

STATE OF MINNESOTA

FAMILY COURT MATTER

Instructions for: DISSOLUTION OF MARRIAGE WITHOUT CHILDREN

You may file your divorce in the County where you live or the county where your spouse lives. These instructions contain general information. Filing fees, policies and procedures may vary by county.

If you cannot afford to pay the filing fee or other costs, ask the Court Administrator/Deputy for an “IFP” application to waive fees. A judge will decide if you have to pay, based on your application.

Read These Important Notices

Can I handle my divorce myself?

The court does not require you to have a lawyer. You may represent yourself, and you will be referred to as a “self-represented litigant.” Court forms are available from the court but court personnel cannot assist you in filling out the forms. The Court expects every person who appears in court without an attorney to know and to follow the law. If you act as your own attorney, you must do what an attorney would do.

The danger in representing yourself is that you may not recognize legal issues or problems in your case, or you may delay your divorce by failing to follow required procedures. You may get a divorce and learn later that you made serious mistakes that cost you money or create other problems. Changing a divorce order is difficult, and for some issues, like division of property, it is nearly impossible to change a divorce order.

You may wish to consider talking to a lawyer even if you plan to represent yourself. A lawyer can help you with all or just part of the process. For example, you may decide to ask a lawyer to help you decide if you should ask for spousal maintenance.

Here are some areas where people run into problems and need legal advice. If you answer YES to any of the questions below, you are strongly advised to talk to an attorney before signing any divorce forms.

1. Does your spouse have an attorney?
2. Do you or your spouse have pension, retirement or profit sharing plans?
3. Do you or your spouse own a home or other real estate together or separately?
4. Do you or your spouse own a business?
5. Do you or your spouse have a large amount of assets (money, property)?
6. Did you sign an antenuptial contract?
7. Do you and your spouse have children together or is a spouse pregnant?
8. Since your marriage, has a spouse given birth to a child fathered by someone other than the other spouse?
9. Have you or your spouse filed for bankruptcy or plan to in the near future?
10. Are you or your spouse involved in a personal injury lawsuit?
11. Are you worried about paying debts?
12. Are you claiming you have non-marital property?
13. Do you want spousal maintenance (formerly called “alimony”) or is your spouse asking for spousal maintenance?
14. Do you have questions about how to continue medical insurance?
15. Are you or your spouse a member of the armed services?

Can I file for divorce in Minnesota?

1. The law states that before you can begin a divorce in Minnesota, you or your spouse must have lived in Minnesota for the last six months, OR you or your spouse must be a member of the armed forces stationed in Minnesota for the last six months. If neither you nor your spouse have lived in Minnesota for the last six months, STOP – you cannot get a divorce in Minnesota yet. You must wait until one of you has lived in Minnesota for at least six months. File in the county where either you or your spouse live now.
2. If you and your spouse are a same sex couple who were civilly married in Minnesota, but no longer live in Minnesota, based on a new law effective August 1, 2013, you and your spouse may file an action for dissolution in Minnesota if there is no other state that will allow an action for dissolution because of the sex or sexual orientation of you and your spouse.
3. If you or your spouse has already started a divorce, legal separation or annulment action in Minnesota or in any other state, you cannot start this divorce. You may either complete the other action, or you may have the other action dismissed and then start this divorce action.

What Forms Do I Need?

You should use the Petition for Dissolution Without Children forms ONLY if there are no children who were born of, or adopted into this marriage. You may be able to use these forms if a child was born to a spouse during a marriage between a same sex couple. You may want to talk to an attorney if this situation applies to you. A “child” is someone 17 years old or younger. “Child” also means someone 18 or 19 years old, if the child is still in high school. If the wife gave birth to a child during the marriage and the husband or wife is claiming husband is not the father of that child, you must use the forms associated with the *Petition for Dissolution of Marriage With Children*, unless you have a court order stating that the spouse is not the father of that child, or you attach certified copies of Recognition of Parentage AND Husband’s Non-Paternity Statement (signed by mother, father, and husband).

Do You Need a Temporary Order?

If you need an order for spousal maintenance, possession of the homestead, or any other matter in the divorce before the final divorce decree is issued, ask court administration for the *Temporary Relief Pending Final Hearing Without Children* forms or download the forms at www.mncourts.gov/forms (select the Divorce/Dissolution category).

Do the Forms Have to be Typed?

Typed forms are preferred because they are easier to read. You may print your answers if your writing is clear and neat. Use dark ink. If you need more space to answer a question, write “See Exhibit A” and attach an additional full sheet of paper labeled “Exhibit A.” If a second attachment is needed, label it “Exhibit B.”

As you fill out the forms, you MUST follow all of the attached instructions.

Helpful materials may be found at your public county law library. For a directory, see <http://mn.gov/law-library/research-links/county-law-libraries.jsp> . For more information, contact your court administrator or call the Minnesota State Law Library at 651-296-2775.

INSTRUCTIONS

Step 1 Fill Out the *Summons* Form

A *Summons* tells your spouse that you have filed a lawsuit against him or her asking for a divorce, and also tells your spouse that if he or she does not file a written *Answer* to your lawsuit, the Court may give you everything you ask for in your lawsuit.

HOW TO FILL IN THE *SUMMONS*:

- On the line marked “Name of Petitioner,” write your full name. From now on, you will be called Petitioner.
- On the line marked “Name of Respondent,” write your spouse’s full name. From now on, your spouse will be called Respondent.
- Check the appropriate box “without real estate” or “with real estate” at the top right section of the *Summons*. Check “with real estate” if you or your spouse together or separately own real estate, land, or buildings in Minnesota or elsewhere.
- Check the appropriate box at question #3. If there is no real estate, check the box that says, “This proceeding does not involve real property.” If you and/or your spouse own real estate, select the first box and fill in the street address, county, and state of all real property (such as a house or cabin) owned either by you or your spouse. You must also give the legal description of the property (the legal description is not the same as the street address). *Example of Legal Description: Lot 1, Block 4, Hamden Edition, Hennepin County, Minnesota.* You can get a copy of the legal description from the Deed, Contract for Deed, or Certificate of Title at the office of the County Recorder or Registrar of Titles in the county where the property is located.

WARNING: Be sure to copy the legal description **exactly** as it is on the Deed, Contract for Deed, or Certificate of Title. If there is more than one parcel of real estate, you must provide the address and legal description for each parcel. The form provides space for two parcels. If you have more than that, you may add the

language “See attached Exhibit A” following the legal description for the second parcel of land. On a separate full sheet of paper, write the information for the other parcels of land. Label the separate sheet of paper “Exhibit A” and staple it to the completed *Summons*.

- Fill in your address and phone number at the bottom of the *Summons*.
- **Caution: Make sure you list all real estate.** To avoid title problems in the future, list all real estate owned by the parties together or separately in the *Summons and Petition* and the divorce *Decree*. You and your spouse both have an interest in all real estate owned by either you or your spouse until the divorce is finalized and the Decree awards the property to just one party. For example, a deed given by one spouse to the other spouse before the divorce is finalized does **not** transfer all interest to the grantee spouse.

Step 2 Fill Out the *Petition for Dissolution of Marriage Form*

YOU MUST ANSWER EVERY QUESTION
*Write "NA" on the blanks that do not apply or
write "Unknown" if you are unable to obtain the information.*

The *Petition* is divided into two parts. The first part gives the court information about you, your spouse, your children, your finances, and your property. The second part tells the court and your spouse what you are asking for from the court.

