

CONTESTED DIVORCE WITHOUT CHILDREN

Instructions

This packet is designed to help you through the process of starting your Divorce without Children case. You must return to the Center for Self Help and Dispute Resolution or download additional forms in order to complete your divorce.

Included Forms:

- Domestic Relations Information Sheet
- Petition for Dissolution of Marriage
- Summons

BEGINNING DIVORCE PROCEEDINGS

Prepare your forms for filing: Make two (2) sets of copies of the Petition and Summons. The Domestic Relations Clerk can make copies for a cost of \$.35 cents per page.

Submit original forms, copies and filing fee of \$137.00 to the Clerk's Office, room 240, Second Floor, between **8:00 a.m. to 4:00 p.m.** NOTE: The court accepts cash, money order, or cashier's check. Personal checks or credit cards are not accepted.

When you file your documents the Court Clerk issues a **Temporary Domestic Order**. This Order directs the parties on conduct during the process of the divorce. It applies to both parties and is fully enforceable and in effect until changed by the Judge. The clerk will issue the summons for preparation of Service of Process (notifying the other party of this legal process)

Serving Respondent – Please read the attached Service Information sheet.

After the **Petition, Summons** and **Temporary Domestic Order** are filed with the court, copies of these papers must be served on the respondent. Service of process is the procedure by which petitioner gives an appropriate notice of initial legal action to respondent. See Rule 1-004 NMRA. It is the sole responsibility of the petitioner to have the documents served on the respondent (your spouse) and to file proof (return of service) service was complete.

Filing return of service

After the respondent is served, you must return to the Clerk's Office and file the completed Original Summons as proof Respondent was served. The Respondent has **thirty (30) days** after service to file a written response to the court.

If Respondent answered the Petition (Filed a written response)

You may file motions to address various issues (such as temporary division of property, income, debts or request mediation) at a hearing with the judge and the other party. A General Motion packet

is free and may be picked up in the Center for Self Help and Dispute Resolution, room 119 (9:00am – 4:00 pm) or the Domestic Relations division, room 240 (10:00am – 2:00 pm.). Motion packets can be downloaded from the website for free. See download directions below.

If Respondent fails to file a response

You may ask the Court to grant a Default Judgment and Final Decree of Dissolution of Marriage

If more than thirty (30) days have passed since you served the Respondent with the Petition and Respondent has failed to file a pleading, you may be granted a divorce without the agreement of the Respondent by filing a Default Judgment. These forms may be purchased for \$10.00 cash in the Center for Self Help, room 119 (9:00am – 4:00 pm.) or the Domestic Relations division, room 240 (10:00am – 2:00 pm.)

These forms may be downloaded for free. See directions below and download **Default –Divorce without Children**

INSTRUCTIONS FOR DOWNLOADING FORMS

Court forms mentioned above along with other court forms can be downloaded for free at <http://seconddistrictcourt.nmcourts.gov/>

1. On the left side of the home page, scroll down the menu until you see the words “Family Forms”.
2. On this page, scroll down to and choose appropriate form.
3. Download the instruction to complete the forms.

These forms can only be filed from 10:00 am – 2:00 pm, Monday through Friday.

Please visit the Center for Self Help and Dispute Resolution for information and referrals to community resources at:

Downtown Courthouse 400 Lomas Blvd NW, Albuquerque, NM	Monday through Friday 9:00-4:00 pm
By telephone: 505-841-6702	Monday through Friday 8:00 – 5:00 pm

This office cannot provide legal advice, represent you, fill out forms, or tell how to handle your case.

Our office can provide forms, information and referrals to free legal clinics where you can talk to an attorney concerning divorce and parentage issues.

SERVICE INFORMATION SHEET

Service means providing legal notice to the other party/parties. It is the sole responsibility of the petitioner to have the summons packet served on the respondent (the other party) and to provide proof that the service was completed. The court is not responsible for serving documents on any party.

PROCEDURE

1. Assemble a service packet by putting together a copy of the *Petition* and a copy of the *Summons*.
2. Arrange for service by one of the following methods:

a. **Personal Service Using One Of These:**

- i. Sheriff/Law Enforcement (must be from the County where Respondent lives in)
- ii. Process Server (may see yellow pages, internet and/or Self Help Center for a list of these)
- iii. Person over 18 yrs. Of age who is not a party to the case.

