

FAMILY LAW INFORMATION AND INSTRUCTIONS

CONFIDENTIALITY: If you have concerns about keeping information confidential, such as your address and/or social security number, please consult an attorney. You should also know that Domestic Violence Protection Orders or Stalking Orders are available free of charge at the circuit court clerks' offices. You may request assistance in obtaining Domestic Violence Protection or Stalking Orders from your local domestic violence or sexual assault program or you may call the Wyoming Coalition Against Domestic Violence & Sexual Assault (1-307-755-0992). There are also private attorneys who may be willing to assist clients in these matters. If you have ever obtained a Protection Order against the other party, this information should be indicated in the *Complaint for Divorce* or the *Counterclaim*.

Read through the following information and instructions before completing the forms. You must fill out all forms as completely as possible. If your forms are not complete, the Judge may reject your packet.

Information:

A divorce action starts with the filing of the *Complaint for Divorce*. A *Complaint for Divorce* is a written request to the court for a divorce. The person who originally asks for this legal action is called the **Plaintiff** and remains the Plaintiff throughout the case. The Plaintiff will file the *Complaint for Divorce* with the **Clerk of the District Court**, whose office is usually located in the county courthouse or a branch of the county courthouse. A case number, also called a **civil action number**, is assigned and an official court file is opened. Delivering the *Complaint for Divorce* to the Clerk's office is called **filing** a case.

Case Number: When you start a lawsuit by filing the paperwork with the Clerk of the District Court, a case number will be assigned by the Clerk. You must include that case number on all further paperwork in the "**caption**." The caption is the top section of a pleading, motion, and complaint stating the name of the Plaintiff, Defendant, the District Court the case is filed in and the case number.

Once a case has been filed, a copy must be formally given to (a/k/a **served** on) the Defendant. The person against whom the original legal action is being requested is called the **Defendant**, and he or she is expected to answer the *Complaint for Divorce*. The Defendant remains the Defendant throughout the case. **Personal service** of the *Complaint for Divorce* and *Summons* on the Defendant by a **Sheriff** is required for the *Complaint for Divorce* unless the defendant completes an **Acknowledgment and Acceptance of Service** form. Formal service is required for the *Complaint for Divorce* so the Court has proof that the Defendant actually received the papers. Other forms of service exist, but these are the easiest methods that meet the formal service requirement for a *Complaint for Divorce*.

Instructions:

STEP 1. *Answer or Answer and Counterclaim.*

Two options exist – you may either Answer the *Complaint for Divorce* or file an *Answer and Counterclaim*. Both options are explained below:

OPTION A. Answer to Complaint for Divorce. If you have been served or have signed an *Acknowledgement and Acceptance of Service* form, you should file an *Answer to Complaint for Divorce* with the Clerk of District Court where the *Complaint for Divorce* was filed. An *Answer to Complaint for Divorce* is a written document explaining to the court exactly which provisions you agree with and which provisions you deny. If you fail to answer, a default judgment may be entered against you and your spouse may be entitled the relief he or she asked for in the *Complaint for Divorce*.

You must fill in the caption. DO NOT forget to include the case number. This is located in the caption of the *Summons* and/or *Complaint for Divorce*.

- i. **Admit or Deny.** To answer the papers, you should go through each and every paragraph of the *Complaint for Divorce* and either “admit” or “deny” each paragraph. If you do not have sufficient information to either admit or deny a particular allegation, you must state that in your *Answer to Complaint for Divorce*. If you disagree with something and you fail to “deny” it in your *Answer to Complaint for Divorce*, the Judge can find that you admitted it.
- ii. **Time limit to answer. You have only a limited amount of time to file an Answer to Complaint for Divorce.** Generally, if you were served within the State of Wyoming, you will have 20 days to file the *Answer to Complaint for Divorce*. If you were served outside the State of Wyoming, you generally will have 30 days to file an *Answer to Complaint for Divorce*. If you do not file an *Answer to Complaint for Divorce* by your deadline, then your spouse may obtain a *Decree of Divorce* giving him/her everything he/she requested in the *Complaint for Divorce*.
- iii. **Computation of Time Limits.** In computing most time limits, unless otherwise stated, the day the pleading is served shall not be included. The last day of the period so computed shall be included, unless it is a Saturday, a Sunday, or a legal holiday, or, when the act to be done is the filing of a paper, a day on which weather or other conditions have made the office of the Clerk of the court inaccessible, in which event the period runs until the end of the next day which is not one of the aforementioned days. When the period of time prescribed or allowed is less than 11 days, intermediate Saturdays, Sundays, and legal holidays shall be excluded in the computation. A "legal holiday" includes any day officially recognized as a legal holiday in this state by designation of the legislature or appointment as a holiday by the governor.

NOTE: If you have any question or concerns as to when the deadline to file the *Answer to Complaint for Divorce* is, you should consult an attorney.

iv. **Certificate of Service:** Copies of all documents sent to or filed with the court must be sent to the Plaintiff before the Judge will consider them. This certificate is included at the end of each document that requires it.

v. **Copies.** Make two (2) copies of the document. The original will be filed by the Clerk of District Court, one copy is for the Plaintiff and the other copy is for you (the Defendant). You will need to repeat this step for all documents you file with the Clerk's office.

