

## **INSTRUCTIONS FOR SERVICE OF SUMMONS (Without Minor Children) AND COMPLAINT WITHOUT MINOR CHILDREN**

In order to start the divorce, the Defendant must be served with copies the following documents (the originals are filed with the Clerk of Court Office):

1. Summons (Without Minor Children); and
2. Complaint Without Minor Children.

The Instructions for the Self-Represented Litigant in a Divorce Without Minor Children should be served with these documents as well.

The most common ways to serve the Defendant are:

1. In amicable divorces, the Defendant will often times agree to accept service, avoiding the need to have a Sheriff or private process server serve him/her. This means that as the Plaintiff, you may hand-deliver copies of the above itemized documents to the Defendant and the Defendant signs the **Admission of Service of Summons (Without Minor Children) and Complaint Without Minor Children**. The Defendant neither admits nor denies the contents of the documents; he/she merely admits that they received the documents on the specified date.
2. The Plaintiff can also mail copies of the above itemized documents and a self-addressed, stamped envelope to the Defendant along with 2 copies of the **Notice and Admission of Service of Summons (Without Minor Children) and Complaint Without Minor Children**. The Defendant then has 20 days in which to sign the Admission of Service and return it to the Plaintiff. Failure to do so may result in the Defendant having to reimburse you for the cost of service by the Sheriff or private process server.

Per SDCL 15-6-4(g)(5), the Plaintiff will also need to complete an **Affidavit of Mailing** when mailing copies to the Defendant. Keep a copy of the document for your file and file the original with the Clerk of Court.

3. Finally, the Plaintiff can request that the Sheriff's Office or private process server serve the Defendant. Under this scenario, the Plaintiff delivers one full copy of the Summons (Without Minor Children) and Complaint Without Minor Children to the Sheriff's Office along with the Defendant's current physical address, telephone number, place of employment and any other relevant information. Typically the cost of service (the service fee and mileage reimbursement) is pre-paid. After service, the Sheriff or process server has his own form that he/she uses to prove service and that form is

usually mailed to you. Make sure you make a copy of this form for yourself and file the original with the Clerk of Court's office.

**If you HAND-DELIVER the documents to the Defendant:**

Complete the Admission of Service of Summons (Without Minor Children) and Complaint Without Minor Children (UJS Form 317):

- Complete the "caption." This information will be the same as on the Summons (Without Minor Children) and Complaint Without Minor Children.
- The Defendant must fill in his full legal name in the body of the text.
- The Defendant must fill in the town, county and state of the place where he/she received the documents.
- The Defendant must fill in the date with the month, day and year he/she received the documents.
- The Defendant must complete the signature block with his/her signature, printed name, mailing address and telephone number.
- The Defendant should make a copy of the completed Admission for his/her own records and return the original document to the Plaintiff.
- Plaintiff should also make a copy for his/her own records and then file the original Admission of Service of Summons (Without Minor Children) and Complaint Without Minor Children with the Clerk of Court.
- **The divorce may not be finalized until at least sixty days have elapsed from the date the summons and complaint are served. (The day of service is not counted).**

**If you MAIL the documents to the Defendant:**

Complete the Notice and Admission of Service of Summons (Without Minor Children) and Complaint Without Minor Children (UJS Form 315):

- Complete the "caption." This information will be the same as on the Summons (Without Minor Children) and Complaint Without Minor Children.
- Fill in the date the Summons (Without Minor Children) and Complaint Without Minor Children were sent to the Defendant.
- Fill in the address of the Defendant where the copies of the documents were sent to the Defendant.

- As the Plaintiff, sign and date the Notice and Admission, including your telephone number.
- Upon receipt, the Defendant must fill in the town, county and state of the place where he/she received the documents.
- The Defendant shall enter the date the copies of the Summons (Without Minor Children) and Complaint Without Minor Children were received and sign and date the Admission, including his/her mailing address and telephone number.
- The Defendant should make a copy of the completed Notice and Admission forms for his/her own records and return the original document to the Plaintiff in the self-addressed, stamped envelope.
- Upon receipt, Plaintiff should also make a copy of the document for his/her own records and then file the original Notice and Admission of Service of Summons (Without Minor Children) and Complaint Without Minor Children with the Clerk of Court.
- **The divorce may not be finalized until at least sixty days have elapsed from the date the summons and complaint are served. (The day of service is not counted).**