INSTRUCTIONS FOR DIVORCE WITH A WRITTEN AGREEMENT: WITHOUT CHILDREN

IMPORTANT! READ BEFORE USING THESE FORMS AND INSTRUCTIONS

ND Legal Self Help Center staff and court employees can't help you fill out forms.

If you're unsure how to proceed, or need legal advice or legal representation, consult a lawyer licensed to practice in North Dakota.

Carefully read this information and any instructions to which you're referred.

When you represent yourself, you're expected to know and follow the law, including:

- State or federal laws that apply to your case;
- Case law, also called court opinions, that applies to your case; and
- Court rules that apply to your case, which may include:
  - North Dakota Rules of Civil Procedure;
  - North Dakota Rules of Court;
  - North Dakota Rules of Evidence;
  - North Dakota Administrative Rules and Orders; and
  - Any local court rules.

Links to the state laws, case law, and court rules can be found at www.ndcourts.gov.

When you represent yourself, you're held to the same requirements and responsibilities as a lawyer, even if you don't understand the rules or procedures. If you're unsure if these forms and instructions suit your circumstances, consult a lawyer.

- For more information about finding a lawyer, www.ndcourts.gov/legal-self-help/finding-a-lawyer.

A glossary with definitions of legal terms is available at www.ndcourts.gov/legal-self-help.

These instructions and forms aren't a complete statement of the law. *They cover the basic procedure for asking a North Dakota District Court for a divorce that doesn't include children and the spouses agree in writing on all issues related to the divorce. There is no guarantee that all judges and courts will accept forms available through the ND Legal Self Help Center. The Center isn't responsible for any consequences that may result from the forms or information provided.* ***Use at your own risk.***

You may only use these forms if your answer to all of the following statements is YES.

1. Both spouses are currently in communication with each other.
2. The spouses agree on all issues in the divorce and can put the agreement in writing. (*See Forms 3 and 4 for the issues on which both spouses must agree.*)
3. The spouses have no minor or dependent children and aren't expecting a child to be born of this marriage.
4. The spouse who will be listed as the Plaintiff in this divorce has lived in North Dakota for the last six months.
5. This is the only legal action pending between the spouses regarding this marriage.

If you answered YES to all of the statements, you may proceed. **If you answered NO to any of the statements in 1 through 5, STOP! You can't use this set of forms.**

BEFORE YOU BEGIN – REVIEW FORM 3 & FORM 4

Before you begin the steps for this packet of forms, review the Settlement Agreement (Form 3) and Exhibit A: Confidential Division of Property and Debts and Values (Form 4).

Forms 3 and 4 make up the full written agreement for your divorce. If you believe that you and your spouse can reach an agreement on every paragraph of Forms 3 and 4, go to Step 1.

If you don't believe that you and your spouse can reach an agreement on every paragraph of Forms 3 and 4, this set of forms may not be suitable.

IF YOU DON'T MEET THE REQUIREMENTS OF WHO MAY USE THIS PACKET OF FORMS

If your situation doesn't meet the requirements of who may use this packet of forms, you may still bring a summary divorce action or a formal contested divorce action to a North Dakota District Court.

To see if you meet the requirements for a summary divorce, review the summary divorce instructions and forms available at www.ndcourts.gov/legal-self-help/divorce.

If you don't meeting the requirements for a summary divorce, review the Contested Divorce Information Guide available at www.ndcourts.gov/legal-self-help/divorce.

- If you decide to represent yourself in a **formal contested divorce**, you'll need to create your own legal documents, or retain an attorney to create the legal documents for you.
- Examples of many of the legal documents you'll need to create are available at the end of the Contested Divorce Informational Guide.

WARNINGS!

You have the choice to be represented by an attorney of your choice at your own expense. By using these forms you're agreeing to expressly waive that right and that you're freely and voluntarily representing yourself in this action.

ND Legal Self Help Center staff and Court personnel **can't** help you fill out the form(s) in this packet.

See a lawyer if you don't know how to answer the questions on these forms or if you think the other spouse will hire a lawyer.

As you fill out the form(s) in this packet you **must** follow the instructions.

Type your answers or print neatly using dark ink.

Dividing property and real estate is complicated. See a lawyer if you have any questions.

There may be tax consequences associated with spousal support or the division of assets. See a tax professional if you have any questions.

CAUTION REGARDING DOMESTIC VIOLENCE

Domestic violence protection orders and disorderly conduct restraining orders generally don't allow communication between the person protected by the order and the person the order is against.

This packet of forms is designed to be used by spouses who represent themselves and agree in writing on all issues related to the divorce. The spouses must be in communication with each other to share information, make decisions and complete the forms before filing with the Clerk of Court. If there is a domestic violence protection order or disorderly conduct restraining order in effect against either spouse, you **can't** use these forms.

If there is no domestic violence protection order or disorderly conduct restraining order in effect, but you're concerned about the impact of domestic violence on you, this packet of forms may not be suitable.

Before using this packet of forms, you're strongly urged to consult a lawyer and to contact a domestic violence intervention center in your area to help you navigate your situation.

CAWS North Dakota can help you find a domestic violence intervention center in your area. The phone number is (888) 255-6242; the website is www.cawsnorthdakota.org.

NORTH DAKOTA LAWS RELATED TO DIVORCE

Chapter 14-05 of the North Dakota Century Code governs divorce.

Chapter 14-05 is a Chapter within Title 14 of the North Dakota Century Code. There are many other laws related to families in Title 14. You may find them of interest.

Laws constantly change through legislation, administrative rulings and court decisions. To determine how a law applies to your situation, review the applicable law or laws, administrative rulings and court decisions. Notes of court decisions related to North Dakota law can be found in the print editions of the North Dakota Century Code. Print editions of the North Dakota Century Code are found in many North Dakota public and academic libraries.

Only a lawyer licensed to practice in North Dakota who has agreed to represent you can give you legal advice. Legal advice includes interpreting how the laws apply to your situation.