OR

OPTION B. Answer and Counterclaim for Divorce. If you want the Judge to grant relief to you (for example, give you the divorce, award property to you, order your spouse to pay alimony, take your previous last name back, etc.) you should file an **Answer and Counterclaim for Divorce.** An *Answer and Counterclaim for Divorce* responds to the *Complaint for Divorce* and gives you an opportunity to tell the court what you want to happen with the divorce. First, you will go through each and every paragraph of the *Complaint for Divorce* and either “admit” or “deny” each paragraph. Second, the *Counterclaim for Divorce* portion of the document asks the Judge to give you what you want. You must fill out all the information in the *Answer and Counterclaim for Divorce* completely.

i **Restoration of Wife's previous name:** The Wife should state whether or not she would like to resume her prior name in either the *Complaint for Divorce* if she is the Plaintiff, or a *Counterclaim* if she is the Defendant. This is the Wife's choice ONLY; the Husband cannot demand that his Wife's name be changed.

ii. Follow **Step A(ii)** through **Step A(v)** above.

NOTE: If you have any question or concerns as to when the deadline to file the *Answer and Counterclaim for Complaint for Divorce* is, you should consult an attorney.

iii. **Plaintiff's Reply to Your Counterclaim.** The Plaintiff must reply to the *Counterclaim*. If you file a *Counterclaim*, the Plaintiff will have 20 days to “reply” by filing a *Reply to Counterclaim*. The Plaintiff will either admit or deny the separate allegations in your *Counterclaim*. If the Plaintiff fails to reply to the *Counterclaim*, you may be entitled to file *Default* paperwork seeking the relief you request in your *Counterclaim*. The *Default* paperwork is contained in a separate packet available on the self-help website or from the Clerk of District Court's office.

STEP 2. Initial Disclosures. The law requires certain information be made available to the other party within thirty (30) days after the Defendant's *Answer* is required to be served on the Plaintiff (use the table in 2.A. below to determine date). The information consists of a schedule of financial assets; schedule of non-financial assets; schedule of all debts owed individually or jointly; location(s) of safety deposit box(es); employment information; and information regarding other income and retirement accounts.

Please note that "A party must make its disclosures based on the information then reasonably available to it and is not excused from making its disclosures because it has not fully completed its investigation of the case or because it challenges the sufficiency of another party's disclosures or because another party has not made its disclosures."

A. **WHEN TO PROVIDE:** Initial Disclosures must be provided to the Plaintiff (or his/her attorney) **WITHIN 30 DAYS AFTER YOUR ANSWER IS REQUIRED TO BE SERVED ON THE PLAINTIFF** (use table below). **Be sure to keep a copy of your Initial Disclosures form for your records.** Use the following to determine the date when you and the Plaintiff are required to provide initial disclosures to one another.

1. Begin with the date you were served with the Complaint:

2. Next, determine when you are required to file an *Answer*:
 - a. If you were served in Wyoming, add 20 days to the date in #1:
_____ OR
 - b. If you signed an Acknowledgement and Acceptance of Service, add 20 days to the date in #1: _____ OR
 - c. If you were served out-of-state, add 30 days to the date in #1:

3. Add 30 days to the date in #2(a), (b), or (c): _____

The date set forth in #3 is the date by which you and the Plaintiff must provide your completed Initial Disclosures forms to one another.

B. **DO NOT FILE THE INITIAL DISCLOSURES WITH THE COURT.** This form is only given to the Plaintiff (or his/her attorney).

STEP 3. If you and the Plaintiff agree on all of the terms in the *Decree of Divorce*, you will both need to sign the document in front of a Notarial Officer. The *Decree of Divorce* will need to be filled out completely, signed by you and the Plaintiff and both of your signatures need to be notarized. **In addition to signing the *Decree*, you should also initial each page of the *Decree* to verify that each page contains the terms you agreed upon.**

- **When will your divorce become final?** Your divorce will not be final until the Judge approves the *Decree of Divorce* and it is filed with the Clerk of Court. This process may

take time if the Judge requires changes to the proposed *Decree*. You must verify with the Clerk's office that the *Decree of Divorce* has been file-stamped before you can be sure your divorce is final. The time limit to appeal a decree begins to run from the day the *Decree of Divorce* is filed with the Clerk's office.

STEP 4. If you and the Plaintiff do NOT agree on all issues of your divorce, you will need to have a trial:

A. **Trial.** If you and the Plaintiff cannot agree on all issues, your case will have to be heard and decided by a Judge at a trial.

- **Caution:** It is strongly recommended that you hire or find an attorney to represent you at trial, though you may represent yourself. You proceed at your own risk and will be expected to know the laws.