HOW TO FILL OUT THE PETITION FOR DISSOLUTION OF MARRIAGE

- Fill in the name of Petitioner (you) and Respondent (your spouse)
- Answer questions 1-29 completely.
- The following instructions are numbered the same as on the *Petition* form.

INSTRUCTIONS FOR ANSWERING QUESTIONS 1-29

NOTE: The instructions are numbered the same as in the *Petition*. For example, for help in answering Question #3 on the *Petition*, read instruction #3.

1. Throughout this case, you will always be known as the Petitioner. Provide the address where you live. If there is no mail service to your residence, list an address where you can receive mail, in the lines provided for mailing address. Give your birth date, and list all former or other name(s), such as a maiden name, or former married name.
2. Throughout this case, your spouse will always be known as the Respondent. Provide the address where the Respondent lives. If you do not have a current address, check the box

next to “Respondent’s address is unknown to Petitioner.” If there is no mail service at your spouse’s residence, list an address where you spouse receives mail,—in the lines provided for mailing address. Enter the Respondent’s date of birth and all former or other name(s), such as a maiden name, or other married name.

3. Provide information about the date and location of your marriage.
4. Check YES if you have lived in Minnesota for the last six months. Otherwise, check NO. Check YES if your spouse has lived in Minnesota for the last six months. Otherwise, check NO.

STOP: The law states that before you can begin a divorce in Minnesota, either: (1) you or your spouse must have lived in Minnesota for the last six months; or (2) you or your spouse must be a member of the armed forces stationed in Minnesota for the last six months. If neither you nor your spouse have lived in Minnesota for the last six months, you cannot file for a divorce yet. You must wait until one of you has lived in Minnesota for at least six months. If one of you has lived in Minnesota for the last six months, then go on to answer the rest of the questions.

Note: A law that became effective August 1, 2013, will allow a same sex couple who were civilly married in Minnesota to dissolve their marriage in Minnesota if neither spouse resides in Minnesota nor resides in a state that will recognize an action for dissolution because of the sex or sexual orientation of the Petitioner and Respondent.

5. Answer the questions about the military status of both you and your spouse. If either you or your spouse is a member of the armed forces there are special procedures under the Servicemembers Civil Relief Act. Contact an attorney.
6. In Minnesota, a marriage can be dissolved even if only one of the parties states that the marriage relationship is over. By filling out this *Petition* you are stating that your marriage is over and cannot be saved.
7. Check YES if you are still living together; check NO if you are not. If NO, print the date you physically separated. If YES, describe why you are living together at this time.
8. Check YES if you or your spouse has already started another dissolution, legal separation or annulment proceeding in Minnesota or any other state.

WARNING: If you or your spouse have already started a divorce or legal separation or annulment case in Minnesota or in any other state and it has not been dismissed, you **CANNOT** start this divorce. You could either complete the other action, or you could have the other action dismissed and then start this divorce.

Check NO if there is no other action.

9. Check YES if there is an existing *Order for Protection* or an existing *Harassment Restraining Order* against the Petitioner or Respondent; complete this question and **file a copy of the order when you file the completed *Petition***. Check NO if there is no Order.
10. This section is to make sure you are using the right forms. If you and your spouse have minor children together, you need to use a different court form called Marriage Dissolution WITH Children. Also, if you and your spouse have an adult disabled child and you want the court to order support payments for the adult child, you must use the Marriage Dissolution WITH Children forms.

Subparagraph (c) of Question 10 asks if there were any children born to wife during the marriage from another relationship. This is important because Minnesota law presumes that any child born after the marriage date is the husband's biological child. The presumption that husband is the father generally means that husband is legally the father, with all rights and responsibilities of fatherhood, unless there is an adjudication that someone else is the biological father. If someone else is the father, you can use the Marriage Dissolution without Children forms only if there is a court order adjudicating someone else to be the father, OR the wife, husband and biological father have signed forms called "Recognition of Parentage" and "Spouse's Non-Parentage Statement" and these two forms have been filed with the State Office of Vital Statistics. If paternity has not been adjudicated already, use the Marriage Dissolution WITH Children forms, and raise the paternity issue through those forms.

If either party has given birth to a child born during the marriage from another relationship and a Recognition of Parentage and Spouse's Non-Parentage Statement have been signed, you must be sure to attach a certified copy of both forms. **Certified Copies** of the Minnesota Recognition of Parentage and Non-Parentage Statement can be obtained by completing and notarizing the required form provided by the Minnesota Department of Health.

You can get the form from the Minnesota Department of Health website at: <http://www.health.state.mn.us/divs/chs/osr/cerropsnpsiao.pdf> or you can call 651-201-5970 to request a copy of the form. The fee for a certified copy is \$9.00 per copy. The completed form and fee should be mailed to:

Minnesota Department of Health
Central Cashiering – Vital Records
P.O. Box 64499
St. Paul, MN 55164-0499

Subparagraph d of Question 10 asks if either spouse is pregnant. If the answer is Yes, you need to use different forms - the Marriage Dissolution With Children forms. This is true even if a spouse is pregnant by someone other than the husband. In those forms, you can state that you believe the spouse is not the father of the unborn child.

11. “Public assistance” means MFIP, Tribal TANF, General Assistance, medical assistance, MinnesotaCare, or child care assistance. Check YES or NO. If YES, write in the name of the county paying the assistance. Minnesota law requires you, as the Petitioner, to notify the county paying assistance that you are filing a divorce action. Use the form called “*Notice to Public Authority*” (court form DIV813) to notify the county of your divorce action. See Step 6 for further information.
12. Answer whether the Petitioner or Respondent receives Supplemental Security Income (SSI). SSI is based on need (low-income). SSI is not the same as Social Security (SSDI or RSDI) due to disability, retirement, or death of a parent or spouse.
13. This question is about your employment status. Provide the requested information about your employer. If you are self-employed, list the business name and address.
14. This question asks for your gross monthly income. If you are paid weekly, multiply your weekly income by 4.33 to get monthly income. If you are paid every two weeks, multiply by 2.17 to get monthly income. If you are paid twice per month, multiply by 2.
15. This question is about your spouse’s employment status. Provide the requested information about your spouse’s employer.
16. This question asks about your spouse’s gross monthly income. You are given three choices. If you have no information about your spouse’s income, check the first box. If you have some information, check the second box and answer the questions. If you have detailed information about your spouse’s income, check the third box and complete the questions.
17. Complete the questions about medical and dental insurance.

NOTE: If you or your spouse are covered by medical or dental insurance through your job or your spouse’s job, that coverage can be continued even after the divorce. If you want the insurance coverage to continue after the divorce, call the Employment Benefits Office of you or your spouse’s employer and ask for “COBRA” coverage.

18. This question is about spousal maintenance. Spousal maintenance is money paid by one spouse to help support the other spouse. Spousal maintenance used to be called alimony. You have four choices on the form. You can ask a lawyer for help if you want to do something that does not fit the form, or if you do not understand the choices or the law regarding spousal maintenance. If one spouse makes more money than the other or has more property or savings, talking to a lawyer is strongly recommended. The law for spousal maintenance is complicated and the financial impact can be great. If you are sure that you do not want to receive or pay spousal maintenance now or in the future, check the first box.
19. List all the vehicles owned by you and your spouse together or separately.