DEFINITIONS

*****The following definitions are intended to be helpful, BUT they aren't intended to constitute legal advice OR address every possible meaning of the terms.*****

Assets – everything owned by either spouse, whether owned jointly or individually. Assets include, but aren't limited to, real property, cars, furniture, bank accounts, jewelry, life insurance policies, businesses, and retirement plans.

Debts (also called Liabilities) – everything owed by either spouse, whether owed jointly or individually. Debts include, but aren't limited to, mortgages, credit cards, student loans and car loans.

Defendant – the spouse who doesn't start the divorce action. (See Plaintiff definition below.)

Equitable distribution (also called Equitable Division) – marital property is distributed equitably (fairly) in a divorce.

Irreconcilable differences (also called No Fault) – substantial reasons for not continuing the marriage and which make it appear the marriage should be dissolved. The court need only find that irreconcilable differences exist.

Marital property – all of the assets owned and debts owed by either spouse, whether owned or owed jointly or individually.

Personal property – every kind of property that isn't real property. (See real property definition below.) Personal property includes, but isn't limited to, cars, furniture, bank accounts, jewelry, life insurance policies, businesses, and retirement plans.

Plaintiff – the spouse who starts the divorce action. (See defendant definition above.)

Qualified Domestic Relations Order (QDRO) – an order of the court that directs the administrator of a retirement plan to divide retirement assets as granted in a divorce judgment. There are many different QDRO's that are specific to the type of retirement plan. For more information about QDRO's, go to www.dol.gov/agencies/ebsa/workers-and-families/separation-and-divorce and scroll to the "Retirement" section.

If you divide a retirement asset between spouses, a QDRO is required. The spouses MUST present a proposed QDRO to the court to consider and sign. The court WON'T draft a QDRO for you. The ND Legal Self Help Center DOESN'T have QDRO forms or instructions. Consulting a lawyer is strongly recommended when dividing a retirement asset!

Real property – land either with or without buildings upon it. For example, a home is real property. (Also known as real estate.)

Residency requirement – the amount of time a spouse must live in North Dakota before they can ask a North Dakota district court to grant a divorce. The residency requirement for North Dakota is 6 months for the spouse who is listed as plaintiff.

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DIVORCE WITH WRITTEN AGREEMENT WITHOUT CHILDREN FORMS

1. Summons (Form 1)
    - Signed by the Clerk of District Court and Plaintiff
2. Complaint (Form 2)
    - Signed by the Plaintiff
3. Settlement Agreement (Form 3)
    - Signed by the Plaintiff and Defendant. Both signatures must be notarized.
4. Exhibit A: Confidential Division of Property and Debts and Values (Form 4)
    - Signed by the Plaintiff and Defendant. Both signatures must be notarized.
5. Admission of Service (Form 5)
    - Signed by the Defendant
6. Affidavit of Proof for Stipulated Judgment (Form 6)
    - Signed by the Plaintiff. Plaintiff's signature must be notarized.
7. Findings of Fact, Conclusions of Law and Order for Judgment (Proposed) (Form 7)
    - Completed using Form 3; don't sign and date
8. Judgment (Proposed) (Form 8)
    - Completed using Form 3; don't sign and date
9. Confidential Information Form (Form 9)
    - Signed by the Plaintiff and Defendant
10. Notice of Entry of Judgment (Form 10)
    - Signed by the Plaintiff

ALL OF THE FORMS MUST BE FILLED OUT COMPLETELY!! Don't leave any of the paragraphs within the forms unanswered.

If a section of the form doesn't apply to you, type or write "0.00" for the dollar amount, or "N/A" for not applicable.

If a form isn't completely filled out, it could result in the clerk not accepting the forms for filing, or the court may send the form back to you to complete. It could also mean the judge will require you to appear in person in court to answer why there are blanks in the form.

FOLLOW AND CAREFULLY READ ALL INSTRUCTIONS! There are boxes (❑) before each step for your convenience. Check each box as you finish the step. Don't go on to the next step UNTIL the previous step has been completed.

STEP 1:
FILL OUT THE "SETTLEMENT AGREEMENT" FORM (FORM 3)

***Both spouses work together to complete this form.**

NOTE: Fill out the "Settlement Agreement" form (Form 3) ONLY if you and your spouse agree on all issues. If no agreement has been reached, STOP! You can't use this set of forms.

The "Settlement Agreement" form tells the court that you and your spouse have reached an agreement settling all of the issues involved in your divorce case. It also tells the court exactly what the terms of the agreement are.

Fill out the "Settlement Agreement" by following these instructions:

❑ **FILL IN THE TOP PART OF THE SETTLEMENT GREEMENT (CAPTION):**

NOTE: The top part of each form is known as the "caption," and the information will be the same on every form you fill out.

❑ On the line marked "county," write the name of the county where you want the case to be heard

❑ **Don't** fill in the "Civil No." The Clerk of Court will assign a case number after you file your papers with the Court.

❑ On the line marked "Plaintiff," write your full name (first, middle, and last). From now on you'll be called the Plaintiff. (The spouse who is listed as the Plaintiff must be a resident of the State of North Dakota for at least the last six months. If you and your spouse aren't residents of North Dakota, **STOP! You can't use this set of forms.**)

❑ On the line marked "Defendant," write the full name of your spouse (first, middle, and last). From now on your spouse will be called the Defendant.

AGREEMENT AS TO FACTS: PARAGRAPHS 1 – 24:

NOTE: The instructions that follow are numbered the same as the paragraphs on the form.

❑ 1. Print your full name, street address, city, county, state, zip code, year of birth, and last 4 digits of your social security number.

❑ 2. Print your spouse's full name, street address, city, county, state, zip code, year of birth, and last 4 digits of your spouse's social security number.

❑ 3. Write the date (month, date, year) in which you and your spouse were married and the city, county, and state in which you were married.

❑ 4. You need not write anything in for Paragraph 4. If the statement isn't true, **STOP! You can't use this set of forms.**

❑ 5. Check YES or NO regarding whether you're a member of the armed forces stationed in North Dakota for the last six months.

