

FILED

NORTH CAROLINA
ALAMANCE COUNTY

2019 MAR -5

APR 11: 59

IN THE GENERAL COURT OF JUSTICE
DISTRICT COURT DIVISION

AMENDED
ADMINISTRATIVE ORDER

IN RE: UNCONTESTED ABSOLUTE DIVORCES

THIS MATTER is appropriate for entry of an Administrative Order as it affects all of the Civil District Court Division of Judicial District 15A (Alamance County). By authority of NC Gen. Statute § 7A-146 and pursuant to the directives of the North Carolina Supreme Court, it is hereby Ordered that all parties and attorneys with cases pending in Civil District Court of Judicial District 15A shall comply with the following procedures regarding cases that the only issue is uncontested absolute divorces and uncontested absolute divorce with resumption of former name effective immediately:

The General Assembly has enacted legislation allowing the Clerk of Superior Court to grant an absolute divorce under specific conditions. N.C.G.S. §50-10 was amended by the Legislature to add a new section (e) providing “The Clerk of Superior Court, upon request of the Plaintiff, may enter judgment in cases in which the Plaintiff’s only claim against the Defendant is for absolute divorce or absolute divorce and resumption of a former name and the Defendant has been defaulted for failure to appear, the Defendant has answered admitting the allegations of the complaint or the Defendant has filed a waiver of the right to answer, and the Defendant is not an infant or incompetent person.”

The Chief District Court Judge has promulgated rules to accomplish the granting of an absolute divorce or absolute divorce and resumption of former name under the specified circumstances and those rules are attached and incorporated herein and readily obtainable from the Civil Division of the Office of the Clerk of Superior Court. The District Court Judges’ Office and the Office of the Clerk of Superior Court will maintain copies of this Administrative Order for distribution to the Alamance County Bar and the general public. This document will also be distributed electronically to attorneys and law firms who regularly receive court calendars by email and will be posted on the North Carolina Judicial Branch website www.nccourts.gov.

This new procedure will eliminate the need for an uncontested absolute divorce or absolute divorce and resumption of former name to be scheduled for hearing in a civil motions session of District Court when that is the only issue to be ruled upon.

Parties/Attorneys may choose to submit their own forms in lieu of local forms. Variations of these forms must include all information required on the local forms referenced hereinbelow.

Substitutions for state forms (forms designated with an AOC number) will not be permissible (with the exception of the *Judgment for Absolute Divorce Before the Clerk*; AOC-CV-710, attorneys only may submit a variation to this document).

Effective immediately the following guidelines must be followed when filing an absolute divorce or absolute divorce and resumption of former name:

1. **New action (no existing case) –Parties/Attorneys must file with the Clerk of Court the following (one original document and two copies must be presented) Forms will be available in the Civil Division of the Clerk of Court or on the North Carolina Judicial Branch website www.nccourts.gov:**
 - a. Domestic Civil Action Cover Sheet (Form No. AOC-CV-750)
 - b. Summons (Form No. AOC-CV-100)
 - c. Complaint
 - d. Servicemembers Civil Relief Act Affidavit (Form No. AOC-G-250)
 - e. Notice of Hearing (Form No. AOC-G-180)
 - f. Judgment for Absolute Divorce Before the Clerk (AOC-CV-710)
 - g. Certificate of Absolute Divorce or Annulment (DHHS-2089)
2. Please be sure that you have cash or a money order payable to the Alamance County Clerk of Court to pay for the filing fees associated with the claim you are seeking to file. **Personal checks are not accepted.**
3. If you want the Sheriff of Alamance County to serve the documents on the Defendant, please bring an additional \$30.00 (cash, cashiers' check or money order). The cashiers' check or money order must be made payable to the sheriff's office. If the Defendant lives outside of Alamance County, pay the service of process fee to the sheriff of the county where the Defendant resides.
4. When a Defendant has made no appearance, N.C.G.S. §50-10(b) provides that notice of the hearing need not be given.
5. In the event the Defendant files a written waiver of the right to receive notice of any hearings, notice of the hearing need not be given.
6. If Defendant has made an appearance in the action by filing an answer, a *Notice of Hearing* (AOC-G 180) must be filed with the Clerk of Court and properly served upon the Defendant ten (10) days in advance of submitting the *Judgment for Absolute Divorce Before the Clerk* (AOC-CV 710) to the Clerk of Court for signature and filing.
7. If Defendant has made an appearance in the action by filing an answer or counterclaims for incorporation of a separation agreement, child custody, child support, alimony, equitable distribution of marital property or any other claim, this procedure will not apply and case shall be referred to District Court for hearing.