WARNING: Questions 20-27 ask about marital and non-marital property, assets, and debts. Dividing property and debts can be complicated. You should talk to an attorney if you have assets or debts. An attorney can review your situation and tell you what claim you have to property, and also suggest ways to structure the property and debt division to minimize future problems.

- **Marital Property means almost anything that you or your spouse own that you or your spouse received during the marriage, even during the times that you and your spouse were separated. This includes real estate, boats, cabins, household goods, furniture, jewelry, and other things.**
 - **Non-marital Property means: (1) anything that you or your spouse owned before the marriage; (2) anything that you or your spouse received as a gift, bequest, devise, or inheritance; (3) anything that you or your spouse got in trade or in exchange for your non-marital property; (4) anything that is an increase in the value of non-marital property; (5) anything you or your spouse received after the valuation date set by the Court; or (6) anything included by a valid antenuptial contract (STOP: If you have an antenuptial contract, you should stop here and talk to an attorney.)**
20. Check YES or NO whether you and your spouse have divided the **marital property** to your mutual satisfaction, including household goods, furniture, furnishings, and other belongings. If you have **NOT** divided the marital property, list the items that you want.
21. (a) Check YES or NO whether you claim **non-marital property**. Non-marital property is property you owned before you got married or acquired during the marriage by inheritance or gift. List all non-marital property you own.
- (b) Check YES or NO whether your spouse claims **non-marital property**. Non-marital property is property your spouse owned before the marriage or acquired during the marriage by inheritance or gift. List all non-marital property your spouse owns.
22. Check YES or NO whether you or your spouse has money in banks, savings, cash or investments. If YES, fill in all columns in the box. Use Confidential Information Form 11.1 (CON111) to list the name of the financial institution, account holder name(s), and account numbers. Using Form 11.1 keeps your account numbers confidential from the public. Do not list account numbers on the *Petition*.
23. Check YES or NO whether you and/or your spouse own part or all of a business. If YES, fill in the name, address and value of the business.
24. Check YES or NO if either you or your spouse own a manufactured home. If YES, complete the detail questions.

WARNING: Question 25 asks you to list all **real property. Real property is land and the buildings on the land. You must list all real property owned by you and your spouse together, separately, or with others. Failure to list all property will create serious problems and expense in**

the future. **Dividing real property is complicated. You should talk to an attorney if you and/or your spouse own any real property.** You and your spouse both have an interest in all real estate owned by either you or your spouse until the divorce is finalized and the Decree awards the property to just one party. For example, a deed given by one spouse to the other spouse before the divorce is finalized does **not** transfer all interest to the grantee spouse.

25. (a) Check YES or NO if you and your spouse own any real property together.
- (b) Check YES or NO if you own real property solely in your name or with someone other than your spouse.
- (c) Check YES or NO if Respondent owns real property solely in his/her name or with someone other than you.
- (d) Answer how many properties are owned by you and your spouse in total.

If YES to (a), (b) or (c), complete the Real Property Information questions for each piece of property. (1) List the full names of all owners of the property. (2) Fill in the legal description of the property (the legal description is not the same as the street address). *Example of Legal Description: Lot 1, Block 4, Hamden Edition, Hennepin County, Minnesota.* You can get a copy of the legal description from the Deed or Contract for Deed at the office of the County Recorder or Registrar of Titles in the county where the real property is located. **WARNING:** Be sure to copy the legal description **exactly** as is on the Deed or Contract for Deed. (3) Fill in the street address, city, county, and state where your property is located. (4) State the date the property was purchased and its purchase price. (5) State the amount of any existing loans or mortgages. (6) State the current market value of the property and describe how you came up with that value. (7) Check YES if this property is the homestead.

WARNING: Question 26 asks about pension, profit sharing, and retirement plans. Dividing pension, profit sharing, and retirement plans is complicated. You or your spouse could face large losses if the divorce decree does not divide the pension or retirement plan according to the laws that apply. You should talk to an attorney if you or your spouse have any of these types of plan.

26. (a) Check YES or NO if you have an IRA, 401(k), 403(b), or other retirement plan. If YES, list the current account balance. Use Confidential Information Form 11.1 (CON111) to list the name of the financial institution, account holder name(s) and account numbers.
- (b) Check YES or NO if your past or present employer, union, or other group, paid money into a pension, profit-sharing, or other retirement plan for you. If YES, list the name of the plan, the name of the group employer, union, or group providing the plan, the date you began working at the job or joined the plan, the type of plan, and the present value of the plan.

(c) Check YES or NO if your spouse has an IRA, 401(k), 403(b), or other retirement plan. If YES, list the current account balance. Use Confidential Information Form 11.1 (CON111) to list the name of the financial institution, account holder name(s) and account numbers.

(d) Check YES or NO if your spouse's past or present employer, union, or other group, paid money into a pension, profit-sharing, or other retirement plan. If YES, list the name of the plan, the name of the group employer, union, or group providing the plan, the date your spouse began working at the job or joined the plan, the type of plan, and the present value of the plan.

27. Check YES or NO if you and/or your spouse have outstanding debts (owe money) either together or separately. If YES, list all of the debts you and your spouse now have, even if only one of you created the debt and even if only one of your names is on the credit card, loan or note. List all debts still owed from before you were married, from during the marriage but before separation, and after separation. The *Judgment and Decree* (divorce *Decree*) will state who is responsible for paying each debt. Include credit card bills, gas bills, water bills, telephone bills, school loans, car loans, home loans and mortgages, and other bills and loans. List to whom the debt is owed (such as Sears); how the money was used (such as "clothing for the children"); whose name is on the account and when the debt was created (if you cannot get the exact date the debt was created, at least state if the debt is from before the marriage, or during the marriage and before separation, or after separation); the current balance due; and the monthly payment. Attach another sheet of paper if you need more space. You must disclose all debts.
28. You may change your name as part of the divorce, but you do not have to do so. You can change your name to a maiden name, or some other name. You cannot make your spouse change his or her name, and your spouse cannot make you change your name. If you want to change your name, check YES and answer (a) – (c). If you do not want to change your name, check NO.
- (a) Print your new name (*first, middle, and last*). **Do not use initials unless you want only an initial instead of a full name.** Check whether this is a former legal name or maiden name. If not, explain why you want to change to this name.
 - (b) You cannot change your name if your reason for changing your name is to defraud or mislead anyone. Mark True or False to the statement "Petitioner has no intent to defraud or mislead anyone by changing his/her name."
 - (c) If you have a felony conviction, you cannot change your name unless you notify the prosecuting authority that you intend to change your name. The prosecuting authority has 30 days after being served with your notice to object to the name change. If you have been convicted of a felony anywhere in the United States, answer (c) YES. Ask court administration to give you the *Felon Name Change Instructions* or download the forms at www.mncourts.gov/forms.

Warning: If you do not notify the prosecuting authority of the request for name change and you use your new name, you may be guilty of a gross misdemeanor.