Note: The person who served the respondent must sign the *Return of Service* (second page of the *Summons*) in the presence of a notary public. If service is made by the sheriff or a deputy sheriff of a New Mexico county, the signature need not be notarized. You must return the signed *Return of Service* to the court and file it.

b. **Mail**

- i. It must be mailed to a good address by using a mailing method where Respondent will sign for receiving the Summons Packet and you have proof to present to the court. Example: Certified Mail with Return Receipt.

c. **Newspaper**

- i. Publishing a Legal Notice in a Newspaper: This method of service is used when you have made all of the attempts possible to locate the Respondent and whereabouts are unknown. Before publishing you must ask the Court for permission to do this. You may return to the Center for Self Help and Dispute Resolution for proper forms and procedural information.

3. File the original *Summons* and completed *Return of Service* that was issued by the Clerk, an *Affidavit of Service (mail)*, or an *Affidavit of Publication*. This step proves to the court that the other party was given notice of the legal proceeding. What you submit will depend on the method of service that you used to serve the other party. You must file the proof of service in the Court Clerk's Office.

Note: You must always follow the Rules of Civil Procedure. Service of Process is a requirement that must be completed in order to move forward with your case. For additional information governing Service of Process, you can refer to NMRA Rule 1-004 and/or visit the Second Judicial District Court, Center for Self Help and Dispute Resolution in room 119 for proper forms and further instruction.

STATE OF NEW MEXICO
COUNTY OF BERNALILLO
SECOND JUDICIAL DISTRICT

_____,
Petitioner,

v.

No. _____

_____,
Respondent.

**PETITION FOR DISSOLUTION OF MARRIAGE
(WITHOUT CHILDREN)**

Petitioner, _____, asks this Court for a *Final Decree of Dissolution of Marriage*, and states:

1. The parties, or at least one party, is a resident of _____ County, State of New Mexico.
2. At least one party has resided in the state of New Mexico for at least six (6) months immediately preceding the filing of this Petition and has domicile in New Mexico as defined by Section 40-4-5 NMSA 1978.
3. The parties were married on _____ (date) in _____ (city), _____ (state), and have remained spouses since that date.
4. A state of incompatibility and irreconcilable differences exists and the parties are not likely to reconcile.
5. The parties do not have any children and none are expected.
6. Any sole and separate property or debts of the parties should be confirmed by the Court.
7. Any community property of the parties should be equitably divided.
8. Any community debts of the parties should be equitably divided.
9. CIRCLE ONE: My spouse [is] [is not] a member of the military.
10. OPTIONAL (*Cross out if this does not apply to you*): Petitioner is in need of spousal support (alimony) to be paid to him/her by Respondent, who has the ability to pay spousal support.
11. OPTIONAL (*Cross out if this does not apply to you*): Petitioner wishes to be restored to his/her former name, _____.

Petitioner asks that the Court:

- A. Enter a *Final Decree of Dissolution of Marriage* on the grounds of incompatibility;
- B. Confirm any separate property and separate debts of the parties;
- C. Equitably divide any community property and community debt of the parties;
- D. Order Respondent to pay spousal support (*cross out if this does not apply*);

- E. Restore Petitioner to his/her former name, _____ (*cross out if this does not apply*); and
- F. Provide such other and further relief as the Court may deem just and proper.

Submitted by:

Name

Street/mailing address

City, State, Zip

Telephone number

VERIFICATION

I, _____, affirm under penalty of perjury under the laws of the State of New Mexico that I am the Petitioner in the above-entitled cause, and I know and understand that the contents contained in the above Petition are true to the best of my knowledge and belief. I have read and understand the Temporary Domestic Order as described in Rule 1-121 NMRA. I understand that upon the filing of this Petition with the Court that I am bound by the contents of the Temporary Domestic Order.

Signature of Petitioner

Date

[Approved by Supreme Court Order No. 13-8300-010, effective for all pleadings and papers filed on or after May 31, 2013, in all cases pending or filed on or after May 31, 2013; as amended by Supreme Court Order No. 14-8300-011, effective for all pleadings and papers filed on or after December 31, 2014, in all cases filed or pending on or after December 31, 2014.]

