

## Judicial District 20B ABSOLUTE DIVORCE

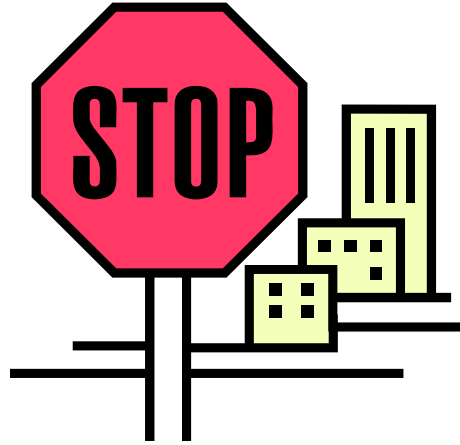
**NOTE:**

**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DUE TO THE CHANGING NATURE OF THE LAW, the forms and information contained in this packet may become outdated.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 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.

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.



**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 AND INSTRUCTIONS 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.

## **Steps for filing for Divorce**

Please note that 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

### **STEP 1**

#### **Filing out the documents**

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

You must complete the following documents:

- ◆ **COMPLAINT**
- ◆ **VERIFICATION**
- ◆ **CIVIL SUMMONS (AOC-CV-100)**
- ◆ **DOMESTIC CIVIL ACTION COVER SHEET (AOC-CV-750)**

You must have the complaint verified by a Notary Public.

### **STEP 2**

#### **Filing the documents**

Take your original documents, two copies and the \$165.00 filing fee to the Civil Filing Department (Union County Judicial Center, 400 N. Main St., 1<sup>st</sup> Floor) 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.

**THE CLERK'S OFFICE CAN NOT TELL YOU IF YOU HAVE COMPLETED THE PAPERWORK CORRECTLY.**

### **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. You can serve the Defendant by:

- A. The Sheriff in the county that the Defendant lives, OR
- B. Certified Mail. If you serve by certified mail, you must file an Affidavit of Service when you receive the green return receipt card back in the mail. You

must serve the Defendant (or lawyer if he/she has retained one) with the court papers.

After Service of Process has been successfully completed, it is suggested that you 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 NOT 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.**

*N.C. Department of Vital Records Form*

The **Certificate of Absolute Divorce** form is necessary to file for an Absolute Divorce. Unfortunately, it is not available online. **You must get this form from the Clerk of Superior Court Civil Division or from the N.C. Department of Vital Records** to be able to file for an Absolute Divorce in the State of North Carolina.

#### **◆ Notice of Hearing and Request for Setting**

Complete these two forms. Take your originals and two copies to the Clerk's office. You will obtain a date for the Notice of Hearing.

#### **◆ 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.**

#### **◆ 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.

## **YOU MUST APPEAR IN COURT!**

### **STEP 5**

#### **Certification of the forms**

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 \$165 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:  
North Carolina Lawyer Referral Service: (800) 662-7660*

STATE OF NORTH CAROLINA  
COUNTY OF UNION

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 names and ages are of any children are: (insert "no" or the number of children here)

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

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.

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*(Signature)*

STATE OF NORTH CAROLINA )  
 )  
COUNTY OF UNION )

**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:\_\_\_\_\_.

STATE OF NORTH CAROLINA  
COUNTY OF UNION

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) (check 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:\_\_\_\_\_

STATE OF NORTH CAROLINA  
20TH JUDICIAL DISTRICT  
COUNTY OF UNION

THE GENERAL COURT OF JUSTICE  
DISTRICT COURT DIVISION  
CASE NUMBER \_\_\_\_\_  
ASSIGNED JUDGE : \_\_\_\_\_

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Plaintiff, )  
)  
)  
)  
-vs- )  
)  
)  
Defendant. )

**NOTICE OF HEARING  
FOR DIVORCE**

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This **NOTICE OF HEARING** hereby advises you that this case is scheduled, as follows:

**DATE:** \_\_\_\_\_

**TIME:** \_\_\_\_\_  AM  PM

**PLACE:** [X ] District Civil: Courtroom \_\_\_\_\_, \_\_\_\_\_ Floor  
Union County Judicial Center  
Monroe, North Carolina

**MATTERS FOR HEARING:** Divorce

A copy of this Notice has been provided to the Family Court Case Manager.