29. List any other facts you would like the court to know.

INSTRUCTIONS FOR ANSWERING QUESTIONS 1-17, WHICH TELL THE COURT AND YOUR SPOUSE WHAT YOU WANT THE COURT TO ORDER

1. This tells the court that you want your marriage dissolved. You do not need to write anything here.
2. You must check a box to state how you want to pay for health and dental insurance for you and your spouse, after the divorce is finalized. If you want you and your spouse to each pay your own health and dental insurance costs, check box (a). Box (c) is for COBRA coverage. Check with the employer of the person who has coverage for information on how to get COBRA coverage. If you have other questions, or if the boxes provided do not explain what you want the court to order, ask an attorney for help.
3. If you want spousal maintenance to be denied now and forever, check box 3(a). If you want to be able to ask for maintenance at a later date after the divorce is completed, then check box 3(b). (Your spouse can also ask for maintenance at a later date if maintenance is reserved.) If spousal maintenance should be ordered to help either you or your spouse pay for necessities, check the appropriate boxes in 3(c).
4. In question 19 above you listed all of the vehicles owned by you and your spouse. Write down which vehicles you want the court to give to you and which vehicles you want your spouse to have.

WARNING: Dividing marital property and non-marital property is complicated. You should talk to an attorney.

5. Check YES or NO whether you and your spouse have already divided your marital property to your mutual satisfaction. If NO, list the marital property you want to receive and the marital property you want your spouse to receive.
6. Check YES or NO whether you and your spouse have already divided your non-marital property to your mutual satisfaction. If NO, list the non-marital property you want to receive and the non-marital property you want your spouse to receive.
7. State how you want the court to divide the cash and investments listed at #22 above.
8. If you and/or your spouse own a business, state how you want the court to divide the business. Be very specific.
9. If you and/or your spouse own a manufactured home, provide the address of the manufactured home and check off who should get it. If there is a debt on the manufactured home, fill in who the debt is owed to and who should pay the debt.

10. If you or your spouse own real property either separately or together, check off whether you (Petitioner) or your spouse (Respondent) should be awarded that real property, and then list the street address, city, county, and state where the homestead is located, and then write the **exact** legal description. You can get a copy of the legal description from the Deed or Contract for Deed at the office of the County Recorder or Registrar of Titles in the county where the property is located. Write in the name of the mortgage company and the amount of the current mortgage balance. If there is additional real property, list it in paragraph 11.
11. If there is additional real property, provide the address and legal description and state how that property should be awarded.
12. Describe how your pension, profit sharing, retirement, IRA or 401 plan should be divided, then do the same with any plan in your spouse's name. Get competent legal and tax advice before making any decisions.
13. In question 27 above you listed all of the debts you and your spouse have. Include all debts listed from question 27 and state who should be ordered to pay the debt. Check box (b) also. This box covers any individual debt that is not specifically listed, and orders the person who took on the debt to pay it. For example, if your spouse has debt you do not know about, in his/her name alone, checking box b. will require your spouse to pay that debt. Warning: If debt is in both your names, the court can order one of you to pay the debt, but the creditor can still seek payment from both of you. For help with how to minimize your risk of having creditors go after you for joint debt your spouse was ordered to pay, talk with a lawyer before you serve your spouse with the divorce papers.
14. If you want to change your name, print **exactly** how your new name should be listed (first, middle, and last). **Do not use initials unless you want only an initial instead of a full name.**
15. List anything else you would like the court to decide.
16. You do not need to write anything for question 16.
17. READ and SIGN the **Verification and Acknowledgments**.

Step 3

Sign the *Summons and Petition*

Sign the *Petition* under penalty of perjury. By signing the *Petition* under penalty of perjury, you are stating that the information in the document is true to the best of your knowledge. Perjury is the crime of intentionally lying or misrepresenting the truth, punishable by jail or other sanctions.

Print your address, telephone number, email address, and the name of the state and county where you are when you sign the *Petition*.

Sign the *Summons*.

Step 4 **Make Copies of Forms**

Make two copies of the *Summons* and two copies of the *Petition*. You will arrange to have one set of copies served on your spouse (Step 5) and you will keep one set of copies for your records.

Later, you will file the *Summons and Petition* with the court (Step 8.)

Step 5 **Serve the Other Party**

Your spouse must receive a copy of your *Summons and Petition for Dissolution of Marriage*. Delivering the copy to your spouse is called “service of process.” Your marriage dissolution action is started the moment your spouse is served with the *Summons and Petition for Dissolution of Marriage*.

These instructions describe three ways to do “service of process”: (1) Personal Service, (2) Waiver of Service, and (3) Alternate Service. Read about each of the three ways to decide which way is appropriate in your case.

Service of Process Method #1: Personal Service

This is the most common method for serving divorce papers. With Personal Service, a third person (the “server”) who is at least 18 years old hands a copy of the *Summons and Petition directly to your spouse. Papers cannot be served on legal holidays. After serving the papers, the server must fill out the *Affidavit of Personal Service*, and sign it under penalty of perjury. The *Affidavit of Personal Service* is your proof that the papers were delivered, and tells what date they were delivered. See the following instructions on how to fill out the *Affidavit of Personal Service*.*

Important Points for Personal Service

- A copy of the *Summons and Petition* is handed directly to your spouse (not mailed, not left with a roommate.)
- **You** cannot hand the papers to your spouse.
- Papers can be handed to your spouse at home, at work, or any place else.
- The server must be at least 18 years old.
- You can ask the sheriff or a private process server to serve the papers, or ask a friend to serve the papers. Private servers and the sheriff charge a fee to serve papers. If you have an In Forma Pauperis (IFP) order that covers service of process fees, the sheriff will serve the papers within the county at no cost to you. You must deliver to the sheriff the

Summons and Petition and the IFP order. No matter who serves the papers, it is your responsibility to get the completed *Affidavit of Personal Service* from the server to file in your court file. If your spouse lives outside of your County, you must contact the sheriff in that county and ask if they will honor the IFP order from another county.

- Papers cannot be served on legal holidays. Papers delivered on a legal holiday have not been legally served, and the case will be dismissed.
- **Personal Service in another state or country:**

Your spouse can be served by Personal Service anywhere in the United States, as long as the papers are handed directly to your spouse. If your spouse lives in another country, you must consult a lawyer about how to properly serve your spouse. Service in a foreign country must be done according to Minnesota Rules of Civil Procedure Rule 4.04 (c), and Minnesota Statutes. The rules for serving someone in a foreign country can be very complex and court employees cannot tell you how to serve your spouse in another country.

How to Fill out the Affidavit of Personal Service:

- a. Fill out the top part of the form the same way you did on your *Summons*.
- b. On the blank line after “I,” fill in the name of the person who hand-delivered the forms to your spouse.
- c. Fill in the date of birth of the person who hand-delivered the forms to your spouse.
- d. Fill in the date that the documents were hand-delivered to your spouse.
- e. Write in the title of each document handed to your spouse. (*Summons and Petition for Dissolution of Marriage*).
- f. Fill in the name of your spouse.
- g. The person who hand-delivered the forms to your spouse should date and sign the form, and then print the county and state where they were when they signed it, as well as their name, address, telephone number and email address.
- h. After it has been signed, make one copy of the completed *Affidavit of Personal Service* for your records.

Service of Process Method #2: Waiver of Service

[Rule 4.05](#) of the Rules of Civil Procedure says that a petitioner may ask that the respondent *waive* service of the *Summons and Petition*. Generally, the respondent has a duty to avoid causing the petitioner to have to pay unnecessary costs of serving the *Summons and Petition* on the respondent.

