOT sign your divorce.**

#### **◆ Motion for Summary Judgment and Notice of Hearing**

*You may take this form to the clerk to get a hearing date after:*

- The Defendant has filed a responsive pleading agreeing to the terms of the Complaint;
- The Defendant has failed to file a responsive pleading and has not requested an extension; or
- The Defendant has requested an extension and failed to respond within the extra time granted by the extension

*You must mail a copy of this document to the other party by 1<sup>st</sup> Class US Mail.*

*Please note that the date you set for the case MUST BE AT LEAST 13 DAYS from the date you mail the Motion and Notice of Hearing to the Defendant.*

♦ **Judgment of Divorce**

*This form is for the judge to use to make his/her final ruling. You should insert the names of the parties and the case number but DO NOT FILL IN THE BODY OF THE FORM. NOTE: If you would like to resume your maiden name or the name of a former spouse with whom you have living children, you may do so with this packet. If you would like to request a name change, please insert the name you would like to resume on the line in item 7 on the Judgment of Divorce.*

♦ **Self-addressed, stamped envelope (so your divorce can be mailed to you)\***

*\*You may also elect to bring a self-addressed, stamped envelope for the Defendant. If you do not include the envelope to the Defendant for the court to mail, then YOU will be responsible for mailing him/her a copy after you receive yours.*

**STEP 5**

**Certification of the forms**

For your case to be placed on the court's calendar to be heard, you must go to the Clerk of Court's office and certify that you have filed all of the required documents for the judge to review your case. After all of the documents have been correctly completed and filed, your case will be put on the court's calendar. During the week that your case is scheduled for presentation to the judge, the judge will review your file. If all of the documents are in the file and completed properly, a Judgment of Divorce will be entered. If you did not properly complete the forms, if you are missing a form, or if you do not meet the criteria enabling you to file (e.g. you have not been separated for one year or more *at the time of filing* and/or one or both spouses have not lived in NC for the 6 months prior to filing) you will receive a letter from the court explaining why your divorce was not granted. 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 stages over again and **may also require you to submit the \$135 filing fee again**. If you have any questions about the divorce, you are advised to speak to an attorney.

Again, your file will be given to the judge for review. There is no specific time or date for you to be present for your case. Please do not plan to be at court or call the judges' office about this matter.

*Lawyer Referral Services:*

*Mecklenburg County Bar Lawyer Referral Service: (704) 375-0120 or  
www.meckbar.org*

*North Carolina Lawyer Referral Service: (800) 662-7660*

## **SERVICE OF PROCESS**

### **PLEASE READ THIS SECTION VERY CAREFULLY.**

**If you are confused or have questions, consult an attorney immediately.**

In order for your divorce to be binding against your spouse, the spouse must be given notice of the divorce, or *served* in a manner that is recognized by the court. The forms needed for Service of Process and the procedures you must follow are complex and will vary. In order to learn which steps to take next, review the following and choose the correct forms and procedures for your case.

#### **1. YOUR SPOUSE WILL ACCEPT SERVICE OF THE PAPERS**

If your spouse will accept service, no further service of process is required. Your spouse may wish to expedite the process by filing an answer and waiver. If your spouse will accept service of process, you will need to provide your spouse the following forms:

◆ **ANSWER**

◆ **WAIVER ACCEPTING SERVICE**

Your spouse must fill out these forms and have them notarized. After the forms have been completed, they will need to be added to your court file. If your spouse changes his/her mind and decides **NOT TO COMPLETE THE FORMS OR NOT TO ACCEPT SERVICE OF PROCESS**, then you will need to either have the sheriff serve the papers in person or serve the papers by registered or certified mail. Also remember that you still must wait **30 days** from the date the Defendant files these documents to file the Motion for Summary Judgment/Notice of Hearing form.