8. Once service has been obtained and the proper time period has passed requests for entry of *Judgment for Absolute Divorce Before the Clerk* and *Certificate of Absolute Divorce or Annulment* (DHHS-2089) should be brought to the Civil Division of the Clerk of Court and then placed in the basket designated for divorces entered by the clerk. No other documents should be placed in this basket. The Clerk or Assistant Clerk will review the court file and the proposed *Judgment for Absolute Divorce Before the Clerk* and return the judgment within three (3) business days or as soon thereafter as possible to the attorney's "pick up" file. Self-represented litigants or attorneys that do not regularly practice in Alamance County may request their copy of the judgment at the service window in the Civil Division of the Clerk of Court.
9. Once the *Judgment for Absolute Divorce Before the Clerk* has been signed and filed, a copy of the judgment should be provided to the Defendant pursuant to N.C.G.S. Rule 58.

This the 5th day of March, 2019.



Bradley Reid Allen, Sr.
Chief District Court Judge

STATE OF NORTH CAROLINA

File No.

_____ County

In The General Court Of Justice
District Court Division

Name And Address Of Plaintiff 1

Name And Address Of Plaintiff 2

**DOMESTIC
CIVIL ACTION COVER SHEET**
 INITIAL FILING SUBSEQUENT FILING

Rule 5(b), Rules of Practice For Superior and District Courts

VERSUS

Jury Demanded In Pleading? No Yes

Name Of Defendant 1

Name And Address Of Attorney Or Party, If Not Represented (complete for initial appearance or change of address)

Summons Submitted Yes No

Telephone No. Cellular Telephone No.

Name Of Defendant 2

NC Attorney Bar No. Attorney E-Mail Address

Initial Appearance in Case Change of Address

Summons Submitted Yes No

Name Of Firm

Counsel for
 All Plaintiffs All Defendants Only (List party(ies) represented)

FAX No.

TYPE OF PLEADING

CLAIMS FOR RELIEF

(check all that apply)

- Amended Answer/Reply (AMND-Response)
- Amended Complaint (AMND)
- Answer/Reply (ANSW-Response)
- Complaint (COMP)
- Confession Of Judgment (CNFJ)
- Contempt (CNTP)
- Continue (CNTN)
- Compel (CMPL)
- Counterclaim vs. (CTCL) Assess Counterclaim Costs
- Extend Time For An Answer (MEOT-Response)
- Modification Of Alimony (MALI)
- Modification Of Custody (MCUS)
- Modification Of Support in non-IV-D cases (MSUP)
- Modification Of Visitation (MVIS)
- Rule 12 Motion In Lieu Of Answer (MDLA)
- Sanctions (SANC)
- Show Cause (SHOW)
- Transfer (TRFR)
- Vacate/Modify Judgment or Order (VCMD)
- Other (OTHR):

(check all that apply)

- Alimony (ALIM)
- Annulment (ANUL)
- Child Support (CSUP)
- Custody (CUST)
- Divorce (DIVR)
- Divorce From Bed And Board (DIVB)
- Domestic Violence (DOME)
- Equitable Distribution (EQUD)
- Medical Coverage (MEDC)
- Paternity (PATR)
- Possession Of Personal Property (POPP)
- Post Separation Support (PSSU)
- Reimbursement For Public Assistance (RPPA)
- Visitation (VIST)
- Other: (specify and list separately)

Date

Signature Of Attorney/Party

NOTE: All filings in civil actions shall include as the first page of the filing a cover sheet summarizing the critical elements of the filing in a format prescribed by the Administrative Office of the Courts and the Clerk of Superior Court shall require a party to refile a filing which does not include the required cover sheet. For subsequent filings in civil actions, the filing party must include a Domestic (AOC-CV-750), Motions (AOC-CV-752), or Court Action (AOC-CV-753) cover sheet.

STATE OF NORTH CAROLINA

File No.

_____ County

In The General Court Of Justice
 District Superior Court Division

Name Of Plaintiff _____

Address _____

City, State, Zip _____

CIVIL SUMMONS
 ALIAS AND PLURIES SUMMONS (ASSESS FEE)

G.S. 1A-1, Rules 3 and 4

VERSUS

Name Of Defendant(s) _____

Date Original Summons Issued _____

Date(s) Subsequent Summons(es) Issued _____

To Each Of The Defendant(s) Named Below:

Name And Address Of Defendant 1 _____

Name And Address Of Defendant 2 _____



IMPORTANT! You have been sued! These papers are legal documents, **DO NOT** throw these papers out! You have to respond within 30 days. You may want to talk with a lawyer about your case as soon as possible, and, if needed, speak with someone who reads English and can translate these papers!
¡IMPORTANTE! ¡Se ha entablado un proceso civil en su contra! Estos papeles son documentos legales. **¡NO TIRE** estos papeles!
 Tiene que contestar a más tardar en 30 días. ¡Puede querer consultar con un abogado lo antes posible acerca de su caso y, de ser necesario, hablar con alguien que lea inglés y que pueda traducir estos documentos!