To make this request, you will need to send or deliver to the other party the following forms:

- *Summons*;
- *Petition*;
- *Notice of Lawsuit and Request for Waiver of Service of Summons* (CIV022A);
- Two copies of *Waiver of Service of Summons* (CIV022B); and
- A prepaid way (like a self-addressed, stamped envelope) for the respondent to return a signed copy of the *Waiver* (CIV022B) to you.

These can be sent by first-class mail or other reliable means, such as email or social media.

Warning: If your spouse does not sign and return the *Waiver of Service of Summons* (CIV022B) to you, the papers are not served, and you must then use Personal Service or Alternate Service.

If your spouse is in the United States, and does not return the *Waiver of Service of Summons* to you within 30 days, then the court will order the respondent to pay the costs of serving the divorce forms; there could be other costs as well. For more details, see Rule 4.05

(<http://mncourts.gov/mncourtsgov/media/Appellate/Supreme%20Court/Court%20Rules/MN-Rules-of-Civil-Procedure.pdf>).

Service of Process Method #3: Alternate Service

Use this method of service only if Personal Service and Waiver of Service have not or will not work because you cannot find your spouse. If you have tried to serve your spouse by Personal Service but you cannot find your spouse, or your spouse is hiding to avoid service, you can ask the Court to allow you to serve the papers some other way. Before you can use another method of service, you must prepare an *Application for Service by Alternate Means* and get an order signed by a judge. The judge's order will tell you what you have to do to serve the papers. Frequently the order will include publishing in a newspaper, and you must pay the costs unless you have a fee waiver that covers publication costs.

The *Application for Service by Alternate Means* must contain the following information:

- The last known address of the Respondent;
- The Petitioner's most recent contacts with the Respondent;
- The last known location of the Respondent's employment;
- The names and locations of the Respondent's parents, siblings, children and other close relatives;

- The names and locations of other persons who are likely to know the Respondent's whereabouts.

Forms for *Application for Service by Alternate Means* are available from Court Administration or you can download them at <http://mncourts.gov/GetForms.aspx?c=15&p=60>.

Step 6

Form 11.1: Confidential Information Form and Public Assistance Notice

Fill Out Form 11.1: Confidential Information Form. The law requires that you provide social security numbers in a divorce. Include names and social security numbers for you, your spouse, and any children on Form 11.1. If you listed any financial assets in questions #22 and #26, include the name of the financial institution, the account holder name(s), and account numbers on Form 11.1. All information listed on Form 11.1 will be kept confidential. **Failure to use Form 11.1 means these numbers could be available to the general public and you could be charged court costs and the court may order other sanctions against you for the failure to keep these account numbers confidential.** You should also know that if at a later point in the divorce proceeding you need to file financial records (like bank statements, credit card statements or income tax returns) you should fill out Form 11.2 and use that as a cover sheet for the financial records. Using these forms ensures that your social security number and financial records will be kept in a confidential part of the court file.

Do you or your spouse receive Public Assistance from the State? If you or your spouse have applied for or are receiving assistance from the State of Minnesota such as MFIP, Medical Assistance, MinnesotaCare, Foster Care or Child Care Assistance, you must notify the county of your divorce action. Fill out the form called *Notice to Public Authority* (court form DIV813). Make a copy of the *Notice*. Hand-deliver or mail the copy of the *Notice to Public Authority* to the public authority office for the county paying the assistance. You may deliver or mail the copy yourself, or ask someone else to do it for you. The person who delivered or mailed the copy must fill out the *Affidavit of Service to Public Authority* stating when the *Notice* was served on the public authority. The *Affidavit* must be signed under penalty of perjury. You will file the *Notice to Public Authority* and *Affidavit of Service* with the court when you file the *Summons and Petition*.

Step 7

Fill Out the Certificate of Representation and Parties Form

Fill out the *Certificate of Representation and Parties* form (court form CIV102). The purpose of this form is to tell the court where to send notices. If either party has an attorney, the notices will be sent to the attorney. If a party has no attorney, notices are sent directly to the party.

This form is written for parties without attorneys. The form informs the court that the parties are both self-represented and gives the court the parties' addresses and phone numbers. If you or your spouse has an attorney, cross out "self-represented" on the form and write in the name,

address, phone number and attorney I.D number INSTEAD of the address of the party whom the attorney represents.

In filling out the form, DO NOT fill in the case number or date that the case was filed. The Court Administrator will fill in that information after you file the form with the court.

WARNING: At this time you may not know if an attorney represents your spouse, or you may not know all the information requested about your spouse. If you do not know all or some of the information about your spouse, write “unknown.” However, the law requires you, as the Petitioner, to provide to the court all **new** information about you and your spouse (addresses, phone numbers and whether an attorney represents you or your spouse) within seven (7) days of learning this new information. You must write to the Court Administrator and provide this information. All letters you write to the Court Administrator must include your name, your spouse’s name, and the case number.

Step 8

File the Forms with the Court

File these documents:

- Summons
- Petition for Dissolution of Marriage
- Affidavit of Personal Service OR Waiver of Service of Summons
- Form 11.1 Confidential Information Form
- Certificate of Representation and Parties
- Notice to Public Authority (required only if you or your spouse are receiving public assistance from the State of Minnesota. See Step 6)

File the documents. Before you file the documents, make a copy for your records. You can file the forms with the court in person or by mail. There is a court filing fee. Make checks payable to “Court Administrator.” To file in person, take the documents to the court administrator’s office. To file the forms by mail, mail the documents to the court administrator’s office. After you file the documents, the court will mail a notice to you and your spouse informing you both of the case number and date that the *Summons and Petition* were filed.

IF YOU CANNOT AFFORD THE FILING FEE

If your income is below the Federal Poverty Line, a judge may waive the filing fee. Ask the Court Deputy for an In Forma Pauperis application or download the forms at

<http://mncourts.gov/GetForms.aspx?c=19&p=69>. Fill out this application and sign it under penalty of perjury. If you are receiving public assistance, you should attach to the application a copy of a document that shows you receive public assistance. The Court Administrator/Deputy will have a Judge review this application and the judge will decide if you must pay the filing fee. The Court Administrator CANNOT accept your legal papers without payment of the filing fee or an order from a judge waiving the fee.

Step 9 Temporary Relief

If you and your spouse need a temporary order to address spousal maintenance or any other matter in the divorce, go to court administrator's office in the courthouse and ask for the "*Temporary Relief Pending Final Hearing without Children*" forms or download the forms at <http://mncourts.gov/GetForms.aspx?c=15&p=52>. If you are requesting a temporary order, you will need to file the following documents before the court administrator will accept your papers for Temporary Relief:

- Summons
- Petition for Dissolution of Marriage
- Affidavit of Personal Service OR Waiver of Service of Summons

The temporary order would be effective until the judge signs the final divorce order.

Step 10 *Scheduling Statement*

The *Scheduling Statement* is only needed if your case is contested. Your case is contested if your spouse serves you with an *Answer* in response to your *Petition*. If you receive a letter from the court telling you to file a *Scheduling Statement* follow the instructions in the letter and call the court if you have questions. If you have settled the case with your spouse, or you have not received an *Answer* from your spouse, call the court and ask if you still need to file the *Scheduling Statement*.