SUMMONS	
District Court: Second Bernalillo County, New Mexico Court Address: 400 Lomas Blvd. NW Albuquerque, NM 87102 Court Telephone Number: 505-841-7421	Case Number: Judge:
Plaintiff(s): v. Defendant(s):	Defendant Name: Address:

TO THE ABOVE NAMED DEFENDANT(S): Take notice that

1. A lawsuit has been filed against you. A copy of the lawsuit is attached. The Court issued this Summons.
2. You must respond to this lawsuit in writing. You must file your written response with the Court no later than thirty (30) days from the date you are served with this Summons. (The date you are considered served with the Summons is determined by Rule 1-004 NMRA) The Court's address is listed above.
3. You must file (in person or by mail) your written response with the Court. When you file your response, you must give or mail a copy to the person who signed the lawsuit.
4. If you do not respond in writing, the Court may enter judgment against you as requested in the lawsuit.
5. You are entitled to a jury trial in most types of lawsuits. To ask for a jury trial, you must request one in writing and pay a jury fee.
6. If you need an interpreter, you must ask for one in writing.
7. You may wish to consult a lawyer. You may contact the State Bar of New Mexico for help finding a lawyer at www.nmbar.org; 1-800-876-6227; or 1-505-797-6066.

Dated at _____, New Mexico, this ____ day of _____, 20__.

CLERK OF COURT

By:

Deputy

Attorney for Plaintiff or
 Plaintiff pro se
 Name:
 Address:
 Telephone No.:
 Fax No.:
 Email Address:

THIS SUMMONS IS ISSUED PURSUANT TO RULE 1-004 NMRA OF THE NEW MEXICO RULES OF CIVIL PROCEDURE FOR DISTRICT COURTS.

RETURN¹

STATE OF NEW MEXICO)
)ss
COUNTY OF)

I, being duly sworn, on oath, state that I am over the age of eighteen (18) years and not a party to this lawsuit, and that I served this summons in _____ county on the ____ day of _____, _____, by delivering a copy of this summons, with a copy of complaint attached, in the following manner:

(check one box and fill in appropriate blanks)

to the defendant _____ *(used when defendant accepts a copy of summons and complaint or refuses to accept the summons and complaint)*

to the defendant by [mail] [courier service] as provided by Rule 1-004 NMRA *(used when service is by mail or commercial courier service)*.

After attempting to serve the summons and complaint on the defendant by personal service or by mail or commercial courier service, by delivering a copy of this summons, with a copy of complaint attached, in the following manner:

to _____, a person over fifteen (15) years of age and residing at the usual place of abode of defendant _____, *(used when the defendant is not presently at place of abode)* and by mailing by first class mail to the defendant at _____ *(insert defendant's last known mailing address)* a copy of the summons and complaint.

to _____, the person apparently in charge at the actual place of business or employment of the defendant and by mailing by first class mail to the defendant at _____ *(insert defendant's business address)* and by mailing the summons and complaint by first class mail to the defendant at _____ *(insert defendant's last known mailing address)*.

to _____, an agent authorized to receive service of process for defendant _____ .

to _____, [parent] [guardian] [custodian] [conservator] [guardian ad litem] of defendant _____ *(used when defendant is a minor or an incompetent person)*.

to _____ *(name of person)*, _____, *(title of person authorized to receive service. Use this alternative when the defendant is a corporation or an association subject to a suit under a common name, a land grant board of trustees, the State of New Mexico or any political subdivision)*.

Fees: _____

Signature of person making service

Title (*if any*)

Subscribed and sworn to before me this _____ day of _____, _____ .2

Judge, notary or other officer
authorized to administer oaths

Official title

DO NOT FILE THIS PAGE: FOR PARTY USE ONLY

USE NOTE

1. Unless otherwise ordered by the court, this return is not to be filed with the court prior to service of the summons and complaint on the defendant.
2. If service is made by the sheriff or a deputy sheriff of a New Mexico county, the signature of the sheriff or deputy sheriff need not be notarized.

[Adopted effective August 1, 1988; as amended by Supreme Court Order 05-8300-01, effective March 1, 2005; by Supreme Court Order 07-8300-16, effective August 1, 2007; by Supreme Court Order No. 12-8300-026, effective for all cases filed or pending on or after January 7, 2013; as amended by Supreme Court Order No. 13-8300-022, effective for all cases pending or filed on or after December 31, 2013; as amended by Supreme Court Order No. 14-8300-017, effective for all cases pending or filed on or after December 31, 2014.]

DOMESTIC RELATIONS INFORMATION SHEET¹
NOTE TO CLERK: DO NOT FILE THE INFORMATION SHEET
Type or print responses. Required in all domestic relations cases.²
(Do not use in domestic violence cases.)

A. Petitioner's attorney information. (Complete only if Petitioner has an attorney.)

Petitioner's name: _____
Attorney's name: _____
Attorney's address: _____
City: _____
State: _____
Zip code: _____
Telephone: _____

B. Information regarding petitioner and respondent. (Do not use an attorney's mailing address. Use a separate sheet if necessary.)