#### **2. YOUR SPOUSE WILL NOT ACCEPT SERVICE OF PROCESS, LIVES IN NORTH CAROLINA AND CAN BE SERVED PAPERS BY THE SHERIFF**

If your spouse lives in North Carolina and will not accept service of process you will need to pay a \$15.00 service fee to the sheriff in the county where the spouse resides to serve the papers and you will need the following forms:

◆ **SUMMONS**

◆ **COMPLAINT**

If your spouse lives in Mecklenburg County, you may take the \$15.00 service fee (cash, money order, or certified check) along with the original Summons and a copy of the Summons and Complaint to the Clerk's office when you file your divorce. The Clerk's Office *may* deliver the documents to the sheriff for you. Otherwise, you must deliver the payment and the necessary forms to the sheriff yourself. If the Defendant does not live in Mecklenburg County, you must mail or deliver the documents to the sheriff in the county where your spouse is located. You should include a certified check or money order for the fee for service made payable to the sheriff of that county.

**THE DEFENDANT MAY BE SERVED PERSONALLY AT ANY LOCATION IN THE STATE. YOU MUST PROVIDE THE DEFENDANT'S MOST RECENT ADDRESS IN THE SUMMONS ALONG WITH ANY OTHER INFORMATION THAT WILL ASSIST THE SHERIFF IN LOCATING THE DEFENDANT.**



### **3. SERVICE OF PROCESS BY REGISTERED OR CERTIFIED MAIL**

Service of Process can be completed within the state and outside of the state, but within the US (\*\*please consult with an attorney if your spouse is in the military) by mailing a copy of the Summons and Complaint by registered or certified mail, return receipt requested, addressed to the party to be served and delivered to the address. A postal worker can help you fill out the necessary forms for the 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. You must attach the original return receipt (the "green card") to your affidavit.

### **4. YOU DO NOT KNOW WHERE YOUR SPOUSE IS**

If you do not know where your spouse is located, you will need to serve the Defendant by "publication." This is a complex process using the newspaper to run notice of the divorce. You should speak to an attorney regarding this type of service.

**\*\*PLEASE NOTE: This type of service is a LAST RESORT. If you either know where your spouse is or can find out, you should never attempt this type of service.**

STATE OF NORTH CAROLINA  
COUNTY OF MECKLENBURG

IN THE GENERAL COURT OF JUSTICE  
DISTRICT COURT DIVISION  
\_\_\_\_-CVD-\_\_\_\_

\_\_\_\_\_,  
(Type or print name of Plaintiff here)

**Plaintiff,**

vs.

\_\_\_\_\_,  
(Type or print Defendant's name here)

**Defendant.**

**AFFIDAVIT OF SERVICE OF  
PROCESS BY  
REGISTERED OR  
CERTIFIED MAIL**

I, \_\_\_\_\_ did mail by (Registered) (Certified)  
(insert your name here) (circle one of the above)  
Mail, Return Receipt Requested, a copy of the Complaint and Summons in this case

to \_\_\_\_\_ addressed as follows:  
(insert name of other party here)

(use this space to list the address of party to be served)

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Further, that copies of the Summons and Complaint were in fact received by the  
Defendant on \_\_\_\_\_ as evidenced by the attached genuine receipt.  
*(insert date of receipt)*

*(Please attach the original return receipt to this affidavit)*

IN WITNESS WHEREOF, I have hereunto set my hand and seal this the \_\_\_\_\_  
day of \_\_\_\_\_, \_\_\_\_\_.  
*(insert date)*  
*(insert month)* *(insert year)*

\_\_\_\_\_  
*(sign here in the presence of a Notary Public)*

Sworn to and Subscribed before me this the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
(Notary Public)

My Commission Expires: \_\_\_\_\_

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STATE OF NORTH CAROLINA  
COUNTY OF MECKLENBURG

IN THE GENERAL COURT OF JUSTICE  
DISTRICT COURT DIVISION  
\_\_\_\_-CVD-\_\_\_\_

\_\_\_\_\_,  
(Type or print your name here)

**Plaintiff,**

vs.

