

## Prove-up Hearing

A prove-up hearing is a court hearing where a party appears before a judge and requests an order on an uncontested issue.

At a prove-up hearing for divorce, the Plaintiff is requesting that the judge grant him/her a divorce and must prove to the judge that all of the divorce requirements have been met.

### Requirements to Prove at the Hearing:

- Nevada residency for at least 6 weeks  
Note: This may require the testimony of a resident witness
- Filing of all of proper paperwork
- Proof of Service
- Grounds for divorce

After the hearing, a written Decree of Divorce must be submitted to the judge for signature.

Once the judge signs the Decree, it needs to be filed with the Clerk's Office Legal Filing Counter. The next step in the process is for the Plaintiff to file a Notice of Entry of Order.

The final step in the divorce process requires the Plaintiff to have the Defendant served with filed copies of the Decree and the Notice of Entry of Order.

### How to Set a Prove-up Hearing

Judges have specific days/times when they hear prove-up hearings. In order to get a hearing date simply take a completed Setting Slip (available at the SHC) to Master Calendar and request to be placed on your judge's "uncontested calendar".

## Joint Petition

In order to obtain a divorce by Joint Petition, both spouses must agree on all issues. The Joint Petition is a document that is signed by both spouses and outlines their agreements on all issues.

Filing the Joint Petition is the first step in the divorce process. There is a fee of \$289.00 to file. Once the Joint Petition is filed, the Clerk's Office will assign a case number and a judge to the spouses' divorce case. The next step is to submit filed copies of all required documents to the judge for review and approval.

### Required Documents for Joint Petition

- Joint Petition for Divorce
- Decree of Divorce (original and 3 copies)
- Affidavit of Resident Witness
- If the parties have a minor child together:
  - Child Welfare and Identification Sheet
  - COPE Certificate or waiver of attendance

Once the judge signs the Decree, it will be filed by the Clerk's Office and the filed copies will be returned by mail. It is important to note that the divorce process is not complete until the Decree is signed by the judge and filed with the Clerk's Office.

**DISCLAIMER:** This brochure is intended as a courtesy only. Clark County, the Eighth Judicial District Court, the Self-Help Center, and their employees shall not be liable for errors contained herein or for direct, indirect, special or consequential damages in connection with the furnishing of this material.

Many family law matters involve complex and valuable legal rights. This brochure only includes basic, general information and may not fit all situations. Some rights cannot be adequately protected without the assistance of an attorney. You should consult with an attorney before you file any document.

## Divorce



Generally, a spouse may obtain a divorce in Nevada if that spouse has a statutory cause for divorce and has lived in Nevada for at least six weeks prior to filing for divorce.

### Statutory Causes for Divorce in Nevada:

- ◆ Incompatibility;
- ◆ Insanity for two years prior to the action;
- ◆ Spouses living separate and apart for more than one year.

There are two methods to get a divorce in Nevada: (1) a Complaint for Divorce and (2) a Joint Petition for Divorce. A Complaint for Divorce is the method used when the spouses do not agree on all issues. A Joint Petition is the method used when the spouses agree on all issues.

### Potential Issues in Divorce:

- ◆ The desire to get divorced
- ◆ Parent/Child issues
- ◆ Division of property and debt
- ◆ Alimony

## Complaint

A Complaint for Divorce is a document that is filed by only one spouse in order to start the divorce process. The spouse that files the Complaint is called the Plaintiff. There is a fee of \$289.00 to file. Once the Complaint is filed, the Clerk's Office will assign a case number and judge to the divorce case.

## Service of Process

Nevada law requires Plaintiff spouses to notify Defendant spouses when they file a divorce case. The method of notification is called "service of process". Usually, proper service requires Plaintiffs to have a third party personally deliver filed copies of the (1) Complaint; (2) Summons; and (3) Joint Preliminary Injunction to the Defendant within 120 days of filing the divorce case.

The third party who served the Defendant must complete an Affidavit of Service. It is the Plaintiff's duty to file the Affidavit.

It is important to file the Affidavit of Service because it informs the court when and where the Defendant was served and is used for time calculation when a Default is requested.

The duty to serve documents is ongoing and applies to both Plaintiffs and Defendants. All filed documents must be served. Each time a document is served an Affidavit of Service or Certificate of Mailing must be filed; depending on the type of service performed.

## Answer/ Default

After the Defendant is served, he/she has 20 days to file an Answer with the Clerk of the Court. If the Defendant wants to ask the judge for additional or different relief the Defendant may also file an Answer and Counterclaim. There is a fee of \$217.00 to file.

If the Defendant does not file an Answer, the Plaintiff may obtain a Default and will most likely be granted what he/she asked for in the Complaint for Divorce.

Defaults are issued by the Clerk's Office. In order to obtain a Default, take the Default paperwork which is included in the Self-Help Center's Decree Packets, to the Legal Filing Counter of the Clerk's Office. After the clerk verifies that it has been 20 days since the Defendant was properly served, the clerk will issue a Default.

Once a Default is obtained, there are two methods a Plaintiff can use to complete the divorce process: (1) Summary Disposition or (2) Prove-up Hearing.

**NOTICE:** Each party is responsible for informing the court of his/her current address and telephone number. Failure to do so may result in your failure to receive important information regarding your case. If your address changes, at any time (even after the decree is filed), you must file a Notice of Change of Address with the court. These Notices can be obtained from the Self-Help Center free of charge.

## Summary Disposition

Summary Disposition is a method of obtaining a divorce without a court hearing. In order to obtain a divorce by summary disposition, filed copies of all required documents must be submitted to the judge for approval. If all requirements have been met, the judge will sign the Decree of Divorce. If there is a deficiency, the Decree will be returned for correction.

### Required Documents for Summary Disposition

- Complaint for Divorce
- Proof of Service
- Default or Answer
- Affidavit of Resident Witness
- Request for Summary Disposition
- Decree of Divorce (original and 3 copies)
- If the spouses have a minor child together:
  - Child Welfare and Identification Sheet
  - COPE certificate or waiver of attendance

All required documents should be placed in the assigned judge's box. Each judge has a box located on the 3<sup>rd</sup> floor of the Family Courts and Services building located at 601 N. Pecos Road.

Once the judge signs the Decree, it will be filed by the Clerk's Office and the filed copies will be returned to the Plaintiff by mail.

The Plaintiff must notify the Defendant of the Decree by having the Defendant served with filed copies of the Notice of Entry of Order and the Decree of Divorce.