

## **INSTRUCTIONS FOR COMPLAINT FOR DIVORCE**

### **WITH CHILDREN**

**\*\*\*IMPORTANT DISCLOSURE\*\*\***

**THIS PACKET IS IN NO WAY INTENDED TO SUBSTITUTE FOR THE ADVICE OF A PRIVATE ATTORNEY**

#### **Private Counsel is Always Recommended for Legal Matters**

The law allows any person to represent themselves in a legal action. However, filing and action with the court and representing yourself in the courtroom can be a complicated legal procedure and this packet does not attempt to address all the legal issues involved in bringing your matter before the court. This packet is created to help you access the legal system without the assistance of an attorney.

When representing yourself, you are responsible for understanding the law that governs your case and for filing the proper legal documents. The laws and rules are set out in the Nevada Revised Statutes, the Rules of Civil Procedure for the Nevada District Courts, and the local rules governing the jurisdiction in which you are filing your documents.

When you sign these documents and present them for filing with the court, it is assumed by the court that you have carefully read the documents, that you understand all the terms in the documents, that you agree with all the provisions in the documents, and that you are aware of all the consequences those provisions may produce.

***Before filling in any portion of the following documents, read all the materials included in this packet including the definitions of terms.***

**THIS INFORMATION IS PROVIDED AS A COURTESY ONLY. THE SIXTH JUDICIAL DISTRICT COURT AND HUMBOLDT COUNTY CLERK'S OFFICE, AND THEIR EMPLOYEES SHALL NOT BE LIABLE FOR ERRORS CONTAINED HEREIN OR FOR DIRECT, INDIRECT, SPECIAL OR CONSEQUENTIAL DAMAGES IN CONNECTION WITH THE FURNISHING OF THIS MATERIAL.**

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### **GENERAL INFORMATION ON FILLING OUT THE FORMS**

The packets are designed for you to fill in the blanks. Do not leave any empty spaces. If there are spaces that do not apply to your case or your set of circumstances, print "not applicable" or "N/A" in the space.

Use blue ink. Other colors of ink may not be accepted by the filing clerk or the Court.

PRINT NEATLY. If the pleadings cannot be easily read, they may not be accepted by the filing clerk and they will not be accepted by the Court.

The Court will not accept any documents with white out or other correction fluid/tape on them. Simple mistakes may be corrected by drawing a line through the mistaken information and initialing over the line. Be sure to keep the document pages in order.

READ ALL THE INSTRUCTIONS ABOUT YOUR PARTICULAR PACKET AND REVIEW THE DOCUMENTS CAREFULLY BEFORE YOU START TO FILL IN THE SPACES. This cannot be emphasized strongly enough. An incorrect notation may have a negative effect on your case and delay the process.

## I. Explanation of Complaint for Divorce

- A. A case for divorce can be started in two ways:
  - 1. By filing a Complaint for Divorce; OR
  - 2. By filing a Joint Petition for Divorce
- B. You can use a Complaint for Divorce ONLY IF:
  - 1. At least one party has lived in the State of Nevada for at least six weeks before you file the Joint Petition; AND
  - 2. That party plans to live in the State of Nevada for the foreseeable future after the Petition is filed; AND
  - 3. You and your spouse are “incompatible” in marriage (you can no longer live together as spouses); AND
  - 4. The parties disagree as to the issues surrounding the divorce, such as: child support, property and debt distribution, child custody and visitation, etc.
- C. This packet should contain the following documents:
  - 1. Civil Cover Sheet
  - 2. Confidential Family Information Sheet
  - 3. Complaint for Divorce with With Children
  - 4. General Financial Disclosure Form
  - 5. Affidavit of Resident Witness
  - 6. Summons
  - 7. Affidavit of Service

## II. STEP ONE: Preparing Your Paperwork: Instructions for Filling-Out Forms.

- A. The Civil Cover Sheet
  - 1. The Civil (Family Related) Cover Sheet is a document used by the Clerk’s Office to create a file for your case.
  - 2. Complete the front side of the sheet. Leave the “Case No.” and “Dept No.” blank. When you file the documents with the filing clerk, they will assign a case number and department number. Once you get the case number from the clerk, you will need to put it on any documents that you give to the Court.
  - 3. Fill in your name, address, and phone number in the space for the Plaintiff. Fill in the name, address, and phone number of the other party in the space for Defendant. If you do not know the address and telephone number of the Defendant, write “unknown” in the space provided.

4. Under “Nature of Controversy” check the appropriate box related to your case.

5. You must sign and date the document at the bottom of the page.

**B. Confidential Family Information Sheet**

1. Nevada law states that the State of Nevada’s Welfare Department and the Court must be notified whenever there is an order regarding child support. You do this by presenting the Confidential Family Court Information Sheet to the Clerk’s Office. This information will be confidentially maintained.