A Civil Action Has Been Commenced Against You!

You are notified to appear and answer the complaint of the plaintiff as follows:

1. Serve a copy of your written answer to the complaint upon the plaintiff or plaintiff's attorney within thirty (30) days after you have been served. You may serve your answer by delivering a copy to the plaintiff or by mailing it to the plaintiff's last known address, and
2. File the original of the written answer with the Clerk of Superior Court of the county named above.

If you fail to answer the complaint, the plaintiff will apply to the Court for the relief demanded in the complaint.

Name And Address Of Plaintiff's Attorney (if none, Address Of Plaintiff) _____

Date Issued _____ Time AM PM

Signature _____

Deputy CSC Assistant CSC Clerk Of Superior Court

ENDORSEMENT (ASSESS FEE)
 This Summons was originally issued on the date indicated above and returned not served. At the request of the plaintiff, the time within which this Summons must be served is extended sixty (60) days.

Date Of Endorsement _____ Time AM PM

Signature _____

Deputy CSC Assistant CSC Clerk Of Superior Court

NOTE TO PARTIES: Many counties have **MANDATORY ARBITRATION** programs in which most cases where the amount in controversy is \$25,000 or less are heard by an arbitrator before a trial. The parties will be notified if this case is assigned for mandatory arbitration, and, if so, what procedure is to be followed.

(Over)

RETURN OF SERVICE

I certify that this Summons and a copy of the complaint were received and served as follows:

DEFENDANT 1

<i>Date Served</i>	<i>Time Served</i> <input type="checkbox"/> AM <input type="checkbox"/> PM	<i>Name Of Defendant</i>
--------------------	---	--------------------------

- By delivering to the defendant named above a copy of the summons and complaint.
- By leaving a copy of the summons and complaint at the dwelling house or usual place of abode of the defendant named above with a person of suitable age and discretion then residing therein.
- As the defendant is a corporation, service was effected by delivering a copy of the summons and complaint to the person named below.

Name And Address Of Person With Whom Copies Left (if corporation, give title of person copies left with)

- Other manner of service (*specify*)

- Defendant WAS NOT served for the following reason:

DEFENDANT 2

<i>Date Served</i>	<i>Time Served</i> <input type="checkbox"/> AM <input type="checkbox"/> PM	<i>Name Of Defendant</i>
--------------------	---	--------------------------

- By delivering to the defendant named above a copy of the summons and complaint.
- By leaving a copy of the summons and complaint at the dwelling house or usual place of abode of the defendant named above with a person of suitable age and discretion then residing therein.
- As the defendant is a corporation, service was effected by delivering a copy of the summons and complaint to the person named below.

Name And Address Of Person With Whom Copies Left (if corporation, give title of person copies left with)

- Other manner of service (*specify*)

- Defendant WAS NOT served for the following reason:

<i>Service Fee Paid</i> \$	<i>Signature Of Deputy Sheriff Making Return</i>
<i>Date Received</i>	<i>Name Of Sheriff (type or print)</i>
<i>Date Of Return</i>	<i>County Of Sheriff</i>

STATE OF NORTH CAROLINA

File No.

County

In The General Court Of Justice

Name And Address Of Plaintiff

VERSUS

Name And Address Of Defendant

SERVICEMEMBERS CIVIL RELIEF ACT AFFIDAVIT

50 U.S.C. 3901 to 4043

NOTE: Though this form may be used in a Chapter 45 Foreclosure action, it is not a substitute for the certification that may be required by G.S. 45-21.12A.

AFFIDAVIT

I, the undersigned Affiant, under penalty of perjury declare the following to be true:

- 1. As of the current date: (check one of the following)
a. I have personal knowledge that the defendant named above is in military service.*
b. I have personal knowledge that the defendant named above is not in military service.*
c. I am unable to determine whether the defendant named above is in military service.*
2. (check one of the following)
a. I used the Servicemembers Civil Relief Act Website (https://scra.dmdc.osd.mil/) to determine the defendant's military status.
b. I have not used the Servicemembers Civil Relief Act Website and the following facts support my statement as to the defendant's military service: (State how you know the defendant is not in the military. Be specific.)