\_\_\_\_\_,  
(Type or print your spouse's name here)

**Defendant.**

**COMPLAINT  
FOR  
DIVORCE**

The Plaintiff, complaining of the Defendant, alleges and says:

1. That the Plaintiff is a citizen and resident of \_\_\_\_\_.  
(insert county and state here)
2. That the Plaintiff has been a resident at the above location since \_\_\_\_\_.  
(list length of residency)
3. That the Defendant is a citizen of \_\_\_\_\_.  
(insert county and state here)
4. That the Defendant has been a resident at the above location since \_\_\_\_\_.  
(list length of residency)
5. That the Plaintiff and the Defendant were married on \_\_\_\_\_.  
(insert date of marriage)
6. That the parties separated on or about \_\_\_\_\_.  
(insert day, month, year of separation)
7. That the parties have lived continuously separate and apart for at least one year prior to the filing of this complaint.
8. That there were \_\_\_\_\_ child/children born of this marriage. The  
(insert "no" or the number of children here)

names and ages are of any children are:

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9. That the Plaintiff understands, once this divorce is granted, it will be too late to file a claim for Equitable Distribution of marital property and/or marital debts, for spousal support or alimony

**WHEREFORE**, the Plaintiff asks the Court:

1. That the Plaintiff be granted an absolute divorce from the Defendant, and that the marriage existing between the Plaintiff and Defendant be dissolved.
2. That this verified complaint be treated as an affidavit for purposes of Summary Judgment.
3. (***Applies Only If the Plaintiff is Female***): That the Plaintiff desires to resume the use of her: (*choose one*) \_\_\_\_ maiden name; \_\_\_\_ surname of a prior deceased husband; \_\_\_\_ surname of a prior living husband if the Plaintiff has children by that prior living husband. The name the Plaintiff desires to resume is:

\_\_\_\_\_  
(*insert name Plaintiff desires use after the divorce*)

\_\_\_\_\_  
(*Signature*)

STATE OF NORTH CAROLINA )  
 )  
COUNTY OF MECKLENBURG )

**VERIFICATION**

I, \_\_\_\_\_, being first duly sworn, deposes and  
(insert your name here)  
says that he/she is the Plaintiff in this matter, that he/she has read and understood this  
**COMPLAINT** and knows the contents to be true of his/her own personal  
knowledge, except for those matters and things set forth upon information and  
belief, and as to those matters and things, he/she believes them to be true.

\_\_\_\_\_  
(Sign in the Presence of the Notary Public)

Sworn to and subscribed before me this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
Notary Public

My commission expires:\_\_\_\_\_.

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civil summons  
domestic civil action cover sheet



## **Defendant Documents**

**The next two documents, “Defendant’s Acceptance of Service of Process and General Appearance” and “Defendant’s Answer to Divorce Complaint and Waiver” are used only if the Defendant accepts Service of Process. (See section on "Service of Process"). If the Defendant will not accept Service of Process, or if the Defendant has an attorney, you will not need these forms.**

STATE OF NORTH CAROLINA  
COUNTY OF MECKLENBURG

IN THE GENERAL COURT OF JUSTICE  
DISTRICT COURT DIVISION  
\_\_\_\_-CVD-\_\_\_\_

\_\_\_\_\_,  
(print or type your name here)  
  
Plaintiff,  
  
vs.  
  
\_\_\_\_\_,  
(print or type your spouse's name here)  
  
Defendant.

**DEFENDANT'S ANSWER TO  
DIVORCE COMPLAINT  
AND WAIVER**

Defendant being first duly sworn and answering the Complaint of Plaintiff, alleges and says:

1. Defendant admits each and every allegation contained in the Plaintiff's Complaint.
2. Defendant hereby waives his/her right to amend his/her Answer to Plaintiff's Complaint as heretofore filed in this action.
3. Defendant hereby waives his/her right to demand a trial by jury.
4. Defendant hereby requests that this action be immediately calendared for trial.
5. Defendant hereby requests the Court to grant an absolute divorce dissolving the bonds of matrimony between Plaintiff and Defendant as prayed for in the Plaintiff's Complaint and Defendant's Answer thereto.
6. That the Defendant understands, once this divorce is granted, it will be too late to file a claim for Equitable Distribution of marital property and/or marital debts, for spousal support or for alimony.