❑ 6. Check YES or NO regarding whether your spouse is a member of the armed forces stationed in North Dakota for the last six months.

❑ 7. You don't need to write anything for this paragraph.

❑ 8. You need not write anything in for Paragraph 8. If the statement isn't true, **STOP! You can't use this set of forms.**

❑ 9. Check YES or NO regarding whether an Adult Abuse Protection Order or Restraining Order is currently in effect to protect you or your spouse. If there is an Adult Abuse Protection Order or Restraining Order, check off who is being protected by the order, and fill in the name of the county where the Order was issued and the date the Order was issued.

❑ 10. You don't need to write anything for Paragraph 10. If the statement isn't true, **STOP! You can't use this set of forms.**

❑ 11. List all of the sources of your income and describe the source of income (e.g. name of employer, type of public assistance, disability income). List the amount of the monthly income from each source.

❑ 12. List all of your spouse's sources of income and describe the source of income (e.g. name of employer, type of public assistance, disability income). List the amount of the monthly income from each source.

WARNING FOR PARAGRAPHS 13 – 23:

In deciding to award spousal support and divide property and debts, the Court would consider the following factors:

- The respective ages of the parties;
- Their earning ability;
- The duration of the marriage and conduct of the parties during the marriage;

- Their station in life;
- The circumstances and necessities of each;
- Their health and physical condition;
- Their financial circumstances as shown by the property owned at the time, its value at the time, its income-producing capacity, if any, whether accumulated before or after the marriage; and
- Such other matters as may be material.

Once spousal support is awarded, or reserved the court can only change or set the amount or the length of time the spousal support is paid under certain circumstances.

The division of property, once approved by the court, is final and can only be changed under limited circumstances.

PROCEED CAREFULLY AND SEE A LAWYER IF YOU HAVE ANY QUESTIONS.

❏ 13. Check YES or NO whether you need spousal support from your spouse. If YES, fill in your age, how long you've been married, your present job, and your monthly income and expenses, and explain why you need spousal support.

❏ 14. Check YES or NO whether your spouse needs spousal support from you. If YES, fill in your spouse's age, how long you've been married, your spouse's present job, and your spouse's monthly income and expenses, and explain why your spouse needs spousal support.

❏ 15. Put a checkmark (✓) in the box that is accurate for you and your spouse. If you answered "Yes," you'll provide detailed information in Step 2.

❏ 16. Put a checkmark (✓) in the box that is accurate for you and your spouse. If you answered "Yes," you'll provide detailed information in Step 2.

❏ 17. You need not write anything for Paragraph 17. If the statement isn't true, **STOP!** **You can't use this set of forms.** You'll provide the total agreed upon value of each spouse's share of the household goods, furniture, and furnishings in Step 2.

❏ 18. Put a checkmark (✓) in the box that is accurate for whether you and your spouse own any real property together. If you answered "Yes," you'll provide detailed information in Step 2.

❏ 19. Put a checkmark (✓) in the box that is accurate for whether you solely own any real property. If you answered "Yes," you'll provide detailed information in Step 2.

❑ 20. Put a checkmark (✓) in the box that is accurate for whether your spouse solely owns any real property. If you answered "Yes," you'll provide detailed information in Step 2.

❑ 21. Put a checkmark (✓) in the box that is accurate for you. If you answered "Yes," you'll provide detailed information in Step 2.

❑ 22. Put a checkmark (✓) in the box that is accurate for your spouse. If you answered "Yes," you'll provide detailed information in Step 2.

❑ 23. Put a checkmark (✓) in the box that is accurate for you and your spouse. If you answered "Yes," you'll provide detailed information in Step 2.

❑ 24. Put a checkmark (✓) in the box that is accurate for whether you want to change your name. If YES, print EXACTLY how your new name should be listed (first, middle, and last). Don't use initials.

❑ 25. Put a checkmark (✓) in the box that is accurate for whether your spouse wants to change his or her name. If YES, print EXACTLY how your spouse's new name should be listed (first, middle, and last). Don't use initials.

STIPULATED TERMS FOR JUDGMENT: PARAGRAPHS 1 – 18 STARTING ON PAGE 5

NOTE: The instructions which follow are numbered the same as the paragraphs on the form.

❑ 1. This means you and your spouse agree that your marriage should be dissolved. You don't need to write anything here.

❑ 2. Put a checkmark (✓) in box 2(a) if your spouse will pay spousal support to you. Fill in the amount of spousal support your spouse will pay to you each month, how long the payments will be made, and when the payments will start.

- ❑ Put a checkmark (✓) in box 2(b) if you'll pay spousal support to your spouse. Fill in the amount of spousal support you'll pay to your spouse each month, how long the payments will be made, and when the payments will start.
- ❑ Put a checkmark (✓) in box 2(c) if you and your spouse agree that neither of you'll receive spousal support.
- ❑ Put a checkmark (✓) in box 2(d) if you and your spouse agree that the court should decide the issue of spousal support later.

❑ 3. Put a checkmark (✓) in the same option you chose for Paragraph 16 of the Agreement as to Facts. If you answered "Yes," you'll provide detailed information in Step 2.

❑ 4. You need not write anything for Paragraph 4. If the statement isn't true, **STOP!** **You can't use this set of forms.**

❑ 5. Put a checkmark (✓) in the same option you chose for Paragraph 15 of the Agreement as to Facts. If you answered "Yes," you'll provide detailed information in Step 2.

❑ 6. Put a checkmark (✓) in the same option you chose for Paragraph 18 of the Agreement as to Facts. If you answered "Yes," you'll provide detailed information in Step 2.

❑ 7. Put a checkmark (✓) in the same option you chose for Paragraph 19 of the Agreement as to Facts. If you answered "Yes," you'll provide detailed information in Step 2.

❑ 8. Put a checkmark (✓) in the same option you chose for Paragraph 20 of the Agreement as to Facts. If you answered "Yes," you'll provide detailed information in Step 2.