*NOTE: The term "military service" includes the following: active duty service as a member of the United States Army, Navy, Air Force, Marine Corps, or Coast Guard; service as a member of the National Guard under a call to active service authorized by the President or the Secretary of Defense for a period of more than 30 consecutive days for purposes of responding to a national emergency; active service as a commissioned officer of the Public Health Service or of the National Oceanic and Atmospheric Administration; any period of service during which a servicemember is absent from duty on account of sickness, wounds, leave, or other lawful cause. 50 U.S.C. 3911(2).

SWORN/AFFIRMED AND SUBSCRIBED TO BEFORE ME

Date

Date

Signature Of Affiant

Signature Of Person Authorized To Administer Oaths

Name Of Affiant (type or print)

Deputy CSC Assistant CSC Clerk Of Superior Court Magistrate

SEAL

Notary

Date My Commission Expires

NOTE TO COURT: Do not proceed to enter judgment in a non-criminal case in which the defendant has not made an appearance until a Servicemembers Civil Relief Act affidavit (whether on this form or not) has been filed, and if it appears that the defendant is in military service, do not proceed to enter judgment until such time that you have appointed an attorney to represent him or her.

(Over)

Information About Servicemembers Civil Relief Act Affidavits

1. Plaintiff to file affidavit

In any civil action or proceeding, including any child custody proceeding, in which the defendant does not make an appearance, the court, before entering judgment for the plaintiff, shall require the plaintiff to file with the court an affidavit—

- (A) stating whether or not the defendant is in military service and showing necessary facts to support the affidavit; or
- (B) if the plaintiff is unable to determine whether or not the defendant is in military service, stating that the plaintiff is unable to determine whether or not the defendant is in military service.

50 U.S.C. 3931(b)(1).

2. Appointment of attorney to represent defendant in military service

If in a civil action or proceeding in which the defendant does not make an appearance it appears that the defendant is in military service, the court may not enter a judgment until after the court appoints an attorney to represent the defendant. If an attorney appointed to represent a service member cannot locate the service member, actions by the attorney in the case shall not waive any defense of the service member or otherwise bind the service member. 50 U.S.C. 3931(b)(2).

State funds are not available to pay attorneys appointed pursuant to the Servicemembers Civil Relief Act. To comply with the federal Violence Against Women Act and in consideration of G.S. 50B-2(a), 50C-2(b), and 50D-2(b), plaintiffs in Chapter 50B, Chapter 50C, and Chapter 50D proceedings should not be required to pay the costs of attorneys appointed pursuant to the Servicemembers Civil Relief Act. Plaintiffs in other types of actions and proceedings may be required to pay the costs of attorneys appointed pursuant to the Servicemembers Civil Relief Act. The allowance or disallowance of the ordering of costs will require a case-specific analysis.

3. Defendant's military status not ascertained by affidavit

If based upon the affidavits filed in such an action, the court is unable to determine whether the defendant is in military service, the court, before entering judgment, may require the plaintiff to file a bond in an amount approved by the court. If the defendant is later found to be in military service, the bond shall be available to indemnify the defendant against any loss or damage the defendant may suffer by reason of any judgment for the plaintiff against the defendant, should the judgment be set aside in whole or in part. The bond shall remain in effect until expiration of the time for appeal and setting aside of a judgment under applicable Federal or State law or regulation or under any applicable ordinance of a political subdivision of a State. The court may issue such orders or enter such judgments as the court determines necessary to protect the rights of the defendant under this Act. 50 U.S.C. 3931(b)(3).

4. Satisfaction of requirement for affidavit

The requirement for an affidavit above may be satisfied by a statement, declaration, verification, or certificate, in writing, subscribed and certified or declared to be true under penalty of perjury. 50 U.S.C. 3931(b)(4). The presiding judicial official will determine whether the submitted affidavit is sufficient.

5. Penalty for making or using false affidavit

A person who makes or uses an affidavit permitted under 50 U.S.C. 3931(b) (or a statement, declaration, verification, or certificate as authorized under 50 U.S.C. 3931(b)(4)) knowing it to be false, shall be fined as provided in title 18, United States Code, or imprisoned for not more than one year, or both. 50 U.S.C. 3931(c).

STATE OF NORTH CAROLINA

File No.