\_\_\_\_\_  
(sign your name here)

## VERIFICATION

**(Sign in the Presence of a Notary Public)**

Notary Public

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STATE OF NORTH CAROLINA  
COUNTY OF MECKLENBURG

IN THE GENERAL COURT OF JUSTICE  
DISTRICT COURT DIVISION  
\_\_\_\_-CVD-\_\_\_\_

\_\_\_\_\_,  
(print or type your name here)

**Plaintiff,**

vs.

\_\_\_\_\_,  
(print or type your spouse's name here)

**Defendant.**

**DEFENDANT'S ACCEPTANCE  
OF SERVICE OF PROCESS  
AND GENERAL APPEARANCE**

I, \_\_\_\_\_, defendant named in the above-entitled civil action, do hereby accept service of the summons and complaint in this action and hereby admit the service of the summons and complaint has been made upon me in the above-entitled action; I hereby admit and acknowledge that a copy of the summons and complaint in the above-entitled action was personally delivered to and received by me; I hereby waive further service of the summons and complaint upon me by the Sheriff or other lawful process officer in accordance with the provisions of G.S. 1A-1, Rule 4 (j) of the North Carolina Rules of Civil Procedure; and I hereby make a general appearance in the above-entitled action and expressly submit myself to the personal jurisdiction of the General Court of Justice, District Court Division of Mecklenburg County, North Carolina, for any and all purposes of this action.

\_\_\_\_\_  
(Sign your name here in the presence of a Notary Public)

STATE OF NORTH CAROLINA )  
 )  
COUNTY OF MECKLENBURG )

## VERIFICATION

I, \_\_\_\_\_, being first duly sworn, depose and says that he/she is the Defendant in this matter, that he/she has read and understood this Defendant's Acceptance of Service and General Appearance and knows the contents to be true of his/her own personal knowledge, except for those matters and things set forth upon information and belief, and as to those matters and things, he/she believes them to be true.

(Sign in the Presence of a Notary Public)

Sworn and subscribed before me this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

Notary Public

My commission expires:\_\_\_\_\_

## SETTING A COURT DATE

ONCE THE DIVORCE COMPLAINT HAS BEEN FILED, AND SERVICE HAS BEEN COMPLETED, IT IS SUGGESTED YOU WAIT THIRTY DAYS TO PASS TO ALLOW THE DEFENDANT TO FILE AN ANSWER. AFTER THAT PERIOD HAS PASSED, YOU MAY SET A DATE FOR YOUR DIVORCE TO BE SIGNED BY THE JUDGE.

Take your original and two copies of the Motion for Summary Judgment and Notice of Hearing form to the Clerk's Office. The staff in the clerk's office will assign a court date to you. Once your date is determined, insert it in the Motion for Summary Judgment and Notice of Hearing form. File the original and mail a copy to the defendant. Remember to keep one copy for your file.

NOTE: The defendant must be given at least thirteen (13) days notice of the court date. The date you select must be at least thirteen (13) days from the date you mail your Motion for Summary Judgment and Notice of Hearing.

STATE OF NORTH CAROLINA  
COUNTY OF MECKLENBURG

IN THE GENERAL COURT OF JUSTICE  
DISTRICT COURT DIVISION  
\_\_\_\_-CVD-\_\_\_\_

\_\_\_\_\_,  
(type or print your name here)

**Plaintiff,**

vs.

\_\_\_\_\_,  
(type or print your spouse's name here)

**Defendant.**

**MOTION FOR SUMMARY JUDGMENT**  
**AND NOTICE OF HEARING**

The Plaintiff moves that the Court grant Summary Judgment for the Plaintiff, for an absolute divorce based on one year of separation and based on the sworn testimony contained in the verified Complaint.

Notice is hereby given to the Defendant that the Motion for Summary Judgment will be submitted to the judge to sign the week of

\_\_\_\_\_,  
in the Mecklenburg County Courthouse, 832 E. 4<sup>th</sup> Street, Charlotte, NC.