Petitioner	Respondent
Name: _____ <i>(Last name, first, middle)</i>	Name: _____ <i>(Last name, first, middle)</i>
Other names (e.g. maiden name): _____	Other names (e.g. maiden name): _____
Address: _____	Address: _____
City: _____	City: _____
State: _____	State: _____
Zip code: _____	Zip code: _____
Date of birth: _____	Date of birth: _____
Social Security number ³ : _____	Social Security number ³ : _____

C. Parties' minor children. (Provide the date of birth and social security number for each minor child, if any. Use a separate sheet if necessary.)

Name: _____ <i>(Last name, first, middle)</i>	Name: _____ <i>(Last name, first, middle)</i>
Date of birth: _____	Date of birth: _____
Social Security number: _____	Social Security number: _____

Name: _____ <i>(Last name, first, middle)</i>	Name: _____ <i>(Last name, first, middle)</i>
Date of birth: _____	Date of birth: _____
Social Security number: _____	Social Security number: _____

D. Request to limit access to information.

(Optional - complete only if applicable)

[] The [petitioner] [respondent] has reason to fear domestic violence or child abuse. For this reason, please limit access to information about the [petitioner] [respondent] in the Child Support & Paternity Case Registry to the extent possible.⁴ The [petitioner] [respondent] realizes that this request may make it more difficult to assist in collecting child support. The [petitioner] [respondent] understands that the other party and the public might still view information about this case under some circumstances.

I affirm that this request is legitimately made and not designed to harass or intimidate the other party or mislead the court.

Signature of Petitioner

END OF INFORMATION SHEET

USE NOTE

1. The Domestic Relations Information Sheet is not required in domestic violence, commitment, guardianship, probate, or adoption actions; or if you are filing a pleading that does not change or add to the first pleading.

In uncontested domestic relations matters, the parties may submit one Information Sheet with the initial pleading, and the documents need not be served.

In all other contested domestic relations cases each attorney representing a petitioner, or the petitioner proceeding pro se, in a contested case must submit the Information Sheet and serve a blank copy of the Information Sheet on the respondent. Respondents must submit the completed Information Sheet with their first responsive pleading.

The information submitted on these forms does not replace or supplement the filing and service of pleadings or other papers required by law. These forms, approved by the Supreme Court of New Mexico, are required to initiate domestic relations cases and are used by the courts for case management.

Forms are available from the court clerks and the NMRA. Electronic copies may be obtained from the Supreme Court's internet site (www.supremecourt.nm.org) and New Mexico Law on Disc. If re-keying the form it must appear substantially in the same format as the Supreme Court approved form. Type or print only. If using a word processing system, please print your answers in bold.

2. Unless there are more than four children, the Information Sheet is to be submitted on a single page. The clerk will key-enter the information on the Information Sheet. The Information Sheet will not be filed in the court file.

3. If the party has more than one social security number, please include it. Pursuant to Sections 27-1-10 and 27-1-11 NMSA 1978 and federal law, each party must submit the social security number of each party as well as the name, date of birth and social security number for each minor child. This information will be provided to the State Case Registry and, upon request, to child support enforcement agencies. The parties' addresses and social security numbers are also used to accurately identify and track court users, obtain feedback from court users on a periodic basis and to issue process in contempt proceedings. Addresses provided on this page will not be made a part of the public record unless that party is or becomes self represented.

4. The Child Support & Paternity Case Registry is a required, nationwide database of child support and paternity orders. Access to registry information is strictly limited to court and child support administrative personnel. Requesting that your registry information be "nondisclosed" does not prevent authorized parties from reviewing the information. Rather, it alerts courts and child support administrative personnel to act with caution when viewing your information. However, be aware that requesting "nondisclosure" of registry information does not limit access to your official district court case file which is a public record. If you are concerned about such access, ask your lawyer, or the court clerk if you do not have a lawyer, about ways in which the court may restrict access to your court file. [Provisionally approved as 4-211 NMRA, effective November 1, 1999 until November 1, 2000; approved, as amended, effective November 1, 2000; as amended by Supreme Court Order No. 13-8300010, effective for all pleadings and papers filed on or after May 31, 2013, in all cases pending or filed on or after May 31, 2013; as amended by Supreme Court Order No. 14-8300-011, effective for all cases filed on or after December 31, 2014.]