Step 11 The Next Step is Determined by Your Spouse's Response to Your Petition for Dissolution of Marriage

Once you have filed the *Summons*, *Petition*, and *Affidavit of Service* with the court, your divorce case will proceed in one of the following ways:

1. **You and your spouse agree on all issues.** If you and your spouse agree on everything, go to Step 12 now for instructions on filling out the *Stipulated Judgment and Decree*.
2. **You receive an *Answer* from your spouse within 30 days of service of the *Summons* and *Petition* on your spouse.**

If your spouse served you with an *Answer and Counterpetition*, it means that your spouse does not agree with everything you have asked for in your *Petition* and that your spouse is asking for something different. The first part of your spouse's *Answer* will tell you the parts of your *Petition* with which your spouse partly agrees, totally agrees, or totally disagrees. Once you know the issues about which you and your spouse disagree, you and your spouse should attempt to reach an agreement regarding those issues. If you work out an agreement, go to Step 12 and fill out the *Stipulated Judgment and Decree* form.

If you and your spouse DO NOT reach an agreement on all issues, your case is contested and you should talk to a lawyer. Representing yourself in a contested case is difficult. The court may require additional forms, such as the *Parenting / Financial Disclosure Statement*. This form is available from court administration or at www.mncourts.gov/forms.

3. **Your spouse sends you a letter or files a letter (other than an *Answer*) with the court stating that he or she disagrees with your *Petition*.**

If your spouse disagrees with your *Petition* your spouse is supposed to serve you with a written *Answer* within thirty (30) days of the date your spouse was served with the *Summons and Petition*. If your spouse does not serve you with an *Answer* within 30 days but your spouse sends you a written response such as a letter or memo, or files an informal response with the court, then you need to give your spouse one more notice* before the Court will grant the divorce.

* The notice is called *Notice of Intent to Proceed to Judgment*. The notice can be obtained from court administration.

4. **Your spouse does not respond with an *Answer* or any other writing.** Your spouse has 30 days to serve you with a formal *Answer and Counter Petition*, stating that he/she disagrees with your *Petition*. If your spouse does not serve you with an *Answer* and at least 50 days have passed since your spouse was served with the *Summons and Petition*, you can ask the court for a "Default Judgment." You need to fill out the *Findings of Fact, Conclusions of Law, Order for Judgment and Judgment and Decree* (see Step 13), and *Affidavit of Default, Affidavit of Non-Military Status, and Default Scheduling Request* (see Step 14). 50 days after your spouse was served, you can file these forms with the court (see Step 15.) Read and follow the instructions at Steps 14 and 15. The information in this paragraph is an overview.

Step 12

You and Your Spouse Agree on All Issues

If you and your spouse agree on all issues, fill out the *Stipulated Findings of Fact, Conclusions of Law, Order for Judgment and Judgment and Decree* form.

Important Note: The *Stipulated Findings of Fact, Conclusions of Law, Order for Judgment and Judgment and Decree* must be signed and dated after the *Petition* is served on your spouse, or after your spouse signs a *Waiver of Service of Summons*. Service of the *Summons and Petition* on your spouse starts the divorce action. You and your spouse cannot settle the action until it has been started by service of the *Summons and Petition*. If the *Stipulated Findings of Fact, Conclusions of Law, Order for Judgment and Judgment and Decree* is signed before the *Summons and Petition* are served, the judge will not sign the divorce *Decree*.

The *Stipulated Findings of Fact, Conclusions of Law, Order for Judgment and Judgment and Decree* 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 the exact terms of the agreement.

FILL IN THE ‘HEADING’ OF THE FORM WITH YOUR NAME, YOUR SPOUSE’S NAME AND THE CASE NUMBER.

FILL IN THE INFORMATION ON PAGE 1 of the *Stipulated Findings of Fact, Conclusions of Law, Order for Judgment and Judgment and Decree*:

- At Paragraph B., check off whether you have or have not been represented by an attorney during your divorce proceeding and, if you have an attorney, fill in that person’s name. At Paragraph C., check off whether **your spouse** has or has not been represented by an attorney during this divorce proceeding and, if your spouse has an attorney, fill in the attorney’s name.
- At Paragraph D., write the date that your spouse was handed the *Summons and Petition for Dissolution of Marriage*, OR the date your spouse signed a *Waiver of Service of Summons*. You can find this date on your copy of the *Affidavit of Personal Service* or *Waiver of Service of Summons*, OR the dates your spouse was served by mail or publication.
- At Paragraph E., check the YES box ONLY if your spouse served you with a written *Answer and Counterpetition*. If you received a written *Answer* from your spouse, then fill in the date that you received the *Answer and Counterpetition*.

FILL IN ANSWERS TO QUESTIONS 1-29 STARTING ON PAGE 2 of the *Stipulated Judgment and Decree*.

Answer every question. If a question does not apply to your situation, write in “N/A.” If the question is a “Yes” or “No” question, make sure you check either “Yes” or “No.” On the *Petition*, you may have answered questions by writing “unknown.” **You cannot use “unknown” on the *Stipulated Judgment and Decree*.** Both parties are signing the *Stipulated Judgment and Decree*, and you and/or your spouse should know all the answers.

Questions 1-29 of the *Stipulated Judgment and Decree* are the same as questions 1-29 of the *Petition*. Refer to the instructions for the *Petition* for help completing the *Stipulated Judgment and Decree*.

If you and your spouse have reached some additional agreement regarding your marriage dissolution, state the agreement on the lines provided at Paragraph 29.

*STIPULATED JUDGMENT AND DECREE:
PARAGRAPH/QUESTIONS 1-17 (PAGE 20 OF THE STIPULATED
JUDGMENT AND DECREE)*

NOTE: The following instructions are numbered the same as the paragraphs/questions on the form.

1. This means you and your spouse agree that your marriage should be dissolved. You do not need to write anything here.
2. You must check a box to state who will pay for health and dental insurance for you and your spouse, after the divorce is finalized. If you want you and your spouse to each pay your own health and dental insurance costs, check box (a). Box (c) is for COBRA coverage. Check with the employer of the person who has coverage for information on how to get COBRA coverage. Box (d) is to “reserve” a decision on who would pay for the medical and dental insurance. If you check (d), then after the divorce is complete, either you or your spouse could file a motion with the court asking for an order to be made about the insurance. If you have other questions, or if the boxes provided do not explain what you want the court to order, ask an attorney for help.
3. Check box (a) if there will not be any spousal maintenance paid to either party. Carefully read the language about waiver. If you check (a), you are saying that neither you nor your spouse can ever get spousal maintenance, regardless what happens in the future. You also must check one or more boxes under the statement “Consideration for this agreement is:”. Here, you are being asked to say how it is a fair agreement between you, for both of you to waive maintenance payments. Is it fair because you are both able to support yourselves? You need to provide the reasons. Also, to give up all claims to maintenance, there must be complete openness by both spouses about their financial situation. You must be able to tell the Judge that you fully disclosed to each other everything about your finances and property before deciding to waive spousal maintenance. Check (b) if you want to reserve maintenance. With this option, no payments would be ordered at this time. But either of you could ask the court to order maintenance in the future, by filing a motion. Check (c) and provide the requested information if you have an agreement for payment of spousal maintenance. Check (d) if you have an agreement for maintenance to be paid temporarily, until a certain date or event.
4. List all of the vehicles and who will receive each vehicle. Attach another sheet of paper if you need more space than provided.
5. If you and your spouse have already divided the marital property to your mutual satisfaction, then check “As currently divided” and do not list any property. If there are

specific items to be divided, check “as follows,” and list the marital property you will receive and the marital property your spouse will receive.