❑ 9. Put a checkmark (✓) in the same option you chose for Paragraph 21 of the Agreement as to Facts. If you answered "Yes," you'll provide detailed information in Step 2.

❑ 10. Put a checkmark (✓) in the same option you chose for Paragraph 22 of the Agreement as to Facts. If you answered "Yes," you'll provide detailed information in Step 2.

❑ 11. Put a checkmark (✓) in the same option you chose for Paragraph 23 of the Agreement as to Facts. If you answered "Yes," you'll provide detailed information in Step 2.

❑ 12. If your name will be changed, print **EXACTLY** how your new name will be listed (first, middle, and last). Don't use initials. (See Paragraph 24 of the Agreement as to Facts.) If this section doesn't apply to you, check "Does Not Apply."

❑ 13. If your spouse's name will be changed, print **EXACTLY** how your spouse's new name will be listed (first, middle, and last). Don't use initials. (See Paragraph 25 of the Agreement as to Facts.) If this section doesn't apply to you, check "Does Not Apply."

❑ 14 - 19. You don't need to write anything for Paragraphs 14-19. **You must read these paragraphs carefully.**

❑ **You and your spouse MUST <u>BOTH</u> sign and fill in your address on the "Settlement Agreement" form.**

- **Don't sign and date until you're in the presence of a Notary Public or a Clerk of Court.**
- You and our spouse may sign at separate dates and locations, **but** both spouses **must** sign and date **before** filing this completed packet of forms with the court.

- The form doesn't have to be signed in North Dakota or signed by a North Dakota Notary Public or a North Dakota Clerk of Court.
- If you sign the form in a state other than North Dakota, sign in the presence of a Notary Public or Clerk of Court of that state.

STEP 2:
FILL OUT THE "EXHIBIT A: CONFIDENTIAL DIVISION OF PROPERTY AND DEBTS AND VALUES" FORM (FORM 4)

***Both spouses work together to complete this form.**

NOTE: Fill out the "Exhibit A: Confidential Division of Property and Debts and Values" form (Form 4) only if you and your spouse have agreed to a property settlement and have agreed upon the values of each of your items of property and the outstanding amount of each debt.

If you and your spouse don't agree on the value of each item of property or the amount outstanding on each debt, STOP! You can't use this set of forms.

The "Exhibit A: Confidential Division of Property and Debts and Values " form tells the Court the value of your assets and liabilities, how you have agreed to divide your assets and liabilities, and allows the Court to decide if the division of the property and the debts is fair.

WARNING FOR DIVIDING PROPERTY AND DEBTS:

In deciding to divide property and debts, the Court would consider the following factors:

- The respective ages of the parties;
- Their earning ability;
- The duration of the marriage and conduct of the parties during the marriage;
- Their station in life;
- The circumstances and necessities of each;
- Their health and physical condition;
- Their financial circumstances as shown by the property owned at the time, its value at the time, its income-producing capacity, if any, whether accumulated before or after the marriage; and
- Such other matters as may be material.

The division of property, once approved by the court, is final and can only be changed under limited circumstances. **PROCEED CAREFULLY AND SEE A LAWYER IF YOU HAVE ANY QUESTIONS.**

❑ **FILL IN THE TOP PART OF THE FORM:**

The information to fill out the top part of the form ("the caption") is the same as your "Settlement Agreement" (Form 3).

WARNING FOR PARAGRAPH 1:

Creditors aren't bound by the agreement of the spouses. If one of your debts is awarded to the other spouse and they don't make payment, the creditor can still seek payment from you. **PROCEED CAREFULLY AND SEE A LAWYER IF YOU HAVE ANY QUESTIONS.**

❑ 1. Put a checkmark (✓) in the same option you chose for Paragraph 15 of the Agreement as to Facts and Paragraph 5 in the Stipulated Terms for Judgment of your "Settlement Agreement" (Form 3).

- ❑ If you and your spouse have debts and liabilities, list your outstanding debts and liabilities. List all of the debts you and your spouse now have, even if only one of you created the debt. Include credit card bills, gas bills, water bills, telephone bills, school loans, car loans, and other bills and loans. List to whom the debt is owed (such as "Visa"), the purpose of the debt (such as "clothing for the children), who created the debt (Plaintiff, Defendant, or both parties).

- ❑ List the current balance due in the column of the spouse who will pay the debt if the court grants your divorce.

❑ 2. Put a checkmark (✓) in the same option your chose for Paragraph 16 of the Agreement as to Facts and Paragraph 3 in the Stipulated Terms for Judgment of your "Settlement Agreement" (Form 3).

- ❑ List all vehicles and watercraft (cars, trucks, boats, RVs, snowmobiles, jet skis, motorcycles) owned by you, your spouse, or both of you together. List the vehicle even if it isn't working, or not licensed, or uninsured. Include the type of vehicle, year/make/model, whose name is on the title, the balance owed (if any), and the monthly payment (if any). If you own a manufactured or mobile home that HAS NOT been converted to real property, list it here.

❑ List the current agreed upon value in the column of the spouse who will own the vehicle or watercraft if the court grants your divorce.

❑ 3. Fill in the total agreed upon value of each spouse's share of the household goods, furniture, and furnishings. (See Paragraph 17 of the Agreement as to Facts and Paragraph 4 in the Stipulated Terms for Judgment of your "Settlement Agreement" (Form 3).)

❑ 4a. Put a checkmark (✓) in the same option you chose for Paragraph 18 of the Agreement as to Facts and Paragraph 6 in the Stipulated Terms for Judgment of your "Settlement Agreement" (Form 3).

b. ❑ (1) Fill in the street address, city, county, and state where your jointly owned property is located;

❑ (2) Fill in the legal description of the property;

NOTE: the legal description of the property isn't the same as the street address. The legal description can be found on the warranty deed, mortgage, title insurance, or from the County Recorder in the county where the property is located.

❑ (3) State the date the property was purchased and its purchase price;

❑ (4) State the amount of any existing loans or mortgages;

❑ (5) State the market value of the property (this can be found on the most recent property tax statement).

