Guide to Representing Yourself in an Iowa Divorce Case with no Minor or Dependent Adult Children

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Introduction

In this Guide, three symbols are used to indicate whether information is specific to electronic filing, specific to paper filing, or applies to all cases whether electronic or in paper:

- Electronic filers
- Paper filers
- ➢ All filers
  - ➢ ***Important: Read all information marked with this arrow, whether you file electronically or in paper.***

➢ If you represent yourself (without an attorney) in a divorce case, and you do not have minor or dependent adult children, you *must* use the *court-approved forms* identified in this Guide and contained in Chapter 17 of the Iowa Court Rules.

➢ **If you do not understand how to use these forms, or do not know if you should use these forms, talk to an attorney.**

➢ These forms must be used whether the filings in your case will be electronic or in paper. If you are unsure whether your county, or the county where your case is filed, accepts electronic filing, check the map available on the Iowa Judicial Branch website at: http://www.iowacourts.gov/eFiling/Overview/ or call the clerk of court office in your county. You can find a directory at http://www.iowacourts.gov/Administration/Directories/ .

➢ If the county where this case is filed accepts electronic filing, you must file electronically unless you get permission from the court to file in paper. Contact the clerk of court if you are unable to file electronically.

➢ If you have minor or dependent children, you **cannot** use the forms identified in this Guide. The forms also are not recommended for people who own a business, a lot of investments, or a lot of real estate.

➢ **Read this Guide carefully.** Even if you both agree to get divorced and how to divide your property, **you must have a judge approve the terms of your divorce** and go through many steps in the court process to get divorced. This Guide will help you get through each step, but many issues are complicated, and you may need to talk to an attorney.

➢ **You are not divorced until a judge signs a final "Decree of Dissolution of Marriage."**

➢ If you are still uncertain what to do after reading this Guide, you should talk with an attorney. An attorney can help you with all or just some of the steps in a divorce case.

➢ The term "**dissolution of marriage**" means the same thing as "divorce." "**Petitioner**" is the spouse who files the Petition to start a divorce case. The other spouse is "**Respondent**." You keep these titles for the rest of your divorce case. Petitioner and Respondent are also called the "**parties**" in the case. Part **VIII** of this Guide defines many other legal terms you should know.

➢ On pages 5 and 6 of this Guide is a list of approved court forms available from the Iowa Judicial Branch website at**:** http://www.iowacourts.gov/eFiling/eFiling_Forms/ or at: http://www.iowacourts.gov/For_the_Public/Representing_Yourself_in_Court/DivorceFamily_Law/Forms/. The forms are also in Chapter 17 of the Iowa Court Rules.

- Carefully read the specific instructions on each form. You should also read part **IX** of this Guide: *Tips on Handling Your Own Case in Iowa's Courts.*
- If you want spousal support (alimony), a share of your spouse's pension, or other property, *you must ask for it during the court case process*. You cannot get it after a judge signs your final divorce Decree.
- It is illegal to sign another person's signature on any court form or other legal paper.
- **Important: Clerks of court and court staff cannot give you legal advice.**
- The divorce laws in Iowa are in chapter 598 of the *Iowa Code*. You can find the *Iowa Code* in public libraries, or on the Iowa legislature's website: www.legis.iowa.gov/IowaLaw/statutoryLaw.aspx.

Electronic Filing (EDMS)

- If your case will be or is filed in a county that uses electronic filing, you are required to register and electronically file your documents using the Electronic Document Management System (EDMS). In exceptional circumstances, you may apply to the court for an exemption (to be excused), from electronic filing requirements.
- Your divorce case will become a public case when the judge signs the final Decree of Dissolution of Marriage. It is critical that you understand and know your responsibility for these two things:
  - **What information is protected (or may or should be kept private)**; and
  - **How to redact (or remove) protected information** from the papers (or legal documents) that you file in your case.
- *See* Chapter 16 Rules Pertaining to the Use of the Electronic Document Management System at: http://www.iowacourts.gov/eFiling/Overview/. Refer to Division VI of Chapter 16 for rules on protecting private information.
- You must still personally serve your spouse with a copy of your Petition and Original Notice, even if you are filing electronically. After the Petition and Original Notice documents are personally served, whenever you electronically file an additional document in your case, EDMS will serve a copy of that document on your registered spouse or your spouse's attorney if there is one.
- The Notice of Electronic Filing (NEF) will indicate if your spouse is excused from electronic filing requirements, in which case, you must mail a copy or serve in paper a copy of the document on your spouse if he or she does not have an attorney.
- Even if you are filing electronically, most dissolution forms require you to certify the information you are providing by handwriting your signature on the form. These forms must then be scanned in and electronically filed.
- To view the dissolution forms, you must have Adobe Acrobat Reader installed. Go to: http://get.adobe.com/reader/.

Paper Filing

- If the county in which your case is filed uses electronic filing, you must receive permission from the court before you can file in paper.
- Some instructions, and some forms, are different if you are filing in paper rather than electronically.

- Whenever you file a paper at the clerk of court office, you must deliver a copy of that paper to your spouse or your spouse's attorney. You should also keep a copy for yourself. The only **exception** is the Confidential Information Form (103*)*: *Do not give a copy of that form to your spouse.*

- Because your divorce case will become a public case when the judge signs the final Decree of Dissolution of Marriage, it is critical that you understand and know your responsibility for these two things:

    - **What information is protected (or may or should be kept private)**; and

    - **How to redact (or remove) protected information** from the papers (or legal documents) that you file in your case.

- Be sure to print clearly when filling in paper forms.

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Guide to Representing Yourself in an Iowa Divorce Case:
For Spouses with no Minor or Dependent Adult Children

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I. Approved Iowa Divorce Forms for Self-Represented Parties with no Minor or Dependent Adult Children

*Before using any Iowa court forms listed below, read this Guide, including part **IX**: "Tips on Handling Your Own Case in Iowa's Courts."*

Chapter 17 forms a **Petitioner** can use to start the divorce process:

➢ 101	Petition for Dissolution of Marriage with no Minor or Dependent Adult Children
102	Coversheet for a Petition for Dissolution of Marriage with no Minor or Dependent Adult Children. ***Use only if filing in paper; not for electronic filing.***
103	Confidential Information Form. ***Use only if filing in paper; not for electronic filing.*** *Each party filing in paper must provide the clerk of court personal identifying information on this form, which will be kept confidential.*
104	Original Notice for Personal Service. ***Use only if filing electronically; not for paper filing. Note****: For electronic filing, a clerk of court signature page will be added to the Original Notice form when the clerk approves the Original Notice. Page numbering on the form has been adjusted to account for the addition of this page in electronic filing.*
104a	Original Notice for Personal Service. ***Use only if filing in paper; not for electronic filing.***
➢ 105	Acceptance of Service of Original Notice. *Petitioner completes the top part of this form; Respondent completes the bottom part and returns the form to Petitioner for filing.*
➢ 106	Directions for Service of Original Notice
➢ 107	Motion and Affidavit to Serve by Publication. *Use this form if you cannot find your spouse to serve a copy of the Petition (101) and Original Notice (104) by mail or in-person.*
➢ 108	Original Notice by Publication. *Use this form if you cannot find your spouse to serve a copy of the Petition (101) and Original Notice (104 or 104a if filing in paper) and a judge has signed an Order allowing you to publish the Notice in a newspaper.* ***Note****: For electronic filing, a clerk of court signature page will be added to the Original Notice form when the clerk approves the Original Notice. Page numbering on the form has been adjusted to account for the addition of this page in electronic filing.*
➢ 109	Application and Affidavit to Defer Payment of Costs. *Optional: Use this form if you cannot afford to pay the court filing fees.*
➢ 110	Affidavit of Service of Original Notice and Petition for Dissolution of Marriage. *Use if someone other than Petitioner, a sheriff, or process server delivers a copy of the Petition (101) and Original Notice (104 if filing electronically; 104a if filing in paper) to Respondent.*
➢ 111	Protected Information Form. *Electronic filers use this form to identify the complete version of any protected information or other information redacted in documents filed. It is recommended that paper filers do the same.*
➢ 125	Affidavit of Mailing Notice. *Petitioner must file this if he or she served Notice by Publication in a newspaper and asks the court for a divorce Decree by default.*