6. If you and your spouse have already divided the non-marital property to your mutual satisfaction, then check “as currently divided” and do not list any property. If there are specific items to be divided, check “As follows,” and list the non-marital property you will receive and the non-marital property your spouse will receive.
7. List which assets at #22 above (cash and investments) you will receive and which your spouse will receive.
8. State how any business will be divided.
9. If you have a manufactured home, answer the questions about how it will be awarded.
10. Check off whether you (Petitioner) or your spouse (Respondent) will be awarded the homestead (if you and your spouse own one), and then list the street address, city, county, and state where the homestead is located, and then write the exact legal description.
11. If you and your spouse own other real property either separately or together, check off whether you (Petitioner) or your spouse (Respondent) will be awarded that real property, and then list the street address, city, county, and state where the homestead is located, and then write the exact legal description. Attach another sheet of paper if there is more than one additional parcel of real estate.
12. Describe exactly how your pension, profit sharing, retirement, IRA, or 401 plan will be divided. It can be awarded 100% to one person, or divided. If you are dividing a qualified benefit retirement plan, you will need another document called a QDRO. The QDRO is not available from the court. Contact the employer benefits unit or an attorney for more information about QDROs.

Describe exactly how your spouse’s pension, profit sharing, retirement, IRA, or 401 plans will be divided.

13. In question 27 you listed all of the debts you and your spouse have. Check box (a) and list all of these debts again, and write the name of the person who will be responsible for paying the debt. Also check box (b). This covers any debts that were not disclosed and that in one person’s name alone, and says the person who took on the debt must pay it.
14. If your name will be changed, print exactly how your new name will be listed (first, middle, and last). Do not use initials unless you want only an initial instead of a full name. If your spouse’s name will be changed, print exactly how your spouse’s new name will be listed (first, middle, and last). Do not use initials unless your spouse wants only an initial instead of a full name.
15. If there is anything else you and your spouse want the court to order, state it here.

16. You do not need to write anything for paragraphs 16 and 17, but they contain important information and you should read them. After the divorce is final, the Petitioner must serve a copy of the signed and entered Judgment and Decree on the Respondent. Paragraph 17 tells how to do this.

Signing the *Stipulated Judgment and Decree*

- Do not sign the *Stipulated Judgment and Decree* unless the *Summons and Petition* have been served on your spouse. Check off whether you are or are not represented by an attorney. If you are represented by an attorney, the attorney signs the agreement and fills in his or her name, address, phone number and attorney identification number. If you are not represented by an attorney, sign the *Petitioner's Waiver of Counsel*.
- Once you have signed the *Stipulated Judgment and Decree*, mail or hand-deliver it to your spouse for your spouse to sign. Make sure a document called *Respondent's Waiver of Counsel* is attached to the *Stipulated Judgment and Decree*. Your spouse must sign both the *Stipulated Judgment and Decree* and the *Respondent's Waiver of Counsel*. Your spouse should make a copy of the signed *Stipulated Judgment and Decree* and attached *Waiver* for his/her records, and then return the signed documents to you.
- Make a copy of the *Stipulated Judgment and Decree* for your records. Then go to Step 14.

Step 13

Findings of Fact, Conclusions of Law, Judgment and Decree

You should be filling out the *Findings of Fact, Conclusions of Law, Order for Judgment and Judgment and Decree* if you do not have an agreement with your spouse, and your spouse did not serve you with an Answer. The *Findings of Fact, Conclusions of Law, Order for Judgment and Judgment and Decree* is the form that the Judge signs. It is your "Divorce Decree." You fill out the entire document and the Judge signs it.

Get your copy of your *Petition*. The *Petition and Findings* must be consistent. If information in the *Petition* is no longer accurate, such as a debt has been paid off, or you have a new address, put the new and correct information in the *Findings*, with a statement explaining the difference.

Make two (2) copies of the filled out *Findings* form and keep one copy for yourself.

Step 14

File the Remaining Papers

When to File

1. **If you have a *Stipulated Judgment and Decree*:**
You can file as soon as you have all the papers completed.
2. **If you served your spouse personally, and your spouse did not respond:**
You can file 51 days after your spouse was served with the *Summons and Petition*.
3. **If you served your spouse by publication or mail (pursuant to Court Order) and your spouse did not respond:**
You can file 71 days after the first date the *Summons* was published and/or 71 days after the *Summons and Petition* were mailed to your spouse.
4. **If your spouse did not serve you with an Answer but your spouse sent you a letter disagreeing with your Petition or filed such a letter with the court.**
You can file at the time indicated in # 1-3 above, if it has also been at least thirteen (13) days since you mailed to your spouse the *Notice of Intent to Proceed to Judgment*.

What to File

See Step 15 for information on what documents must be filed to complete the divorce.

Where to File

File the papers with court administration. Going to the Courthouse to file your papers is recommended, because any omissions or problems noted by court administration can be explained and possibly corrected immediately. Papers may be filed by mailing them to the Court Administrator.

Step 15 Filing Your Documents

If your spouse served you with an *Answer*, your case is contested and Step 15 does not apply to you.

If your case is not contested you will finalize your divorce without a court hearing if:

1. You and your spouse signed a *Stipulated Judgment and Decree*, **or**
2. Your spouse did not respond to your *Summons and Petition* within 30 days of the date the *Summons and Petition* were served on your spouse, and an additional 20 days have passed (for a total of 50 days since service.)

If You and Your Spouse Signed a *Stipulation*:

File the following papers, when you have completed them:

1. **The signed Petition**
2. **The Summons**

3. **The signed Affidavit of Service of the Summons and Petition, or a Waiver of Service of Summons**
4. **The Certificate of Representation and Parties**
5. **The signed Stipulated Findings of Fact, Conclusions of Law, Order for Judgment and Judgment and Decree (“Stipulation”)**

You and your spouse must have signed the Stipulation. In addition, you each must sign the appropriate Waiver of Counsel and make sure these are attached to the “Stipulation.” There is a Respondent’s Waiver of Counsel and Petitioner’s Waiver of Counsel.

6. **Default Scheduling Request.** To fill out this form:

- Fill in the names of the Petitioner and Respondent
- Fill in the Case Number
- Checkmark the line “Approval without a hearing pursuant to Minn. Stat. §518.13, subd. 5.”
- Checkmark the line “The marriage does not include minor children and each party has signed a stipulation.” **Note:** By signing the *Stipulated Judgment and Decree*, you have signed a stipulation.
- Print your name, address and phone number.

7. **Affidavit of Non-Military Status**

Petitioner fills out the *Affidavit of Non-Military Status*:

- Fill out the top part of the form the same as you did in your *Petition*. Write in the case number.
- On the first blank line, write in your name (Petitioner)
- Sign the *Affidavit of Non-Military Status*, and print the county and state you are in when you signed it, as well as your name, address, telephone number and email address.

NOTE: If your spouse IS in the military, you CANNOT sign this Affidavit. See an attorney for advice. Your spouse can sign a waiver of his/her rights under the Service members Civil Relief Act, but the court does not have a waiver form.

See Step 14 for information on where to file the above listed papers.