_____ County

In The General Court Of Justice
 District Superior Court Division

IN THE MATTER OF:

Name And Address Of Petitioner

NOTICE OF HEARING

Name And Address Of Interested Party

Name And Address Of Attorney Who Represented The State In The Underlying Case,
Or The Attorney's Successor

NOTICE OF HEARING TO PETITIONER AND ATTORNEY OR OTHER
INTERESTED PARTY NAMED ABOVE

You are notified to appear before the Court on the date and at the time and place specified below for a hearing on the attached Petition.

Date Of Hearing

Time Of Hearing

AM PM

Location Of Hearing

CERTIFICATE OF SERVICE

I certify that on this date, a copy of this Notice Of Hearing was served by:

- first class mail at the address(es) shown above on the
 - petitioner.
 - attorney who represented the State in underlying case, or that attorney's successor.
 - other interested party.

- personally delivering a copy to the
 - petitioner.
 - attorney who represented the State in underlying case, or that attorney's successor.
 - other interested party.

Other _____

Date

Signature

Deputy CSC Assistant CSC Clerk Of Superior Court

STATE OF NORTH CAROLINA

File No.

County

In The General Court Of Justice
District Court Division

Name Of Plaintiff

VERSUS

Name Of Defendant

JUDGMENT FOR
ABSOLUTE DIVORCE
BEFORE THE CLERK

G.S. 50-10(e)

NOTE TO CLERK: This form is drafted for granting absolute divorce when plaintiff's verified complaint alleges all of the required facts and the plaintiff proves service of the summons and complaint, and notice of hearing, if required. If plaintiff's complaint is not verified or if the complaint does not allege all of the facts necessary, the clerk should not enter a judgment.

FINDINGS

This case was heard by the undersigned Clerk of Superior Court upon the Plaintiff's complaint for an Absolute Divorce. From the verified complaint and other evidence presented, the Court finds the following facts:

- 1. The defendant was properly served with the Summons and Complaint in this action as provided by the Rules of Civil Procedure.
2. The defendant
a. failed to make an appearance.
b. admitted all of the plaintiff's allegations in the answer.
c. filed a written waiver of the right to answer.
3. The defendant is not an infant or incompetent.
4. a. The defendant was served with notice of this hearing as required by the Rules of Civil Procedure.
b. The defendant was not served with notice of this hearing because defendant failed to make an appearance.
defendant filed a written waiver of the right to receive notice of any hearings.
5. The plaintiff defendant is a resident of County, North Carolina and has been a resident of the State of North Carolina for more than six (6) months immediately preceding the commencement of this action.
6. The plaintiff and defendant were married on or about (give date)
7. On the date this complaint was filed, the parties had lived separate and apart for more than one year; that at the time of separation the plaintiff defendant had intent to remain continuously separate and apart from the defendant plaintiff; and the parties have lived continuously separate and apart since their separation without resuming the marital relationship.
8. The plaintiff has requested to use the plaintiff's former name of (give name)

CONCLUSIONS

Based upon the foregoing findings of fact, the Court concludes as a matter of law that it has jurisdiction over the subject matter and the parties and that the plaintiff is entitled to an Absolute Divorce based on one year's separation.

ORDER

Therefore, it is ordered that:

- 1. The bonds of matrimony which have existed between the parties are dissolved and the plaintiff is granted an Absolute Divorce from the defendant.
2. The plaintiff is allowed to resume the plaintiff's former name set forth above.

Date

Signature

Assistant CSC

Clerk Of Superior Court

STATE OF NORTH CAROLINA
CERTIFICATE OF ABSOLUTE DIVORCE OR ANNULMENT

File Number: _____

County: _____

PLAINTIFF

<input type="checkbox"/> Husband/Spouse			
1. <input type="checkbox"/> Wife/Spouse			
FIRST	MIDDLE	LAST	
RESIDENCE – STATE 2a.		COUNTY 2b.	

DEFENDANT

<input type="checkbox"/> Husband/Spouse			
3. <input type="checkbox"/> Wife/Spouse			
FIRST	MIDDLE	LAST	
RESIDENCE – STATE 4a.		COUNTY 4b.	

MARRIAGE

DATE OF THIS MARRIAGE 5.	PLACE OF THIS MARRIAGE 6.
NUMBER OF MINOR CHILDREN 7.	DATE OF SEPARATION 8.

CERTIFICATION

I hereby certify that the above information as abstracted from court documents is true and correct. The divorce annulment was rendered in the above matter on the _____ day of _____ Year _____.

Date Signature ▶ Clerk of Superior Court Assistant CSC Deputy CSC

Type or print in permanent black ink.