Chapter 17 forms a **Respondent** can use to file an Answer to the Petition:

➢ 111	Protected Information Form. *Electronic filers use this form to identify the complete version of any protected information or other information redacted in documents filed. It is recommended that paper filers do the same.*
➢ 115	Answer to Petition for Dissolution of Marriage with no Minor or Dependent Adult Children. *Use this if Petitioner uses form 101.*

➢ 116	General Answer. *Use this if Petitioner does **not** use form 101.*

Chapter 17 forms either **Petitioner** or **Respondent** can use to get a final divorce Decree:

➢ 122	Motion. *Optional: use this to ask a judge to take some action in your case.*
➢ 123	Response to a Motion. *Use this if your spouse files a Motion (122) and you disagree with something your spouse is asking for in the Motion.*
➢ 124	Financial Affidavit. *Each party (Petitioner and Respondent) must fill in and file one of these. If Respondent does not fill one in, Petitioner can get a final Divorce decree by default.*
➢ 126	Notice of Intent to File a Written Application for Default Decree. *Petitioner uses this if Respondent has not filed an Answer to the Petition and the Petitioner wants to ask the court for a final divorce Decree.*
➢ 127	Request for Relief in a Dissolution of Marriage with no Minor or Dependent Adult Children. *If Petitioner is getting a final divorce Decree by default, only Petitioner fills this in and files it. If the spouses will be going to trial to get a final divorce Decree, each spouse should fill in and file one of these.*
➢ 128	Settlement Agreement for Dissolution of Marriage with no Minor or Dependent Adult Children. *Use this if both parties agree how to divide property, assets, and debts.*

Continued on the next page

II. How to Begin a Dissolution of Marriage (Divorce) with no Minor or Dependent Adult Children

A. Petitioner must fill in and sign the forms required to start the divorce process.

- You can get the forms you need from the Iowa Judicial Branch website at: http://www.iowacourts.gov/For_the_Public/Representing_Yourself_in_Court/DivorceFamily_Law/Forms/. The forms are also in Chapter 17 of the Iowa Court Rules.

- Carefully read the specific instructions on each form. Some instructions, and some forms, are different if you are filing in paper rather than electronically. If you do not understand something, you should contact an attorney. *Do not contact court staff about how to fill out forms.*

- Type or print clearly on each form. You should use a **blue ink** pen (if possible) to sign each form that requires a handwritten signature.

Here is a list of the forms a self-represented Petitioner **must** use to start the divorce process:

➢ 101	Petition for Dissolution of Marriage with no Minor or Dependent Adult Children
102	Coversheet for a Petition for Dissolution of Marriage with no Minor or Dependent Adult Children. ***Use only if filing in paper; not for electronic filing.***
103	Confidential Information Form. ***Use only if filing in paper; not for electronic filing.*** *Do **not** give a copy to your spouse.*
104	Original Notice for Personal Service. ***Use for electronic filing only.***
104a	Original Notice for Personal Service. ***Use for paper filing only.***

The clerk of court in your county can tell you what the filing fee will be. If you believe you cannot afford the court filing fee, the court might allow you to postpone your payment of the fee. To ask the court to postpone (defer) payment of the filing fee, fill in and file form 109.

➢ 109	Application and Affidavit to Defer Payment of Costs. *Optional: Use this form if you cannot afford to pay the court filing fees.*

B. Filing your case.

Filing your case electronically.

- If you are filing your divorce case in a county that uses electronic filing, you must register to electronically file. For help with registration, see the eFile User Guide "How to Register Pro Se (Self Represented) for eFiling."

- After you have registered, log in to the electronic filing system at https://www.iowacourts.state.ia.us/EFile/ to electronically file your dissolution case.

- For help electronically filing your divorce, see "How to File a New Case" at http://www.iowacourts.gov/eFiling/Training_Documents/.

- If you are unable to proceed electronically, you must receive permission from the court to file in paper. Contact the clerk of court in the county where the petition will be filed for more information on being excused from electronic filing.

- With your Petition (101), you must also file an Original Notice (form 104) and a Protected Information Disclosure (form 111) with the full version of any protected information or other information you have redacted or omitted from the Petition.

- If filing electronically, you will receive a Notice of Electronic Filing (NEF) when the clerk of court has approved the filing of your Petition.

- Log in to your eFile account and download and print your Petition, Original Notice, and Protected Information Disclosure so that you can serve (deliver them to) your spouse.

- For help finding and downloading your Petition, Original Notice, and Protected Information Disclosure, please see the "My Filings Reference Guide" at: http://www.iowacourts.gov/eFiling/Training_Documents/.

Filing your Petition in paper.

- If the county where you will be filing your Petition does not yet accept electronic filing, you must proceed in paper. If the county does accept electronic filing, you must proceed electronically, unless you have received permission from the court to file in paper.

- With your Petition, you must also file a Petition Cover Sheet (form 102), an Original Notice (form 104a), and a Confidential Information Form (form 103). It is also recommended that you file a Protected Information Disclosure (form 111) with the complete version of any protected information or other information that you have redacted or omitted from the Petition.

- Forms 101 and 104a and, if applicable, 111**:** Make **two** copies if you can deliver copies of these forms to your spouse in-person or by mail. Make **three** copies if you are going to ask the county sheriff or a civil process server to deliver these forms to your spouse.

- Forms 102 and 103: You do **not** have to make photocopies of these forms.

  Note about making photocopies: You should make your copies before you go to the courthouse to file your papers. It is expensive to make photocopies at the clerk of court office. It is cheaper to make the copies at a business that makes photocopies or at a public library.

- Take the original forms you filled in and the photocopies to the clerk of court office in your county. Tell the clerk at the counter you are filing a Petition for a divorce.

- Give the clerk at the counter the original forms and the photocopies of these forms:
  - 101 Petition for Dissolution of Marriage (Divorce) with no Minor Children
  - 102 Coversheet for a Petition for Dissolution of Marriage With No Minor Children
  - 103 Confidential Information Form (*Do not make copies of this form.*)
  - 104a Original Notice
  - 111 Protected Information Disclosure, if applicable

- Pay the filing fee, or file form 109. (*See* above.) The clerk at the counter can tell you the amount of the filing fee. *See* the term "Fees" in part **VIII** of this guide for a list of the fees you might have to pay during the divorce process. The Iowa legislature sets these fees and periodically raises them, so check with the clerk's office to confirm the current filing fee.

- The clerk of court will sign the Original Notice (form 104a). You will have to serve this form on (deliver it to) your spouse. (*See* section C, below.)

- The clerk at the counter will time-stamp each of the copies (original and photocopies).

C. Serve (deliver) the Original Notice (form 104 if filing electronically; form 104a if filing in paper), a copy of the Petition (form 101), and, if applicable, the Protected Information Disclosure (form 111) on your spouse. (See the definition of "Serve (Service)" on page 24.)

- **For both paper and electronic filers:**
  - **Important:** Petitioner has **90 days** after filing the Petition to serve the Petition on Respondent (Petitioner's spouse). If Petitioner fails to meet this deadline the dissolution of marriage case will be dismissed.