If Your Spouse is in Default:

(did not serve you with an Answer and you do not have an agreement)

File the following papers when **at least 50 days** have passed since your spouse was served with the *Summons and Petition*:

- **The signed Petition**
- **The Summons**
- **The signed Affidavit of Service of the Summons and Petition or Waiver of Service of Summons**
- **The Certificate of Representation and Parties**
- **The Findings of Fact, Conclusions of Law, Order for Judgment, and Judgment and Decree** (keep a copy for your records)
- **Affidavit of Default**

To fill out the *Affidavit of Default*:

- Fill out the top part of the form the same as you did in your *Petition*. Write in the case number.
- On the first blank line, write in your name.
- On the next blank line, write in the date that your divorce papers were served upon your spouse.

Do not sign the *Affidavit of Default* until at least thirty (30) days have passed since your spouse was personally served with the *Summons and Petition*, or 51 days after your spouse was served by mail or 51 days after the first date of publication. Do not sign the *Affidavit of Default* if your spouse served you with an *Answer*. If your spouse served you with an *Answer*, you are strongly advised to talk with an attorney.

- **Affidavit of Non-Military Status**

To fill out the *Affidavit of Non-Military Status*:

- Fill out the top part of the form the same as you did in your *Petition*. Write in the case number.
- On the first blank line, write in your name.
- Sign the *Affidavit of Non-Military Status*, and print the county and state you are in when you signed it, as well as your name, address, telephone number and email address.

NOTE: If your spouse **IS in the military**, you **CANNOT sign this Affidavit**. See an attorney for advice.

- **Default Scheduling Request**

To fill out the *Default Scheduling Request*:

- Fill out the top part of the form the same as you did in your *Petition*. Write in the case number.
- Checkmark the line “Approval without a hearing pursuant to Minn. Stat. §518.13, subd. 5.”
- Checkmark the line “The marriage does not include minor children, at least 50 days have elapsed since service of the Summons and Petition and the respondent has not appeared in the action.”
- Fill in your name, address and phone number.

See Step 14 for Information on where to file the above papers.

If Your Spouse Appeared by a Pleading Other than an Answer:

If your spouse did not file an Answer, but did file a letter or other written response, or sent you a written response, or appeared in person at a hearing held in this divorce case, then you must notify your spouse that you intend to ask the court for an order based on your Petition. You notify your spouse by sending to your spouse the *Notice of Intent to Proceed to Judgment* form, available from the Court Administrator’s office or at <http://mncourts.gov/GetForms.aspx?c=15&f=248>. Keep a copy of the *Notice* to file with the Court. If you do not have your spouse’s address, ask an attorney what you should do.

Once you have mailed the *Notice of Intent to Proceed to Judgment*, wait until: **a) at least 50 days have passed since your spouse was served with the *Summons and Petition* and b) wait until it has been at least 13 days since you mailed the *Notice of Intent to Proceed to Judgment*.** Then file the completed forms listed below:

- 1. The signed Petition**
- 2. The Summons**
- 3. The signed Affidavit of Service of the Summons and Petition or Waiver of Service of Summons**
- 4. The Certificate of Representation and Parties**
- 5. The Findings of Fact, Conclusions of Law, Judgment and Decree**
- 6. Affidavit of Default**

To fill out the *Affidavit of Default*:

- Fill out the top part of the form the same as you did in your *Petition*. Write in the case number.

- On the first blank line, write in your name.
- On the next blank line, write in the date that your divorce papers were served upon your spouse.

Do not sign the *Affidavit of Default* until at least thirty (30) days have passed since your spouse was served with the *Summons and Petition*. Do not sign the *Affidavit of Default* if your spouse served you with an *Answer*.

7. Affidavit of Non-Military Status

To fill out the *Affidavit of Non-Military Status*:

- Fill out the top part of the form the same as you did in your *Petition*. Write in the case number.
- On the first blank line, write in your name.
- Sign the *Affidavit of Non-Military Status*, and print the county and state you are in when you signed it, as well as your name, address, telephone number and email address.

NOTE: If your spouse IS in the military, you CANNOT sign this Affidavit. See an attorney for advice.

8. Default Scheduling Request

To fill out the *Default Scheduling Request*:

- Fill out the top part of the form the same as you did in your *Petition*. Write in the case number.
- Checkmark the line “Approval without a hearing pursuant to Minn. Stat. §518.13, subd. 5.”
- Checkmark the line “The marriage does not include minor children, at least 50 days have elapsed since service of the *Summons and Petition* and the respondent has not appeared in the action. Note: If you obtained a court order allowing you to serve your spouse by **publication** in a legal newspaper or by mail, your spouse has 51 days from the first date the summons was published in the newspaper or 51 days after the papers were mailed to serve you with an *Answer*. Wait the 51 days plus an additional 20 days before filing the *Default Scheduling Request* if you served by publication.
- Fill in your name, address and phone number.

9. Notice of Intent to Proceed to Judgment, with attached Affidavit of Service of the Notice of Intent

See Step 14 for information on where to file the above papers.

Step 16

After You Receive the Decree from the Court Administrator's Office

As Petitioner, it is your responsibility to serve Respondent with a copy of the Divorce Decree after it is signed by the judge and entered by the court administrator.

If you and Respondent signed a *Stipulated Judgment and Decree* it states that service of the *Judgment and Decree* can be made by mail. Have someone, other than you, who is at least 18 years of age, mail to your spouse a copy of the *Decree* you obtained from the court. The *Decree* must be sent by first class U.S. mail with sufficient postage, addressed to your spouse's home address. If you do not have an address for your spouse, address the envelope to your spouse's last known address. The person who mails the *Decree* to your spouse must fill out the *Affidavit of Service by Mail*, and return it to you. You then file the *Affidavit of Service by Mail* with the court.

If you and your spouse did not sign a *Stipulated Judgment and Decree*, someone else, at least 18 years of age, must serve the *Judgment and Decree* on your spouse by handing it to your spouse.

The server must fill out the *Affidavit of Personal Service* form and return it to you. File the *Affidavit* with the court to prove that you served your spouse with the *Decree*. Serving your spouse with the *Decree* helps prove your spouse knew what was ordered, in case you need to ask the court to enforce the order through a contempt motion.

You can file the *Affidavit of Service* in person or by mail with the Court Administrator.

OTHER STEPS AFTER ENTRY OF THE DECREE

It is the responsibility of the parties to take all necessary steps to put into effect the orders of the court. For example, if you changed your name you will need to get your driver's license and social security card changed to reflect your new legal name. If you or Respondent were awarded pension or medical benefits, the company or provider will need to see the *Decree* and may have other requirements before making the changes ordered by the court. If you and/or Respondent own real estate, there are additional steps you must take to transfer the title to the real estate to the party who was granted the real estate in the *Decree*.

Under Minnesota law, both spouses have an interest in real estate, even if only one spouse's name is on the deed or title of the property.

Proof of divorce and proof of who was awarded interests in the real estate is usually recorded in the real estate records before selling or mortgaging the property after the divorce.

To give that proof, the complete divorce decree can be filed in the real estate records. Or, a short version of the divorce decree can be filed, called *Summary Real Estate Disposition Judgment Form* (SREDJ). The SREDJ only includes information needed for real estate title purposes. If you file the SREDJ, information about your children, work, and other personal matters is not available in the county real estate records. The Minnesota Judicial Branch publishes a set of

instructions to help you with the SREDJ process. Those instructions can be found on the court's website at <http://mncourts.gov/GetForms.aspx?c=15&f=572>.

Get legal advice from an attorney if you are not sure what actions to take with your real estate.