❑ (6) Put a checkmark (✓) in the box next to the spouse who will be the owner of the property if the court grants your divorce. List the amount of the mortgage or loan.

c. ❑ Repeat, if you jointly own another property. If not, checkmark (✓) "Does Not Apply."

❑ 5a. Put a checkmark (✓) in the same option you chose for Paragraph 19 of the Agreement as to Facts and Paragraph 7 in the Stipulated Terms for Judgment of your "Settlement Agreement" (Form 3).

b. ❑ (1) Fill in the street address, city, county, and state where your jointly owned property is located;

❑ (2) Fill in the legal description of the property;

NOTE: the legal description of the property isn't the same as the street address. The legal description can be found on the warranty deed, mortgage, title insurance, or from the County Recorder in the county where the property is located.

❑ (3) State the date the property was purchased and its purchase price;

❑ (4) State the amount of any existing loans or mortgages;

❑ (5) State the market value of the property (this can be found on the most recent property tax statement).

❑ (6) Put a checkmark (✓) in the box next to the spouse who will be the owner of the property if the court grants your divorce. List the amount of the mortgage or loan.

c. ❑ Repeat, if you jointly own another property. If not, checkmark (✓) "Does Not Apply."

❑ 6a. Put a checkmark (✓) in the same option you chose for Paragraph 20 of the Agreement as to Facts and Paragraph 8 in the Stipulated Terms for Judgment of your "Settlement Agreement" (Form 3).

b. ❑ (1) Fill in the street address, city, county, and state where your jointly owned property is located;

❑ (2) Fill in the legal description of the property;

NOTE: the legal description of the property isn't the same as the street address. The legal description can be found on the warranty deed, mortgage, title insurance, or from the County Recorder in the county where the property is located.

❑ (3) State the date the property was purchased and its purchase price;

❑ (4) State the amount of any existing loans or mortgages;

❑ (5) State the market value of the property (this can be found on the most recent property tax statement).

❑ (6) Put a checkmark (✓) in the box next to the spouse who will be the owner of the property if the court grants your divorce. List the amount of the mortgage or loan.

c. ❑ Repeat, if you jointly own another property. If not, checkmark (✓) "Does Not Apply."

(*This space intentionally left blank.*)

WARNING FOR PARAGRAPHS 7 AND 8:

Dividing pension plans and retirement accounts is <u>EXTREMELY</u> complicated.

The spouses are responsible for making sure these assets are divided, which will require a separate court order. The separate court order is called a qualified domestic relations order (QDRO) and the parties are responsible for obtaining a proposed QDRO and presenting the proposed QDRO to the court.

The court <u>won't</u> draft a QDRO document or an order including a QDRO. The ND Legal Self Help Center <u>doesn't</u> have QDRO forms.

If Plaintiff's plan will be divided, the Plaintiff is responsible for obtaining the proposed QDRO.

If Defendant's plan will be divided, the Defendant is responsible for obtaining the proposed QDRO.

❑ **NOTE:** Contact the plan administrator <u>early</u> in the process. The plan administrator won't create a QDRO for you but some plan administrators have sample QDRO documents for you to follow when drafting your own QDRO.

❑ Make sure the QDRO meets all of plan's requirements before filing the QDRO. Ask the plan administrator if they will review and approve the QDRO <u>before</u> you file it with the court.

❑ DON'T sign the proposed QDRO. The QDRO is signed by the Judge or Judicial Referee.

If neither spouse has pension nor retirement plans, OR each spouse will keep their own pension or retirement plans, <u>without dividing an individual plan</u>, a QDRO <u>isn't</u> required.

❑ 7. Put a checkmark (✓) in the same option you chose for Paragraph 21 of the Agreement as to Facts and Paragraph 9 in the Stipulated Terms for Judgment of your "Settlement Agreement" (Form 3).

❑ If you or your past or present employer or union or other group pays or has paid money into a pension, profit-sharing plan, individual retirement account, or other retirement plan for you, describe the plan by listing the employer, union, or other group which provides the plan; the date you started working at the job or date you joined the union or group plan; the type of pension or retirement plan, and the present value. For an individual retirement account, list the account number, the bank which has the individual retirement account, and the present account balance.

- ❑ List the current agreed upon value in the column of the spouse who will be awarded the pension plan or retirement account if the court grants your divorce.

❑ 8. Put a checkmark (✓) in the same option you chose for Paragraph 22 of the Agreement as to Facts and Paragraph 10 in the Stipulated Terms for Judgment of your "Settlement Agreement" (Form 3).

- ❑ If your spouse or your spouse's past or present employer or union or other group pays or has paid money into a pension, profit-sharing plan, individual retirement account or other retirement plan for your spouse, describe the plan by listing the employer, union, or other group which provides the plan; the date your spouse started working at the job or date your spouse joined the union or group plan; the type of pension or retirement plan, and the present value. For an individual retirement account, list the account number, the bank which has the individual retirement account, and the present account balance.

- ❑ List the current agreed upon value in the column of the spouse who will be awarded the pension plan or retirement account if the court grants your divorce.

❑ 9. Put a checkmark (✓) in the option that is accurate for you and your spouse.

- ❑ If you or your spouse own a business or a farm, all assets that are part of the operation should be listed. These items would include, but aren't limited to: farm machinery, grain on hand, accounts receivable, business equipment, etc.

- ❑ List the current agreed upon value in the column of the spouse who will be awarded the business or farm interest or asset if the court grants your divorce.

❑ 10. Put a checkmark (✓) in the same option your chose for Paragraph 23 of the Agreement as to Facts and Paragraph 11 in the Stipulated Terms for Judgment of your "Settlement Agreement" (Form 3).

- ❑ List all of your financial or other assets not already mentioned. Include checking accounts, savings accounts, money market accounts, Certificates of Deposit, life insurance policies business assets or interests, etc. Include where the asset is located, the account numbers or policy numbers, and the value of each asset.