B. **Request a trial date.** If the Plaintiff has NOT done so, you will need to request a hearing by completing a *Request for Setting*. Write in "trial" where it asks the type of hearing. Indicate how much time you think it will take for you and the other party to present your evidence and write that in (usually one (1) to three (3) hours). You also need to decide whether or not you want a Court reporter to record the proceeding. SEE BELOW FOR DETAILS ON GETTING A COURT REPORTER. If a hearing is not recorded by an official court reporter, a transcript of the hearing will not be available. It is very difficult to appeal the Judge's decision if you do not get a Court reporter to take down everything that is said at the trial.

- You must file the *Request for Setting* and the *Order Setting Divorce Trial and Requesting Pretrial Statements* with the Clerk's office, and the Court will fill in the hearing date and time and mail a copy to you and the other party. You will need to provide an addressed, stamped envelope for you and the Plaintiff to the Clerk.

Once a trial date has been set, do the following:

C. **Pretrial Disclosures.** Both parties must provide to other party AND PROMPTLY FILE WITH THE COURT the *Pretrial Disclosures* regarding the evidence that it may present at trial. If you have questions, you should contact an attorney.

- When are the *Pretrial Disclosures* due? Unless otherwise directed by the Court, these disclosures must be made at least **30 days before trial.**
- Take the original and two (2) copies to the Clerk for filing. Keep one copy for your records and send the other copy to the Plaintiff (or his/her attorney).
- **Settlement before trial.** In the event your case settles before the trial, you must present the Court with the completed and signed *Decree of Divorce* in writing before the Court

will take the trial off of the schedule. There will be no continuances or canceling of the trial date based on telephone calls. If you need a continuance, you should contact an attorney for assistance in seeking one.

- **Court reporter.** If you wish to have a Court reporter you are required to provide notice to the official Court reporter as soon as possible, but no later than **three (3) working days** before the matter is set for hearing. You can provide notice to the court reporter by phone or by submitting a written request. Please note that if providing notice through the mail, the request must be received by the court reporter no later than three working days prior to the hearing. The Clerk will be able to inform you which court reporter to contact. The three-day notice requirement will not be waived by the Court. The notice is required for all civil matters including jury trials.

- **Evidence and witnesses.** At the hearing, you will need to present your evidence and witnesses. If the *Order Setting Divorce Trial and Requesting Pretrial Statements* is entered (signed by the Judge), you must follow the terms and provide the Court with the information requested in that document, including copies of exhibits you want to introduce at the trial and a list of your proposed witnesses and what their testimony is going to be about within the time frame ordered (usually 3 to 5 days prior to the trial). Under the law, the Judge cannot help you or assist you at trial. You are on your own without an attorney.

- **Final Decision (Decree of Divorce).** Following the trial, the Judge will make a decision or may take the matter under advisement, meaning he or she will need to think further before making a determination. If the Judge instructs you, you must take that decision and type it into the *Decree of Divorce* incorporating the Judge's decision.

- **You are again reminded that, if you choose to continue without an attorney, you are expected to know what to do and how to do it. The Judge will not guide you through the trial/hearing, tell you how to proceed or advise you on the law.**

- **When will your divorce become final?** Your divorce will not be final until the Judge signs the *Decree of Divorce* and it is filed with the Clerk of Court. This process may take time if the Judge requires changes to the proposed *Decree*. You must verify with the Clerk's office that the *Decree of Divorce* has been file-stamped before you can be sure your divorce is final. The time limit to appeal a decree begins to run from the day the *Decree of Divorce* is filed with the Clerk's office.

RECAP for Defendant's Documents:

1. File an *Answer* or *Answer and Counterclaim* within 20 days from the date you were served (or 30 days if served out of state)
 - Mail a copy to the Plaintiff and keep a copy for your records
2. Complete the *Initial Disclosures* form and send to the Plaintiff within 30 days of being served with the *Complaint*.
3. Assist the Plaintiff in filling out the *Decree of Divorce* if you both agree on all of the terms.
Sign the *Decree of Divorce* in front of a Notarial Officer.
4. If you and the Plaintiff do NOT agree on all of the terms, and a trial is needed, follow these steps:
 - a. File a *Request for Setting and Order Setting Divorce Trial and Requiring Pretrial Statements* **ONLY** if the Plaintiff has **NOT** done so.
 - b. Take an original and two (2) copies of the *Order Setting Divorce Trial and Requiring Pretrial Statements* for filing with the Clerk and two (2) addressed, stamped envelopes (one addressed to you and one to the Plaintiff with enough postage to cover the cost of mailing the *Order Setting Divorce Trial and Requiring Pretrial Statements* to you and the Plaintiff).
 - c. File your *Pretrial Disclosures* **30 days** before the trial date.
 - Mail a copy to the Plaintiff and keep a copy for your records (do not file with the Court)
 - d. No later than 3 working days before the trial, request a court report, if desired (and if the Plaintiff has not done so)
 - e. Attend the Trial
 - f. Complete and file any additional documents required by your Court.

Your divorce is final when the *Decree of Divorce* has been signed by the Judge and filed by the Clerk.