2. Insert the requested information into the grids. If something does not apply, write “N/A.”

3. Sign and date the form.

**C. Complaint for Divorce with With Children**

1. Fill in your name, address, and phone number in the upper left hand corner. Print your name on the line for Plaintiff (Spouse 1) and your spouse’s name on the line for Defendant (Spouse 2). Leave the “Case No.” and “Dept. No” blank. When you file documents with the filing clerk, a case number and department number will be assigned.

2. The Complaint uses a fill-in-the-blank format and will tell you what information you need to put into the blanks. **Please be sure to initial any applicable blanks.** There are helpful Statutes included in your packet to aid you in understanding these forms.

3. Sign and date the Complaint before you file it with the Clerk’s Office.

**D. General Financial Disclosure Form**

1. Review the document carefully prior to attempting to answer the questions. This form focuses on your employment, income, and expenses as they are at this moment in time. This is a snapshot of your financial status as you fill out this form, not your financial status as it was in the past or what it will be in the future.

2. The income and expenses are based on your monthly income and expenses. Those items that you pay every few months should be averaged as to their monthly cost. For instance, if you pay your car insurance every six months, your monthly expense for the insurance would be 1/6<sup>th</sup> of your payment.

3. If you do not know the approximate value of things such as a vehicle or a house, state “unknown.” Do not guess as to values of major property. It is important to remember that the value of such things as furniture and clothes is not the replacement value or original cost. The value is instead what one would pay for such things in a second-hand or thrift store.

**E. Affidavit of Resident Witness**

1. Fill in your name, address, and phone number in the upper left hand corner. Print your name on the line for Plaintiff and the other party's name on the line for Defendant. Leave the "Case No." and "Dept. No" blank. When you file documents with the filing clerk, a case number and department number will be assigned.

2. **NOTE: DO NOT FILL IN ANY OTHER PART OF THE AFFIDAVIT. YOU CANNOT BE YOUR OWN RESIDENT WITNESS.**

a. **Resident Witness:** someone OTHER THAN YOU OR THE OTHER PARTY who can testify that he/she has seen either you or your spouse (whoever is listed as the Nevada Resident in the Joint Petition) in the State of Nevada, several times per week for at least six weeks before the Joint Petition is filed. This person must also have lived in the State of Nevada at least six weeks before the Joint Petition is filed.

3. The rest of the declaration must be filled in by the person who will serve as your Resident Witness (see definition above) and **must be signed in front of a Notary Public.**

#### F. Summons

1. Print your name as the Plaintiff and your spouse's name as the Defendant on both copies of the Summons.

2. Fill in "Divorce" as the object of this action on the line provided in the first paragraph of the form.

3. Print your name, address, and telephone number in the space on the bottom left side of the Summons.

#### G. Affidavit of Service

1. As a general rule, you must give the other party a copy of any document that you filed with the Court. The way of giving the documents to the other party is called "service of process" or "service." For the purposes of this packet you will need to serve the Complaint and Summons on the other party.

2. There are detailed ways that Service must be performed. For guidance on how to successfully perform service, please see the Roadmap for Divorce, Step Three.

3. Once Service is performed, have the person who personally served the other party fill out the Affidavit of Service. THIS PERSON CANNOT BE YOU. Once the person who performed service fills out the Affidavit of Service, it **must be signed in front of a Notary Public.**

### III. STEP TWO: File the Documents with the Clerk's Office.

- A. Make copies of the following documents from your packet:
  - 1. (2) additional copies of the Complaint for Divorce (with or without children)
  - 2. (1) additional copy of the Summons
- B. Take or mail all of the completed documents and money to pay the filing fee with you to the Clerk's Office located at:

#### **Humboldt County Courthouse**

**50 W. 5<sup>th</sup> St. Room 207**

**Winnemucca, NV 89445**

- C. The Clerk will file the original Civil Cover Sheet, Complaint for Divorce, General Financial Disclosure Form, Affidavit of Resident Witness, and Personal Information Sheet. He/she will stamp your copies and return them to you (if you mailed in your paperwork, you will need to provide a self-addressed envelope with enough postage to return the documents to you). These are called "file-stamped" copies. The Clerk will also assign your case to a judge (also known as the "department") and give your case a "case number."

### IV. STEP THREE: Service of Process

- A. At the time of filing, the Clerk will then "issue" the Summons. Once you have a filed copy of your Complaint, you will need someone to serve it and a copy of the Summons on the other party. Please see the Roadmap to Divorce, Step Three for more guidance.
- B. Once Service is completed and the Affidavit of Service is properly filled out and notarized, please file it with the Clerk's Office in the same manner as described above. Your spouse will have 20 days to formally respond to the Complaint. Depending on whether he/she formally responds, you will be able to determine your next step in the divorce process. Please see the Roadmap to Divorce for more guidance.