- ❑ List the current agreed upon value in the column of the spouse who will be awarded the financial or other asset if the court grants your divorce.

❑ 11. The "Summary" is the place to list the total of your assets by category and the total of your debts.

❑ **You and your spouse must <u>both</u> sign and date the "Exhibit A: Confidential Division of Property and Debts and Values " form.**

- You and our spouse may sign at separate dates and locations, **but** both spouses **must** sign and date **before** filing this completed packet of forms with the court.
- **Don't sign and date until you're in the presence of a Notary Public or a Clerk of Court.**
- The form doesn't have to be signed in North Dakota or signed by a North Dakota Notary Public or a North Dakota Clerk of Court.
- If you sign the form in a state other than North Dakota, sign in the presence of a Notary Public or Clerk of Court of that state.

(*The "Exhibit A: Confidential Division of Property and Debts and Values" form is a confidential court record that isn't generally available to be viewed by the public after the document is filed with the clerk of court.*

However, any person with good cause may make a written request to the court for access to the "Exhibit A: Confidential Division of Property and Debts and Values " form. If a written request is made, the person making the request must notify the parties in the divorce. The parties will then have the option to tell the court in writing why they agree or disagree with the request.

If the court finds that the public interest, or the personal interest of the person making the request, outweighs the privacy interest of the parties, or their dependent children, the court will grant access.)

STOP!!!

IF BOTH SPOUSES HAVEN'T AGREED ON THE TERMS LISTED IN THE SETTLEMENT AGREEMENT (Form 3) AND THE CONFIDENTIAL DIVISION OF PROPERTY AND DEBTS AND VALUES (Form 4), YOU CAN'T USE THIS SET OF FORMS!

To see the other divorce resources available through the ND Legal Self Help Center, go to www.ndcourts.gov/legal-self-help/divorce.

STEP 3:
FILL OUT THE "SUMMONS" FORM (FORM 1)

A "Summons" (Form 1) tells your spouse that you have filed a lawsuit against them asking for a divorce, and also tells your spouse that if they don't file a written Answer to your lawsuit, the court may give you everything you ask for in your lawsuit. **Filling out this form is required even though you and your spouse agree to the divorce.**

***The spouse listed as plaintiff completes this form.**

❑ **FILL IN THE TOP PART OF THE FORM:**

The information to fill out the top part of the form ("the caption") is the same as on all of the other forms you have filled out.

❑ **Go to the District Clerk of Court's Office and ask the Clerk of District Court to sign and date the Summons.**

❑ **You sign and fill in your name and address.**

Both parties are required to obey the Summons. **Read it carefully!**

You'll make copies of the completed Summons in Step 9.

STEP 4:
FILL OUT THE "COMPLAINT" FORM (FORM 2)

Fill out the "Complaint" form (Form 2) included in this packet. The Complaint is divided into two parts. The first part gives the Court information about you, your spouse, and your property. The second part tells the Court and your spouse what you're asking for from the Court. **Filling out this form is required even though you and your spouse agree to the divorce.**

***The spouse listed as plaintiff completes this form.**

❑ **FILL IN THE TOP PART OF THE FORM:**

The information to fill out the top part of the form ("the caption") is the same as on all of the other forms you have filled out.

ANSWER OR REVIEW PARAGRAPHS 1 – 13:

❑ Review paragraphs 1 and 2.

❑ Answer paragraphs 3, 4, and 5.

❑ Review paragraphs 6 through 13.

If any of the paragraphs don't fit your situation, **STOP! **You can't use this set of forms.**

❑ Sign and date the Complaint form and fill in your address.

WARNING: By signing your name you, the spouse listed as plaintiff, are telling the Court that you're telling the truth and that you have a good faith reason for your requests.

If you're not telling the truth or if you're misleading the Court of if you're serving or filing this document for an improper purpose, the Court could find you in contempt or you may be prosecuted for perjury.

You'll make copies of the completed Complaint in Step 9.

STEP 5:
FILL OUT THE "CONFIDENTIAL INFORMATION FORM" (FORM 9)

Court records are generally available to the public, and anyone can request to look in almost any court file. However, certain information is required to remain confidential, even if it is part of a public court record.

You and your spouse are solely responsible for making sure confidential information doesn't appear in the documents they prepare.

Confidential information includes:

- Social security numbers
- Taxpayer identification numbers
- Birthdates
- Financial-account numbers.

Documents filed with the Court with references to confidential information must include only:

- The last four (4) digits of the social security number and taxpayer identification number
- The year of birth
- The last four (4) digits of the financial-account number

Since the forms in this packet include references to confidential information, you must prepare a Confidential Information form. The form must contain the full confidential information that is referenced in the documents.

❑ **FILL IN THE TOP PART OF THE FORM:**

***Both spouses work together to complete this form.**

The information to fill out the top part of the form ("the caption") is the same as on all of the other forms you have filled out.

❑ **FILL IN THE PLAINTIFF AND DEFENDANT INFORMATION:**

This gives the court the confidential information that can't be included in any other forms filed in the divorce. This form remains confidential and isn't a public record.

- ❑ Fill in the full information for the plaintiff and the full information for the defendant.
- ❑ Fill in the year of birth and last 4 digits of the social security number for the plaintiff and defendant.

❑ **FILL IN THE FINANCIAL ACCOUNT INFORMATION:**

- ❑ Review the Settlement Agreement (Form 3) for all financial account numbers. Only the last 4 digits of the financial account numbers should be listed on the Settlement Agreement. You may not have any financial account numbers listed on the Settlement Agreement.
- ❑ If you listed the last 4 digits of any financial account numbers on the Settlement Agreement, fill in the full information for each financial account listed in the Settlement Agreement. List the last 4 digits of the financial account number next to the full information for each financial account. Attach another sheet of paper if you need more space.