  - **If you know where your spouse is,** you have three options for completing service:

    - **Service Option 1:** You can hand the forms to your spouse yourself, or send the forms to your spouse by regular mail. You must also get your spouse to sign an "Acceptance of Service" (form 105; s*ee* below). After your spouse signs the Acceptance of Service form, you must meet the requirement for "proof of service" by:

      If filing electronically:

      - File the Acceptance of Service form through EDMS.
      - For help, *See* "How to eFile to an Existing Case" at http://www.iowacourts.gov/eFiling/Training_Documents/.

      If filing in paper:

      - Make a photocopy of the Acceptance of Service form for your records; and
      - Take the original Acceptance of Service form (the one signed by your spouse) to the clerk of court office for filing.

105	Acceptance of Service of Original Notice. *Petitioner uses this when Petitioner personally delivers the Original Notice and a copy of the Petition to Respondent and Respondent is willing to sign the "Acceptance of Service" form.*

    - **Service Option 2:** You can ask the county sheriff or other civil process server to serve the forms on your spouse. **Note**: If you filed an Application & Affidavit to Defer Costs (form 109) and the court approved it, you *must* have the county sheriff serve the forms.

    If you choose option 2, you must fill in two forms: 104 (if filing electronically) *or* 104a (if filing in paper), *and* 106 (s*ee* below).

106	Directions for Service of Original Notice. *Use this if you know where your spouse lives or works, but you want the county sheriff or other civil process server to deliver the divorce Petition (form 101) and Original Notice (form 104) to your spouse.*

      - Give the county sheriff or other process server **two** copies of the:
        - Original Notice (form 104 or 104a),
        - Petition (form 101),
        - Directions for Service (form 106), and
        - Protected Information Disclosure (form 111), if applicable.

      - Tell the sheriff or process server to deliver the Original Notice, Petition, and Protected Information Disclosure to your spouse.
      - The sheriff or other process server will file the "proof of service" with the clerk of court after you pay the service fee. If the court granted your Application to Defer Costs (form 109), the

county sheriff *must* be the one who delivers the forms to your spouse.

- **Service Option 3:** You can have another person who is not a sheriff or process server deliver the papers to your spouse. If a person other than you, a sheriff, or a process server delivers a copy of the Petition and Original Notice to your spouse, that person must fill out an Affidavit of Service of Original Notice and Petition for Dissolution of Marriage (form 110), and either you or that person must file the Affidavit with the clerk of court soon after the papers were delivered to your spouse.

➢ 110	Affidavit of Service of Original Notice and Petition for Dissolution of Marriage. *Use if someone other than Petitioner, a sheriff, or process server delivers a copy of the Petition (form 101) and Original Notice (form 104 if filing electronically; form 104a if filing in paper) to Respondent.*

- **If you do not know where your spouse is,** you can ask the court for permission to give notice to your spouse by publication in a newspaper

  - A court will give a Petitioner permission to give notice by publication in a newspaper only if Petitioner has tried several ways to find his or her spouse. Some steps you can take to find your spouse include:

    - Contacting your spouse's parents, brothers, sisters, friends, former employer, or people she or he used to work with.
    - Checking local or area phone books, or phone books where you think your spouse might be living.
    - Searching for your spouse using internet-based search engines or social media. If you do not know how to do this, go to your local library and ask a librarian for help.
    - Contacting an attorney to help you.
    - If you cannot find your spouse, you should mail a copy of the Original Notice (form 104), the Petition (form 101), and, if applicable, the Protected Information Disclosure (form 111) to your spouse's last known address. You **must** do this to get a divorce Decree by default. (*See* part **V.A** and form 125 below.)

  - If you cannot find your spouse after taking these steps, you can ask the court for permission to serve notice by publication in a newspaper. To do this, you **must** file form 107.

➢ 107	Motion and Affidavit to Serve by Publication. *Use this if you cannot find your spouse. With this form you will ask the court's permission to serve Notice by Publication in a newspaper.*

If filing form 107 electronically:

- Electronically file your Motion and Affidavit to Serve by Publication, using the How to eFile to an Existing Case document as your guide.
- When you receive the Notice of Electronic Filing (NEF) that your Motion has been approved, print and mail a copy of the motion to your spouse's last known address.

If filing form 107 in paper:

- Make two photocopies of the form.
- Take the original and both copies to the clerk of court office.
- The clerk at the counter will time-stamp the original and photocopies.
- The clerk will keep the original and give the copies back to you.

- Mail one copy of the form to your spouse's last-known address.
- Keep one copy for your records.

- The court might schedule a hearing on your Motion and Affidavit. You will receive notice of the date and time for the hearing. You must attend the hearing. Follow the advice in part **IX** *Tips on Handling Your Own Case in Iowa's Courts.*

- **Note:** Using form 107 does not guarantee that a judge will let you serve notice by publication in a newspaper.

- If the judge signs an Order allowing you to publish the Notice in a newspaper, you should fill out a Notice by Publication (form 108) and take it to a newspaper. After you take the Notice to the newspaper, promptly mail a copy of the Notice, the Petition, and the Protected Information Disclosure to Respondent's last-known mailing address.

➢ 108	Notice by Publication. *Use this if you cannot find your spouse to deliver a copy of the Petition (form 101) and Original Notice (form 104 or 104a if filing in paper), and a judge has signed an Order allowing you to publish the Notice in a newspaper.*

- ***Important:*** You must closely follow the instructions for form 108 to publish the Notice by Publication in the newspaper.

- If you served Notice by Publication in a newspaper (form 108), you *must* also file an Affidavit of Mailing Notice (form 125).

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III. What to do if Your Spouse has Filed for Divorce and You have Received the Divorce Papers

A. Carefully read the papers served on you (a divorce Petition and Original Notice).

- It is important to read the papers carefully to understand what your spouse (**Petitioner**) is asking for in the Petition.
- You (**Respondent**) might also receive other papers (court "orders") filed in your case that tell you things you must do as part of the divorce process. Examples of these orders are:
  - Setting the date for the pretrial conference,
  - Requiring each spouse to give financial or other information to the other spouse, or
  - Requiring attendance at mediation (in some counties).
- Even if your spouse is not represented by an attorney, you may still talk to or hire an attorney to help you with the divorce process.
- If the Petition is filed in a county that uses electronic filing, you are required to register and electronically file your Answer and other documents using the Electronic Document Management System (EDMS). *See* "How to Register Pro Se (Self Represented) for eFiling" at http://www.iowacourts.gov/wfData/files/EDMS/OnlineDocumentation/HowtoRegesterProSe_SelfRepresentedeFiler.pdf. *See* Chapter 16 Rules Pertaining to the Use of the Electronic Document Management System at: http://www.iowacourts.gov/wfdata/files/EDMS/OnlineDocumentation/Chapter16Rules102213.pdf.
- In exceptional circumstances, you may apply for and be granted an exemption or be excused from electronic filing requirements. Contact the clerk of court in the county where the Petition was filed for information on exemptions.
- Whenever you electronically file a document in your case, EDMS will serve a copy of that document on your registered spouse or your spouse's attorney. The Notice of Electronic Filing (NEF) will indicate if your spouse is exempt from the electronic filing requirements, in which case, you must mail or serve in paper a copy of the document on your spouse if he or she does not have an attorney.

B. Filing your answer to the Petition.

- Within **20 days** after receiving a copy of the Petition and Original Notice, you must file an Answer to the Petition with the court. If you fail to file an Answer within 20 days, the court may grant a divorce Decree without your input.
- You can get the forms you need from the Iowa court system's website at: http://www.iowacourts.gov/For_the_Public/Representing_Yourself_in_Court/DivorceFamily_Law/Forms/ .
- Carefully read the specific instructions on each form for how to fill them in. If you still do not understand something after reading the instructions, you should contact an attorney.
- Respondent must use one of these forms to answer the Petition:

➢ 115	Answer to Petition for Dissolution of Marriage with no Minor or Dependent Adult Children. *Use this to file an Answer if you received Petition form 101 from your spouse (Petitioner).*
➢ 116	General Answer. *Use this if you received a divorce Petition from your spouse, but it was **not** form 101.*

- Decide which form you need. Then do the following:
  - Fill out the form.
  - Sign the form.