Notice is further given that the only issue that will be decided is whether or not to grant a final divorce based on one year of separation. The decision will be made by the Court based upon the information stated in the Complaint, and such other papers as the Court may wish to review. There will be no witness testimony.

Once the divorce is granted, the Plaintiff will mail a Certified copy of the Divorce Judgment to the Defendant.

This \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.  
(date) (month) (year)

\_\_\_\_\_  
(sign your name here)

#### CERTIFICATE OF SERVICE

I hereby certify that I have served this Motion for Summary Judgment and Notice of Hearing on the Defendant by delivering a copy of this Motion for Summary Judgment and Notice of Hearing to the US Postal Service, in an envelope with postage paid, addressed to the Defendant as follows: *(insert name and address of Defendant below)*

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

This the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.  
(date) (month) (year)

\_\_\_\_\_  
(sign your name here)

msj.03/02



## **CERTIFICATE OF ABSOLUTE DIVORCE**

This form is required by the state. One copy goes into your file in the Clerk's Office, and the original goes to the NC Bureau of Vital Records. Your divorce order will not be given to you until you file the original and one copy of this form. Please file this original form and one copy in the Clerk's Office when you file your Complaint for Divorce, or take it to the judge at the time of your hearing.

NOTE: If This Form Is Not Filled Out, or Is Not Filled Out Accurately And Completely, The Judge Will Not Sign Your Divorce!

**PLEASE USE BLACK INK ONLY ON THIS FORM!**

## Certificate of absolute divorce

## **Judgment of Divorce**

Please review this form. This form is for the Judge to use to make his/her final order in your case. You should insert the names of the parties, and the case number, but do not fill in the body of the form.

Please have this document added to your court file prior to getting your court date.

*juddivlab.5/99*

STATE OF NORTH CAROLINA  
COUNTY OF MECKLENBURG

IN THE GENERAL COURT OF JUSTICE  
DISTRICT COURT DIVISION  
\_\_\_\_-CVD-\_\_\_\_

\_\_\_\_\_,  
(Type or print your name here)

**Plaintiff,**

vs.

\_\_\_\_\_,  
(Type or print your spouse's name here)

**Defendant.**

**JUDGMENT  
OF  
DIVORCE**

THIS CAUSE, COMING ON TO BE HEARD AND BEING HEARD BEFORE THE  
UNDERSIGNED JUDGE PRESIDING OVER THE REGULARLY SCHEDULED,  
NON-JURY TERM OF THE DISTRICT COURT DIVISION OF THE GENERAL  
COURT OF JUSTICE FOR MECKLENBURG COUNTY, NORTH CAROLINA:

FROM THE RECORD IN THIS CAUSE, THE COURT FINDS THE FOLLOWING  
FACTS:

1. This is an action for absolute divorce based on the separation of the Plaintiff and the Defendant for more than one year next preceding the institution of this action.
2. The Defendant has been properly served with the Summons and Complaint in this action, and of the trial of this action as provided by law.
3. The \_\_\_\_\_ is a citizen and resident of North Carolina and has been such for more than six months next preceding the institution of this action.
4. The Plaintiff and Defendant were married to each other.
5. The Plaintiff and Defendant have lived separate and apart for more than one year next preceding the institution of this action.
6. There were \_\_\_\_\_ minor children (fill in "no" or number of children) of the marriage.
7. (For use when plaintiff requests name change) That the plaintiff is allowed to resume use of the name \_\_\_\_\_.

BASED ON THE FOREGOING FINDINGS OF FACT, THE COURT CONCLUDES AS A MATTER OF LAW that the Plaintiff is entitled to a divorce from the defendant. There is no genuine issue as to any material fact in this matter.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that the bonds of matrimony heretofore existing between the Plaintiff and the Defendant be, and the same are hereby dissolved, and the Plaintiff and the Defendant are granted an absolute divorce from each other.

This the \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

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Judge Presiding

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