❑ **You and your spouse must both sign and date the Confidential Information Form.**

❑ **You don't need to list any of the financial account information from the Exhibit A: Confidential Division of Property and Debts and Values form (Form 4) on the Confidential Information Form (Form 9).** Exhibit A: Confidential Division of Property and Debts and Values form (Form 4) is a confidential court record that isn't generally available to be viewed by the public after the document is filed with the clerk of court.

You'll make copies of the completed Confidential Information Form in Step 9.

STEP 6:
FILL OUT THE "AFFIDAVIT OF PROOF FOR STIPULATED JUDGMENT" FORM (FORM 6)

An "Affidavit of Proof (Form 6) is the Plaintiff's written and signed statement of the facts and the court's authority (jurisdiction) to decide the divorce action.

***The spouse listed as plaintiff completes this form.**

❑ **FILL IN THE TOP PART OF THE FORM:**

The information to fill out the top part of the "Affidavit of Proof for Stipulated Judgment" form (Form 6) is the same as on all of the other forms you have filled out.

- ❑ For the first sentence, fill in your name.
- ❑ For Paragraph 3, fill in the date of your marriage.

❑ **Don't sign and date until you're in the presence of a Notary Public or a Clerk of Court.**

❑ Sign and date the Affidavit form and fill in your address.

- The affidavit doesn't have to be signed in North Dakota or signed by a North Dakota Notary Public or a North Dakota Clerk of Court.
- If you sign the affidavit in a state other than North Dakota, sign in the presence of a Notary Public or Clerk of Court of that state.

You'll make copies of the completed Affidavit of Proof for Stipulated Judgment in Step 9.

STEP 7:
FILL OUT THE "FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER FOR JUDGMENT" (FORM 7)

Findings of fact are the Court's written determination of the facts made from the evidence presented in the divorce action. This explains what facts the court found to be true.

Conclusions of law are the rulings of law made by the Court based on, or in connection with, the findings of fact. These are the legal consequences of the facts the court found to be true.

The "Findings of Fact, Conclusions of Law and Order for Judgment" form (Form 7) is your **PROPOSED** findings of fact, conclusions of law and order for judgment for the divorce.

The Judge or Referee assigned to your divorce action will ultimately decide whether or not to grant the divorce. The Judge or Referee will also decide whether or not to use your proposed findings of fact, conclusions of law and order for judgment.

- ❑ **FILL IN THE TOP PART OF THE "FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER FOR JUDGMENT" FORM:**

The information to fill out the top part of the form ("the caption") is the same as on all of the other forms you have filled out.

- ❑ **DON'T fill in any information in the introductory paragraph.** If the Court uses this form, the Judge or Referee assigned to your divorce action with fill in the information.

FINDINGS OF FACT: PARAGRAPHS 1 – 25

To complete this section of the form, you need to refer to your completed "Agreement as to Facts" section of your "Settlement Agreement" (Form 3).

- ❑ Copy the information **EXACTLY** from each paragraph of the "Agreement as to Facts" section of your Settlement Agreement (Form 3) into the corresponding paragraphs of the "Findings of Fact" section of the "Findings of Fact, Conclusions of Law and Order for Judgment" form (Form 7).

CONCLUSIONS OF LAW: PARAGRAPHS 1 – 13

To complete this section of the form, you'll need to refer to the completed "Stipulate Terms of Judgment" section of your Settlement Agreement (Form 3).

- ❑ Copy the information **EXACTLY** from each paragraph of the "Stipulated Terms of Judgment" section of your Settlement Agreement (Form 3) into the corresponding paragraphs of the "Conclusions of Law" section of the "Findings of Fact, Conclusions of Law and Order for Judgment" form (Form 7).

ORDER FOR JUDGMENT

- ❑ **Leave this section** blank. If the Court uses this form, the Judge or Referee assigned to your divorce action will fill in the information.

You'll make copies of the completed Findings of Fact, Conclusions of Law and Order for Judgment in Step 9.

STEP 8:
FILL OUT THE "JUDGMENT" (FORM 8)

The "Judgment" form (Form 8) is your **PROPOSED** judgment for the divorce. If the Judge or Referee assigned to your divorce action grants the divorce and uses your proposed findings of fact, conclusions of law and order for judgment, the Clerk of Court will sign and date your proposed judgment.

❑ **FILL IN THE TOP PART OF THE "JUDGMENT" FORM:**

The information to fill out the top part of the form ("the caption") is the same as on all of the other forms you have filled out.

❑ **DON'T fill in any information in the introductory paragraph.** If the Court uses this form, the Clerk of Court will fill in the information.

PARAGRAPHS 1 – 13

To complete this section of the form, you'll need to refer to the completed "Stipulated Terms of Judgment" section of your Settlement Agreement (Form 3).

❑ Copy the information **EXACTLY** from each paragraph of the "Stipulated Terms of Judgment" section of your Settlement Agreement (Form 3) into the corresponding paragraphs of the Judgment form (Form 8).

PARAGRAPH 16

❑ Fill in the last 4 digits of your social security number.

❑ Fill in the last 4 digits of your spouse's social security number.

SIGNATURE AND DATE PARAGRAPH

❑ Leave this section blank. If the Court uses this form, the Clerk of Court will fill in the information.

You'll make copies of the completed Judgment in Step 9.

STEP 9:
GET SIGNATURES, MAKE COPIES OF COMPLETED FORMS

WARNING: ALL OF THE FORMS MUST BE FILLED OUT COMPLETELY!! If a section of A form doesn't apply to you, type or write "0.00" for the dollar amount, or "N/A" for not applicable.

If a form isn't completely filled out, it could result in the clerk not accepting the forms for filing, or the court may send the form back to you to complete. It could also mean the judge will require you to appear in person in court to answer why there are blanks in the form.

SIGNING OF DOCUMENTS

❑ **Plaintiff must make sure the Summons has been signed by the clerk.** The Plaintiff also signs and fills in their information.