Filing your Answer electronically (if the Petition was filed in a county that uses EDMS).

- Scan the signed form and save it as a .pdf. Save it in a place that will be accessible to you when you electronically file.
- Log on to EDMS and file your Answer. For Help, *See* "How to eFile to an Existing Case" at: http://www.iowacourts.gov/eFiling/Training_Documents/.
- EDMS will notify you when your Answer has been filed. You can then open the Answer and print a copy for your records. If there was a problem with your filing, EDMS will send you a Retraction Notice. You can then log in to My Filings, correct the error, and resubmit your Answer. For help, *See* "How to Resubmit a Returned Filing" at: http://www.iowacourts.gov/eFiling/Training_Documents/.
- The Notice of Electronic Filing will indicate if your spouse is exempt from electronic filing requirements, in which case, you must mail or serve in paper a copy of the document on your spouse if he or she does not have an attorney.

Filing your Answer in paper:

- Make two photocopies of the original.
- Take your original Answer form and the photocopies to the clerk of court office in the county where the Petition was filed. (The county is listed at the top of the Petition form.)
- The clerk will time-stamp your forms and copies.
- The clerk will take the original one and give the copies back to you.
- Keep one of the copies for your records.
- Serve one of the copies of your Answer on your spouse, or if your spouse has an attorney, on your spouse's attorney, by mail or in person.

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IV. What You Should do During the 90-Day Waiting Period for Getting a Final Divorce Decree

A. 90-Day Waiting Period

- Under Iowa law, there is a waiting period of 90 days before a judge can sign the final divorce Decree. The 90 days usually begins on the **latest** of the following dates:
  - When the Petition and Original Notice are served on Respondent by a sheriff or civil process server; or
  - When you file the Acceptance of Service (form 105); or
  - If Petitioner serves notice by publication in a newspaper, the 90-day waiting period begins **20 days** after the final (third) date of publication in the newspaper.
- In some situations, this 90-day waiting period may be shortened if you file a Motion (form 122) and explain to the court why you think the waiting period should be shortened in your case. Judges will require a very good reason for shortening the waiting period.
- Here is a list of forms that either Petitioner or Respondent can use during the 90-day waiting period to complete the steps necessary to get a final divorce Decree.

➢ 122	Motion. *Use this to ask the court to do something in your case (optional).*
➢ 123	Response to a Motion. *Use this if your spouse filed a Motion (form 122) and you disagree with something your spouse is asking for in the Motion.*
➢ 124	Financial Affidavit for Dissolution of Marriage with no Minor or Dependent Adult Children. *Each spouse **must** fill out and file one of these forms (required).*
➢ 125	Affidavit of Mailing Notice. *Petitioner **must** file this if he or she served Notice by Publication in a newspaper and asks the court for a divorce Decree by default.*
➢ 126	Notice of Intent to File a Written Application for Default Decree. *Petitioner uses this form if Respondent is "in default," which means he or she has not filed an Answer to the Petition and Petitioner wants to ask the court to sign a final divorce Decree.*
➢ 127	Request for Relief in Dissolution of Marriage with no Minor or Dependent Adult Children. *Either spouse can use this. Usually the Petitioner uses this if the Respondent has not filed an Answer to the Petition and the Petitioner wants to move forward and ask the court to sign a final divorce Decree.*
➢ 128	Settlement Agreement for Dissolution of Marriage with no Minor or Dependent Adult Children. *Use this if both parties agree how to divide property, assets, and debts.*

B. Things one or both spouses can do during the 90-day waiting period to complete the steps necessary to get a final divorce Decree upon expiration of the 90-day waiting period.

- Complete and file a Financial Affidavit (form 124).

  During the waiting period, each spouse can fill out, sign, and file a Financial Affidavit. Financial Affidavits give the court information about the parties' property, amount of debts, and income levels. You will *not* get a final divorce Decree until you complete the Financial Affidavit.

- Complete and file a Settlement Agreement (form 128).

  If you and your spouse agree how to divide your property, assets, and debts, you should complete and file a Settlement Agreement (form 128).
  - Work together to fill out the Settlement Agreement.

- Sign and print the Agreement and proceed with the steps for filing electronically or in paper.

If you are filing electronically

- Scan the signed Agreement and save it as a .pdf. Save it in a place that will be accessible to you when you electronically file.
- Log in to EDMS and file the Settlement Agreement (form 128) at https://www.iowacourts.state.ia.us/EFile/. For Help, see "How to eFile to an Existing Case" at http://www.iowacourts.gov/eFiling/Training_Documents/.
- EDMS will notify you when your Agreement has been filed. You can then open the Agreement and print a copy for your records. If there was a problem with your filing, EDMS will send you a Retraction Notice. You can then log in to My Filings, correct the error, and resubmit your Agreement. For help, see "How to Resubmit a Returned Filing" at: http://www.iowacourts.gov/eFiling/Training_Documents/.
- The Notice of Electronic Filing will indicate if your spouse is exempt from the electronic filing requirements, in which case, you must mail or serve in paper a copy of the document on your spouse if he or she does not have an attorney.

If you are filing in paper

- Make a photocopy for each person.
- File the original Settlement Agreement (form 128) at the clerk of court office.

- You may file a Motion requesting the court to do something.
  - You or your spouse might need something that requires a temporary order from the court. For example, one spouse might request temporary financial support or help to pay attorney fees from the other spouse. If so, file a Motion (form 122) with the clerk of court to ask the court for what you want.
  - If your spouse files a Motion, and you disagree with what your spouse is asking the court to do, you should fill out and file a Response to the Motion (form 123). This form allows you to tell the court that you disagree with your spouse's Motion.
    - If your case is electronic, EDMS will send you a notice telling you the date, time, and location of the hearing.
    - If your case is in paper, the clerk's office will mail you a notice telling you the date, time, and location of the hearing.
  - You **must** go to the hearing. If you do not show up for the hearing, the court will not give you the things you request in your Motion.
- You might have to attend educational or mediation programs. The court may require you to attend an educational program about divorce or require you to attend a mediation session with your spouse. These requirements vary by judicial district, and you should carefully read all information you receive from the court or the clerk of court.
- If you will be changing the title to any real estate as part of your divorce, you should contact an attorney to get advice on how to do this.

V. How to Get a Final Divorce Decree

- You and your spouse are not divorced until a judge signs a final divorce Decree called a "Decree of Dissolution of Marriage." A judge writes the final Decree.

- You can get a final divorce Decree by: (A) default, (B) written agreement, or (C) trial.

A. Divorce Decree by Default

- Petitioner can ask the court for a Decree by default if Respondent did not file an Answer by the deadline or has not participated in the divorce proceedings.

- When and how Petitioner asks the court for a Decree by default depends on how Petitioner served notice on Respondent as set forth in **1** or **2** below:

1. *Notice served by Publication in a newspaper and Respondent did not file an Answer within **20 days** after the third (final) date of publication*:

- In this situation, Petitioner can ask for a Decree by default by doing the following:
  - Filing a Motion (form 122) to set a hearing date. In the Motion, check item 1A(3) ("Set a hearing date for a divorce Decree by default"). **Note**: If Petitioner wants the judge to shorten the 90-day waiting period, Petitioner should also check 1A(6) ("Shorten the 90-day waiting period for getting a divorce Decree"), and explain reasons for this request in section 1B.