I HEREBY CERTIFY THAT A COPY OF THIS NOTICE OF HEARING HAS BEEN SERVED IN THE FOLLOWING MANNER:

- [ X ] By depositing a copy in the United States mail in a properly addressed, postpaid envelope to:
- Plaintiff at \_\_\_\_\_
- Defendant at \_\_\_\_\_

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

\_\_\_\_\_  
Signature of Party/ Attorney

\_\_\_\_\_  
Address/Telephone Number

STATE OF NORTH CAROLINA  
JUDICIAL DISTRICT 20B  
COUNTY OF UNION

THE GENERAL COURT OF JUSTICE  
DISTRICT COURT DIVISION  
CASE NUMBER \_\_\_\_\_  
ASSIGNED JUDGE \_\_\_\_\_

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\_\_\_\_\_  
Plaintiff )  
 )  
 )  
-v- ) REQUEST FOR SETTING  
 ) FOR DIVORCE  
 )  
\_\_\_\_\_  
Defendant )

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The above case is ready for and should be set for the following purpose(s):

DIVORCE

Requested by:  Plaintiff  Defendant  Plaintiff's Attorney  Defendant's Attorney

A copy of this document has been provided to the Family Court Case Coordinator.

I HEREBY CERTIFY THAT A COPY OF THIS REQUEST FOR SETTING HAS BEEN SERVED IN THE FOLLOWING MANNER:

By depositing a copy in the United States mail in a properly addressed, postpaid envelope to:

Plaintiff at \_\_\_\_\_

Defendant at \_\_\_\_\_

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

\_\_\_\_\_  
Signature: Attorney or Party

STATE OF NORTH CAROLINA  
COUNTY OF UNION

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

\_\_\_\_\_  
Plaintiff,

VS

**DIVORCE JUDGMENT**

\_\_\_\_\_  
Defendant.

THIS CAUSE coming on to be heard and being heard, before the undersigned Judge presiding during the \_\_\_\_\_, Civil Session of District Court in Union County, North Carolina. The court upon reviewing the record and hearing the evidence and testimony therefore finds the following facts and applies the law accordingly:

FROM THE RECORD IN THIS CAUSE, THE COURT FINDS AS A FACT as follows:

That this an action brought by the Plaintiff for an absolute divorce based on one year of separation instituted by the filing of a Divorce Complaint on \_\_\_\_\_.

That the Plaintiff and Defendant were married on or about \_\_\_\_\_, and separated on \_\_\_\_\_, living separate and apart without resuming the marital relationship.

That the Defendant was properly served.

That the Defendant  did not file an answer (or)  did file an answer.

That there were \_\_\_\_\_ children born from the marriage.

That there are no pending issues between the Plaintiff and Defendant.

That the plaintiff appeared in front of the undersigned judged and testified to the above findings of facts.

BASED UPON THE FOREGOING FINDINGS OF FACT, THE COURT MAKES THE FOLLOWING CONCLUSIONS OF LAW:

That the Plaintiff and defendant is entitled to an absolute divorce by reason of having lived separate and apart from one another for more than one year prior to the commencement of this action.

NOW THEREFORE, IT IS ORDERED, ADJUDGED , AND DECREED THAT:

The bonds of matrimony previously existing between the Plaintiff and Defendant are wholly dissolved, and that the Plaintiff is granted an absolute divorce from the Defendant.

THIS THE \_\_\_\_\_ DAY OF \_\_\_\_\_, 20\_\_\_\_

\_\_\_\_\_  
Judge Presiding