❑ **Plaintiff must sign and complete the following forms:**

1. Complaint (Form 2); and
2. Affidavit of Proof for Stipulated Judgment (Form 6) (Sign **in front of notary public)**.

❑ **If both parties haven't already signed the following forms, they must sign and complete each form as indicated:**

1. Settlement Agreement (Form 3 (Sign **in front of notary public)**);
2. Exhibit A: Confidential Division of Property and Debts and Values form (Form 4) (Sign **in front of notary public)**; and
3. Confidential Information Form (Form 9).

MAKING COPIES

❑ **After obtaining all signatures as indicated above, make 2 copies of the following:**

1. Summons (Form 1)
2. Complaint (Form 2)
3. Settlement Agreement (Form 3)
4. Exhibit A: Confidential Division of Property and Debts and Values (Form 4)
5. Affidavit of Proof for Stipulated Judgment (Form 6)
6. Findings of Fact, Conclusions of Law and Order for Judgment (Proposed) (Form 7) **(Don't sign)**
7. Judgment (Proposed) (Form 8) **(Don't sign)**
8. Confidential Information Form (Form 9)

(One copy is for your records, one copy is for the Defendant). The original is filed with the Court as indicated in Step 11.

STEP 10:
SERVE COPIES OF COMPLETED FORMS ON THE DEFENDANT; DEFENDANT COMPLETES THE ADMISSION OF SERVICE

❑ **The plaintiff mails or gives one copy of each signed and completed form listed in Step 9 to the defendant as follows:**

1. Summons (Form 1)
   - Must be signed by the Plaintiff and Clerk of Court
2. Complaint (Form 2)
   - Must be signed by Plaintiff
3. Settlement Agreement (Form 3)
   - Must be signed by both Plaintiff and Defendant
4. Exhibit A: Confidential Division of Property and Debts and Values (Form 4)
   - Must be signed both Plaintiff and Defendant
5. Affidavit of Proof for Stipulated Judgment (Form 6)
   - Must be signed by Plaintiff
6. Findings of Fact, Conclusions of Law and Order for Judgment (Proposed) (Form 7)
   - **DON'T SIGN**
7. Judgment (Proposed) (Form 8)
   - **DON'T SIGN**
8. Blank Admission of Service (Form 5)
   - Must be completed and signed by Defendant

❑ After receiving a copy of the forms listed above, the Defendant MUST complete, sign and date the Admission of Service form. This is proof to the Court that the Defendant was served with a copy of the documents listed in Step 9.

❑ The Defendant should make **2** copies of the completed Admission of Service form. (The Defendant keeps one copy and gives one copy and the original to the Plaintiff for filing.)

After the original, completed "Admission of Service" (Form 5) is completed, signed and dated by the Defendant and returned to you, the Plaintiff, proceed to Step 11.

STEP 11:
FILE THE ORIGINAL, COMPLETED FORMS WITH THE CLERK OF COURT

❑ Take or mail the completed **ORIGINAL** of each of the following forms to the Clerk of District Court's Office in the North Dakota county where you'll file your divorce forms:

1. Summons (Form 1)
2. Complaint (Form 2)
3. Settlement Agreement (Form 3)
4. Exhibit A: Confidential Division of Property and Debts and Values (Form 4)
5. Admission of Service (Form 5)
6. Affidavit of Proof for Stipulated Judgment (Form 6)
7. Findings of Fact, Conclusions of Law and Order for Judgment (Proposed) (Form 7)
8. Judgment (Proposed) (Form 8)
9. Confidential Information Form (Form 9)

❑ You'll need to pay a filing fee. The filing fee for a divorce is currently $80.

- ❑ If you can't afford to pay the filing fee, the judge may waive it under certain circumstances. Ask the Clerk of Court for a Petition for Order Waiving Fees and Financial Affidavit. The fee waiver forms can also be found at www.ndcourts.gov/legal-self-help/fee-waiver
- ❑ You need to fill out this application and sign it in front of a Notary Public.
- ❑ This application will be reviewed by a judge who will determine whether you must pay the filing fee. If the judge doesn't sign the order which waives the fee, you must be prepared to pay the filing fee or the Clerk of Court can't accept your legal papers.

The original documents will be kept in the court file. If your documents are accepted for filing by the Clerk of District Court, a case number will be assigned to your divorce case.

The Clerk of District Court's office will send you a letter telling you the case number and the date that your papers were filed.

(*This space left intentionally blank.*)

STEP 12:
DIVORCE JUDGMENT

- ❑ After the court reviews all of the paperwork, **the court may require a hearing. You'll be notified of the date and time and location of the hearing. You must attend the hearing**. If you fail to attend the hearing the court may not grant your divorce.
- ❑ If the court approves the Settlement Agreement then the Clerk of Court will send you and your spouse a copy of the judgment telling you the judge has signed the "Findings of Fact, Conclusions of Law, and Order for Judgment" and the "Judgment" has been filed which means your divorce is final. If you need a certified copy of the judgment, you may obtain one for a fee though the Clerk of Court's office.
- ❑ If the court doesn't require a hearing, the Clerk of Court will send you and your spouse a copy of the judgment telling you the judge has signed the "Findings of Fact, Conclusions of Law, and Order for Judgment" and the "Judgment," has been filed which means your divorce is final.

WARNING: YOU'RE NOT DIVORCED UNTIL THE JUDGMENT HAS BEEN FILED.

STEP 13:
SERVE THE NOTICE OF ENTRY OF JUDGMENT (FORM 10) ON THE DEFENDANT; FILE PROOF OF SERVICE WITH THE CLERK OF COURT

***The spouse listed as plaintiff completes this form**

- ❑ Within 14 days after the divorce judgment is entered, you must serve a Notice of Entry of Judgment (Form 10) on the defendant.
  - ❑ Fill out the form and follow the instructions for service on the defendant. You must include a copy of the signed divorce Judgment and a copy of Exhibit A: Confidential Division of Property and Debts and Values when you serve the completed Notice of Entry of Judgment on the defendant.
- ❑ After completing and serving the Notice of Entry of Judgment form, file the original completed Notice of Entry of Judgment and proof of service on the defendant with the Clerk of Court's Office in the County where your case is located.