Or,

2. *Original Notice and a copy of the Petition served on Respondent (by mail, in-person, or by sheriff or process server), and Respondent did not file an Answer within **20 days** of service or filing of an Acceptance of Service (form 105) or Affidavit of Service (form 110).* The 20-day period starts on:

- The date the Original Notice (form 104 if filing electronically or form 104a if filing in paper) and a copy of the Petition (form 101) were served on Respondent by the county sheriff or other civil process server; or,
- The date Petitioner filed the Acceptance of Service (form 105) with the clerk of court; or
- The date an Affidavit of Service (form 110) was filed with the clerk of court.

- If Respondent did not file an Answer within the 20-day period, Petitioner can ask the court for a Decree by default but first must give Respondent a **10-day notice in writing**.

  - Petitioner must first give Respondent a **10-day notice in writing** that Petitioner intends to ask the court for a divorce Decree by default. (Note: This 10-day notice requirement does not apply when notice was served by publication. *See* **A1** above.)
  - To give Respondent a 10-day notice, Petitioner must file a Notice of Intent to File a Written Application for a Default Decree (form 126) and serve a copy of this document on Respondent.
  - After Petitioner files a Notice of Intent to File a Written Application for a Default Decree (form 126) and it is served on Respondent, Petitioner must wait 10 days from the date of service *plus* 3 more days for mailing. If Respondent does not file an Answer within **13 days**, Petitioner can ask the court for a divorce Decree by default.

  - To request a divorce Decree by default:
    - Prepare a Motion (form 122) to set a hearing date. On the Motion, check item 1A(3) ("Set a hearing date for a divorce Decree by default"). **Note**: If Petitioner wants the judge to shorten

the 90-day waiting period, Petitioner should also check 1A(6) ("Shorten the 90-day waiting period for getting a divorce Decree"), and explain reasons for this request in section 1B.

- File the Motion with the clerk of court and serve a copy of the Motion on Respondent.

- **After requesting a hearing date for a divorce Decree by default:**

  If your case is electronic, EDMS will send you a notice telling you the date, time, and location of the hearing.

  If your case is in paper, the clerk's office will mail you a notice telling you the date, time, and location of the hearing.

  - You **must** go to the hearing. If you do not show up for the hearing, the court will not give you a divorce Decree by default.
  - Before you go to the hearing:
    - Fill out and print a Request for Relief (form 127). This form tells the judge that you want a final divorce Decree and what you want in the Decree.
      - Deliver one copy to your spouse.
        - Petitioners in **A1** (above) must mail a copy to your spouse's last-known mailing address.
        - Petitioners in **A2** (above) must deliver a copy to your spouse by mail or in-person.
      - Bring the original form and your photocopy with you to the hearing.
    - Read part **IX** in this Guide: *Tips on Handling Your Own Case in Iowa's Court.*
  - At the hearing:
    - Be on time. Follow the advice in part **IX**: *Tips on Handling Your Own Case in Iowa's Courts.*
      - If your case is in paper, give the judge the original copy of your Request for Relief (form 127).
    - Respectfully ask the court to decide that your spouse is "in default."
  - After the hearing*:*
    - If the judge determines that your case is ready for a Decree, the judge will fill out a final Decree and file it with the clerk of court.
      - If your case is electronic, you can log in to EDMS and print off a copy of your Decree.
      - If your case is in paper, the clerk of court will either give or mail a copy to you.

B. Divorce Decree by Written Agreement

- If you and your spouse agree on how to divide your property and debts, you can work together to prepare a Settlement Agreement (form 128). After you complete and file the form, you should:
  - File a Motion for a hearing date on your Agreement.
  - Ask the clerk of court when a judge can meet with you about your Settlement Agreement. Because most courts have very busy schedules, it might be one week (or more) before you can meet with a judge. The clerk will tell you or mail you a notice with the date and time when you can meet with the judge.
  - **Note about the 90-day waiting period:** You might complete the steps for getting a divorce Decree by written Settlement Agreement before the 90-day waiting period is up. If you want to

shorten the 90-day waiting period, you must ask the court to do so. When you file your Settlement Agreement (form 128), you should also file a Motion (form 122).

- Fill in the Motion (form 122), check 1A(6) ("Shorten the 90-day waiting period for getting a divorce Decree"), and explain reasons for this request on the lines in section 1B.

➢ Before you s*ee* the judge, read part **IX**: *Tips on Handling Your Own Case in Iowa's Courts.*

➢ When you see the judge:

- Be on time. Follow the advice in part **IX**: *Tips on Handling Your Own Case in Iowa's Courts.*
- For your own reference, you may want to bring copies of your completed Financial Affidavit (form 124) and the original Settlement Agreement (form 128) signed by you and your spouse. (Note: If you filed a Motion (form 122) to shorten the 90-day waiting period, bring it with you.)
- The judge will probably ask you some questions about your Settlement Agreement.

➢ After you see the judge:

- If the judge decides your case is ready for a Decree, the judge will fill out a final Decree and file it with the clerk of court.
  - 💻 If your case is electronic, you will receive a Notice of Electronic Filing (NEF) when your Decree is filed and ready for you to download and print.
  - 📄 If your case is paper, the clerk of court will either give you a copy or mail a copy to you.

C. Divorce Decree by Trial

➢ If your spouse and you do not agree on how to settle your divorce, ask the clerk of court how to schedule your case for trial. Follow the instructions of the clerk of court.

➢ Before you go to court for the trial:

➢ Read part **IX**: Tips *on Handling Your Own Case in Iowa's Courts.*

➢ Prepare to tell the judge what you want.

➢ Each spouse should complete and file a separate Request for Relief (form 127).

➢ When you appear before the judge at trial:

➢ Be on time. Follow the advice in part **IX**: *Tips on Handling Your Own Case in Iowa's Courts.*

➢ For your own reference, you may want to bring copies of:

- Your Request for Relief (form 127). Each spouse should have completed a Request for Relief.
- Your Financial Affidavit (form 124). Each spouse should have completed a Financial Affidavit.
- Any other forms and papers you and your spouse filed with the clerk of court.

➢ The judge will ask both Petitioner and Respondent questions about the issues you disagree about. The judge will make a final decision on how to divide your property and debts.

➢ After the trial:

➢ The judge will fill out and file a final Decree with the clerk of court.

💻 If your case is electronic, you will find your signed and file stamped Decree in your case history in EDMS.

📄 If your case is in paper, the clerk of court will either give you a copy of your Decree or mail a copy to you.

VI. One Thing You Must do After a Judge Signs the Divorce Decree

- After a judge has signed your final divorce Decree, one party to the divorce—usually the Petitioner does this—must complete a "*Report of Dissolution of Marriage or Annulment Form*."
- One party, whether the case is electronic or in paper, must visit the clerk of court office in the county in which the dissolution of marriage is finalized and ask the clerk at the counter for this form.
- Fill in the form, but leave items 18 through 22 blank for the clerk of court to complete.
- Give the form back to the clerk of court at the counter.

VII. Things You Might have to do After a Judge Signs the Divorce Decree

- Some important things might not automatically happen after the judge signs the final divorce Decree. You must take steps to make some things happen. For example:
  - You may want to close any credit cards and joint bank accounts that are in the names of both spouses. Creditors often try to collect debts from anyone whose name was on the account, even if the divorce Decree orders one person to pay the debt.
  - If the divorce Decree gives you or your spouse part of the other person's retirement account or pension, a separate order must be entered. It is called a Qualified Domestic Relations Order (QDRO) and can be complicated. Ask an attorney for help with a QDRO, so it is done correctly.
  - If you will be changing the title to real estate, you should talk to an attorney. This is a complicated and very important step in the divorce process. You want to be sure to do this correctly.

Continued on the next page

VIII. Terms Used in the Divorce with no Minor or Dependent Adult Children Process

Acceptance of Service of Original Notice (form 105): On this form Respondent can sign to acknowledge, or admit, receiving a copy of the divorce Petition and Original Notice from Petitioner. Signing this paper does **not** mean Respondent agrees to the divorce or anything else that is in the Petition. (Note: the county sheriff or other civil process server does not need to serve the divorce Petition and Original Notice if the Respondent signs this Acceptance of Service.)

Affidavit of Mailing Notice (form 125): This form tells the court that the person mailed a notice to the other party. Petitioner must use this form if he or she served Notice by Publication in a newspaper. Petitioner or Respondent must use this form if he or she asks the court for a final Decree by default.

Affidavit of Service of Original Notice and Petition for Dissolution of Marriage (form 110): Use this form if another person who is not a sheriff or process server delivered the Petition and Original Notice to Respondent.

Alimony: This is the same as "spousal support" defined below.

Answer (form 115 or 116): Respondent uses the Answer to respond to what Petitioner—Respondent's spouse—asks for in the Petition.

Application and Affidavit to Defer Payment of Costs (form 109): This form asks the court for an order to allow Petitioner to file the Petition without paying the filing fee or the costs of service at that time. You might be required to pay the fee or costs later.

Chapter 16 Rules Pertaining to the Use of the Electronic Document Management System (EDMS): These are the rules that govern electronic filing, available on the Iowa Judicial Branch website. *See* Division VI of the Chapter 16 Rules about Protection of Personal Privacy. Your divorce case will become public when the judge signs your final decree, so it is critical that you understand what information you must protect from public disclosure and how to redact it from documents you file in your case.

Cover Sheet (form 102): This form is used only in nonelectronic cases (paper filing) and it identifies the type of lawsuit being filed (dissolution of marriage). It must be completed and filed with the Petition (form 101).

Community property: This is property that belongs to both the wife and the husband, not just to one of them.

Confidential Information: Confidential information is personal information that should not be available to the public unless it is required by law or is material to the case. Documents filed in a dissolution of marriage action will be available to members of the public upon request once the divorce is final when the court has approved a Decree.

- The following information is considered confidential information in cases that are filed in paper:
  - Social Security numbers
  - Financial account numbers
  - Full dates of birth
  - Names of minor children
  - Individual taxpayer identification numbers
  - Personal identification numbers
  - Other unique identifying numbers

Confidential Information Form (103): This form is used only in nonelectronic cases (paper filing). Iowa law requires all parties filing in paper to provide the clerk of court with complete personal identifying information on a Confidential Information Form. The clerk of court will keep this form confidential and separate from the divorce case. This form is not a public record.

Decree of Dissolution of Marriage: The document a judge signs that ends your marriage. It will require you and your spouse to do certain things, including dividing your property and debts in a certain way. By getting together with your spouse and completing a Settlement Agreement (form 128), you can tell the judge what you both want the final Decree to say. If you and your spouse do not agree how to settle your divorce, you can tell the judge what you want the final Decree to say by filling out and filing a Request for Relief (form 127). The judge will always make the final decision on what the divorce Decree will say.

Once a judge enters your divorce Decree, papers filed during the dissolution action will be available to members of the public upon request.

It is important that you understand what is meant by "protected information" (defined below) and how to "redact" (defined below) such information on the Protected Information Disclosure (form 111).

Default: A Default or Default Judgment is a ruling from the court that your spouse (or you) did not do something that was required during the divorce process. For example, the judge could enter a default judgment if Respondent did not file an Answer after receiving an Original Notice. Once the court enters a Default or Default Judgment, the court may then issue other orders, including an order of divorce or final Decree (dissolution of marriage). Forms 126 and 127 can be used to get a "Decree by default."

Dependent Adult Child: A child age 18 or older who still requires support from parents. For example, a child who is age 18 but is still in high school, or a child age 18 or older who is in college or is disabled and still needs support.

Directions for Service of Original Notice (form 106): This form gives information to the county sheriff or other civil process server on how and where to serve the Petition on Respondent. *See* "Serve (Service)" below.

Discovery: This is the process for you and your spouse to give each other information that explains the facts of your marriage, including details of property, income, and debts. You may have to do this by answering questions or providing papers.

Dissolution of Marriage: In Iowa, divorce is formally known as "dissolution of marriage." The term is legally synonymous with "divorce."

Electronic Document Management System (EDMS): This is Iowa's Internet-based court system that allows you to electronically file documents and receive filings on your case from other parties and the court. Electronic filing is required in counties that use EDMS, and special court rules apply to cases that are electronically filed. You must register to use EDMS. *See* the eFiling page on the Iowa Judicial Branch website at https://www.iowacourts.state.ia.us/EFile/ to request an account. *See also* "eFile Documents Links" at the bottom of that page for rules, forms, and helpful guides to eFiling processes.

Electronic Filing (eFiling): Electronic filing is the submission of documents through Iowa's Internet-based court system (EDMS). With electronic filing, you do not take a paper to the courthouse to file it, unless you have applied for and have received an exemption (see definition below) from electronic filing.

Encumbrance: This is a general term for a charge against real estate and may include liens, mortgages, and other charges—such as special tax assessments—against real estate.

Equity: This term means fairness and justice. "Equity cases" usually include family law cases (divorce, child custody, and support) and real property issues, where a court must fairly divide property and responsibilities among the parties.

Exemption: All cases are presumed to be electronic unless they are in a county that has not yet implemented EDMS. Under exceptional circumstances, a party may ask the court to be excused from registering to participate in EDMS and receive an exemption from proceeding electronically.

Fair Market Value: This is the price you are likely to get for something when you offer it for sale to the public in an open market.

Fees: Money you must pay to the clerk of court when you file your Petition and at other times.
Note: The fees listed below are set by the state legislature, which sometimes changes the fees.

1. **Court fees** are paid to the clerk of court in the county where the case is filed.
   a. Filing and Final Decree fee—($265 (+$5 in counties with a population of ninety-eight thousand or more)). (Iowa Code section 602.8105(1)(a)–(0b))
   b. Court reporting fee—for each hearing in court ($40). (Iowa Code section 625.8(2))
   c. Certification of change of real estate title ($60). (Iowa Code section 602.8105(2)(c))

   Note on payment of court fees: At the end of your divorce the court can determine, or the parties can agree, who will pay the fees. This would include the filing fee, court fees, service fees, and costs of things such as a subpoena or a deposition.

2. **Service fees:** Money you must pay to a process server, such as the county sheriff, to serve your spouse with an Original Notice. The amount varies by county.

3. **Recording fee:** If your divorce includes a change of real estate title, the County Recorder charges a fee to enter your change of title to real estate.

File: This word has two meanings:
1. "To file" a document is the act of giving the document to the clerk of court.
- In electronic cases, this means filing a document through EDMS. The system will stamp the date and time the document is submitted to the system and when the system generated a Notice of Electronic Filing (also known as NEF).
- In paper, or nonelectronic cases, filing a document means handing the paper document to the clerk of court. The clerk will stamp on the document the date and time that the clerk received the document for filing.

2. "File" (or "court file") also means the folder(s) in which the clerk of court places the documents for a court case.

Filer: Any person or party who files a document with the court.

Financial Affidavit (form 124): This form provides information to the court about you and your spouse's property, debts, income, and expenses. Each party must complete a Financial Affidavit.

Gross Monthly Income: This is the total of your income before subtracting for anything else, such as taxes, retirement account contributions, health insurance, etc.

Guardian Ad Litem: A person, usually an attorney, appointed to look out for the interests of someone in a lawsuit. For example, a guardian ad litem might be appointed for a child or someone who is in prison.

Joint ownership: Property being owned by more than one person.

Lien: This is a charge on specific property to cover a debt or obligation.

Local Rules: Some Iowa judicial districts have local rules that must be considered while processing your case. You can find these local rules, if any, on the Iowa Judicial Branch website at:
http://www.iowacourts.gov/About_the_Courts/District_Courts/.
When you get to this page, click on the judicial district for the county where your case is filed. For example: Johnson County is in "District 6," and so you would click on "District Six" on the left side of the page. Then click on the "Local Rules" link underneath (if there is one).

Minor Child: A child under the legal age of 18 years.

Mortgage: This is a charge on real estate for a debt owed. Both the mortgage and the debt are written papers and the mortgage has been filed with the County Recorder.

Motion (form 122): A filing in which one of the parties asks the court to order something to be done while a case is going on. For example, a party might ask for temporary spousal support (alimony) or to schedule a hearing.

Motion and Affidavit to Serve by Publication (form 107): This paper asks the court to let the party publish a notice in the newspaper that a case has been filed. The person tells the court what they did to try to find the other person to serve the papers.

Net Monthly Income: This is the amount of income that you have available to spend after the deductions from your gross monthly income. Your net monthly income might be the net amount of your paycheck.

Net Value: This is the amount of money something is worth after subtracting all liens, encumbrances, and mortgages from the fair market value. For example, if your car is worth $5,000 and there is a lien of $4,000 against it, then the net value is $1,000.

No Fault Divorce: Iowa recognizes "no fault divorce," which allows a marriage to be dissolved when there is evidence of a breakdown of the relationship with no likelihood it can be preserved. With no fault divorce, a spouse is not required to blame the other spouse for any particular misdeed or wrong.

Notice of Electronic Filing (NEF): This is the notice generated by EDMS when you, the other party, or the court files a document in your case. EDMS serves (*see* the definition for "Serve (Service)" below) most case filings by means of the NEF. The NEF indicates who on the case was electronically served and who will need to be served by mail because of an exemption from electronic filing. Keep a copy of the NEF for your records. The NEF alerts you to log in to EDMS and look at the filings on your case, either in the Notification or the My Cases page for documents filed by other case parties and the court, or through the My Filings page for documents you filed. If you are Petitioner in your divorce, you find the Original Notice and Petition that you must serve on your spouse in your My Filings page of EDMS.

Notice of Intent to File a Written Application for Default Decree (form 126): Petitioner uses this form if Respondent is "in default," which means he or she has not filed an Answer to the Petition, and Petitioner wants to ask the court to sign a final divorce Decree.

Order: A paper signed by the judge telling a party or both parties to do something.

Original Notice for Personal Service (forms 104 and 104a): An Original Notice is prepared and filed by Petitioner and signed by the clerk of court. Petitioner serves the Notice on his or her spouse (Respondent) along with the Petition. This tells Respondent that his or her spouse has filed a lawsuit for dissolution of marriage (divorce).

Original Notice by Publication (form 108): This form is an announcement in a newspaper telling someone that a petition for Dissolution of Marriage was filed by the spouse.

Paper Filers: Persons who have applied to the court and been granted an exemption from filing electronically, or persons whose case is set in a county that does not yet have electronic filing.

Party: This refers to a person or business in a court case. In a divorce case, the two spouses (husband and wife) are the "parties" in the lawsuit.

Petition for Dissolution of Marriage (form 101): The Petition is a paper Petitioner files with the court to start a new court case. It gives the court information about the parties involved in the case, and it tells the court what Petitioner wants the court to do. In a divorce (dissolution of marriage), Petitioner asks the court to end his or her marriage.

Petitioner: The person who files the Petition to start a family law or other civil case in court.

Pro se: (Pronounced "pro-say.") This is a Latin term, which means "for or on behalf of oneself." It is sometimes used to describe a person (a *pro se* party) who handles his or her own court case with little or no

help from an attorney. A *pro se* party is also called a *self-represented* party or *self-represented litigant*.

- If you do not have an attorney, when you register to electronically file, you will pick "Registered Filer" as your category and be a "Pro se" filer.

Process Server: This is a person, other than you, who personally delivers, or serves, a paper to your spouse. Often this process server is the county sheriff, but it may be another person who delivers legal papers. (*See* "Service (Service)" below.)

Property: There are two types of property: personal property and real property.

- **Personal property:** Personal property is all property that is not real property. Personal property includes clothes, cars, boats, money, household contents, pension rights, jewelry, bank accounts, and many other types of things.

- **Real property:** Real property is any real estate (land and buildings on the land). It could include all types of ownership and all types of rights to the property or rights to occupy the property, such as a lease.

Protected Information: Documents filed in a dissolution of marriage action will be available to members of the public upon request once the divorce is final when the court has approved a Decree.

- Protected information is personal information that should be omitted or redacted from court filings and not be available to the public unless it is required by law or is material to the case. The following information is considered protected information:

  - Social Security numbers
  - Financial account numbers
  - Full dates of birth
  - Names of minor children
  - Individual taxpayer identification numbers
  - Personal identification numbers
  - Other unique identifying numbers

Protected Information Disclosure (form 111): On this form filers will provide the complete version of protected information. It is not a public record.

Redact (or Redaction): "Redacting" information means removing a portion of the information so that it cannot be traced to a particular individual. When you include personal information in a document you are filing, include only a portion of the protected or confidential information. For example: a child's name will be redacted to include only initials; a birth date will be redacted to include only the year of birth; a financial account number will be redacted to include only the last four digits.

- While it is not required, the following information may be treated as protected or confidential, and thus redacted, without a judge's order:

  - Driver's license number
  - Information concerning medical treatments or diagnosis
  - Employment history
  - Personal financial information
  - Proprietary or trade secret information
  - Information concerning a person's cooperation with the government
  - Information concerning crime victims
  - Sensitive security information
  - Home addresses

Registration: You must register for an account to electronically file through EDMS. For help, visit the Iowa Judicial Branch website and s*ee* "How to Register Pro Se (Self Represented) for eFiling" at http://www.iowacourts.gov/eFiling/Training_Documents/.

Report of Dissolution of Marriage or Annulment: The Iowa Department of Public Health requires for each completed divorce that this form be completed and filed with the clerk of court. The form gives information about your divorce to the Iowa Department of Public Health. The form must be on special "archivable" paper that is available from the clerk of court. Attorneys sometimes call this the Statistical Abstract Report.

Request for Relief (form 127): This form is used to ask the court to grant your divorce if your spouse is not participating in the process. You tell the court what you want the terms of the divorce to be. The court considers this in a default Decree.

Respondent: The person who receives the Petition for Dissolution of Marriage from that person's spouse, who is Petitioner.

Return of Service: On this form, the county sheriff or civil process server tells the court that Respondent has received a copy of the Petition and the Original Notice, or some other paper.

Self-represented party: This refers to a person who handles his or her own court case with little or no help from an attorney. A self-represented party is sometimes called a *pro se* (pronounced "pro say") party. "Pro se" is a Latin term, which means "for or on behalf of oneself."

- As a self-represented party, when you register to electronically file, you will pick "Registered Filer" as your category and be a "Pro se" filer.

Serve (Service): To give your spouse a copy of a form or document, like the Petition and Original Notice. Some papers must be given in-person and some papers can be sent by mail.

- After the Petition and Original Notice are personally served by the Petitioner, EDMS serves most papers by means of the Notice of Electronic Filing (NEF). Exceptions to electronic service are made for people who apply for and are granted an exemption by the court. *See* Rule 16.317 for rules on service of documents subsequent to the original notice.
- **Electronic Service:** This is where an eFiled paper (legal document) is served by the EDMS on all registered case parties who have filed an Answer (if a self-represented party) or an Appearance (if an attorney).
- **Mailed Service:** This is where a paper (legal document) is delivered through the mail to a party in a court case to that party's last known address.
- **Personal Service:** This is where a paper (legal document) is delivered to a party in a court case by a party, another person, a sheriff, or an other civil process server. *See* forms 105 (Acceptance of Service), 106 (Directions for Service), and 110 (Affidavit of Service).

Settlement Agreement: A paper with the final agreement between you and your spouse on how to settle your divorce. It is filed with the clerk of court and then given to the judge. The Settlement Agreement (form 128) will include the details of your dissolution of marriage (divorce), if the judge agrees those terms are fair to both sides.

Spousal support: Payment from one ex-spouse to another (or to a spouse during the divorce process) to avoid any unfair economic or financial consequences of a divorce. Courts do not always award spousal support. Spousal support may also be called alimony.

Statistical Abstract Report: *See* "Report of Dissolution of Marriage or Annulment," above.

Subpoena: (Pronounced "suh-peena.") A paper ordering a person to appear in court and give testimony. The court may impose a penalty on a person who fails to obey a subpoena without a good reason.

IX. Tips on Handling Your Own Case in Iowa's Courts

A. Judges and court staff cannot give you legal advice.

- They cannot tell you whether you should file a case, what you should put in your papers, or what you should say or ask in court. Why? Because:
  - Judges and court staff must not take sides or appear to take sides in any case. It would be unfair for judges or court staff to give one person an advantage over another person in a court case.
  - If court staff gives you advice and it turns out to be wrong, you could lose your case.

B. Court staff *cannot*:

- Tell you what you *should* do about *anything* involving your court case. They *cannot* tell you:
  - Whether you should file a specific paper.
  - What words or phrases you should use in a paper.
  - What persons you should file a lawsuit against.
  - How much money to ask the other party for.
  - What questions to ask witnesses or other parties.
  - Whether to appeal a judge's decision.
  - How to fill in a form for a person involved in a case.

    Exception: If a person has a physical disability or cannot read or write, and the person explains the disability to a clerk, then the clerk may fill in the form. The clerk, however, must write down o*nly* the exact words provided by the person who requested help.
- Tell you the meaning of laws or court decisions.
- Perform legal research for a person involved in a court case.
- Predict the outcome of a case, a paper filed, or some other action in a case.

C. Court staff *can*:

- Provide public information contained in: dockets, calendars, case files, indexes, and reports.
- Show or tell where to find laws or rules.
- *Identify approved court forms* that might meet the needs of a person who does not have an attorney.
- Answer questions about *where* to write in particular types of information on court forms, but *not what* words to use when filling in the forms.
- Define terms commonly used in court.
- Provide phone numbers for lawyer referral services.

D. You *cannot* talk to the judge unless all parties and attorneys are present.

- You cannot communicate with the judge about your case by email or regular mail, unless you also send copies of your email or regular mail to the other people involved in your case at the same time.
- You cannot talk with the judge about your case by telephone or in-person unless all other parties are on the phone at the same time or in the same room together.
- This rule is important because it prevents a person or an attorney from giving information to a judge that the other side does not know about. This would be unfair to the other side.

- If you want to give the judge information you think is important for your case, or you want the judge to take some action related to a case,

  If your case is electronic, you must electronically file the document as a motion or application (whichever is correct), so that EDMS can notify all parties of your request.

  If your case is in paper, you must put the request in writing. (*See* approved Iowa court forms for examples of how to do this.)

  - Make enough copies for you and all the other parties.
  - Take the papers to the clerk of court office. The clerk will stamp each copy and keep one.
  - Deliver a copy to each of the other parties or their attorneys. Keep a copy for yourself.

E. Be prepared

- Keep copies of all the papers you file in court and the papers you get from the other party.
- Know what evidence you need to prove your case. If possible, ask an attorney what you need to do before you go to court and what to do at the court hearing.
- Bring papers and witnesses that will help you present your side of the case.
- Bring at least three copies of each document you want to use as evidence—one for you, one for the other party, and one for the judge.

If you are filing electronically, any document you plan to use as an exhibit at a hearing or trial can be submitted electronically using the Exhibit Submission event.

- **Remember to redact protected or confidential information from your exhibit submissions**, because they will become public documents when the judge signs your final Decree.
- If a witness refuses to come to court to testify, you can ask the court to issue a *subpoena* (pronounced "suh-peena"). It's an order requiring a person to come to court. Be sure to ask the clerk's office for a subpoena several days before your court hearing.
- Bring physical evidence, if there is any. This might include a canceled check, contract, or invoice. If your case involves damaged property, bring the damaged item or a photograph of it.

F. Be on time

- If you are not in court when your case is called, and the other party is present, the judge might enter a judgment against you.
- If neither party is on time, your case might be skipped. You might have to wait until the very end of the court session that day before your case is called again. Or you might even have to come back on another day—possibly a few weeks later.

G. Know and follow court rules

- Judges cannot make exceptions for people without attorneys. You could lose your case if you do not follow the correct procedures.

  When you electronically file a paper through EDMS, the system will serve that paper to the other party or (parties) or the other party's attorney.

  The Notice of Electronic Filing (NEF) will tell you who was served and whether you must send paper copies to anyone who is exempt from electronic filing.

  When you file a document in paper at the clerk of court office, you must mail or deliver a copy of that paper to the other party (or parties) or the other party's attorney. Always keep a copy for your records.

H. Be courteous and respectful

- Make a good impression on the judge. A judge can hold a person "in contempt of court" for bad behavior. This could result in a fine or time in jail.
- Wait for your turn to speak. Do not interrupt the judge or the other party. If you interrupt others in court, the judge will stop you and instruct you to wait your turn.
- *Turn off your cell phone and other electronic devices when in court.*

I. Dress appropriately

- You should wear business attire such as a suit, sport coat, dress, or dress slacks, if you can. Otherwise, wear nice, clean casual clothes and shoes. Remove your hat or cap while you are in the courtroom or in the judge's office.

J. Speak loudly and clearly so everyone in the courtroom can hear you.

- Judges and the other parties in court need to hear the facts correctly. The judge needs to hear you clearly so that he or she can make a correct decision.

K. If you cannot attend a court hearing or cannot be on time, you must inform the court.

- You must have a *very good reason* to reschedule any court hearing.
- To reschedule a hearing at the *last minute*, there must be an emergency.

  You should immediately call the clerk of court office where your hearing is scheduled.

  - Calmly explain your problem, and ask to reschedule the hearing or trial. Court staff will write down the request and contact the judge. The judge will decide whether your reason for changing the hearing or trial date is serious enough to grant your request.
  - Give the clerk your phone number where you can be contacted that day.
- If something very important comes up *two or more days before the hearing*, like a death in the family or an accident that puts you in the hospital, you must submit your request for a new hearing date or time in writing and file it with the clerk of court. In a divorce case without minor children, use the family law Motion (form 122) to ask the court for a new hearing date.
  - Do this as soon as you know you need to reschedule the hearing.
  - It's more likely a judge will agree to your request if you get the other party to sign a written agreement to change the hearing time or date, and include it with your Motion for a new hearing date.
    - If your case is electronic, file the motion using EDMS, and the system will serve your request to the other party.
    - Attach the written agreement to your Motion as an "Attachment" and electronically file the Motion.
    - The clerk will approve your Motion and then your request will automatically go to a judge for consideration.
    - If your case is in paper, after you file the Motion at the clerk's office, deliver a copy of your request to the other party.
    - The clerk of court will give your request to a judge for consideration.
  - Because judges are busy, you probably will not get an answer right away.
- **Note:** If you do not show up for the trial at the time it is scheduled, and the other party does show up, the judge may enter a judgment in favor of the other party.

End