

Divorce (Part 2): What Happens After Someone Files for Divorce?

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Hello there. This video covers what happens after someone files a Complaint for Absolute Divorce. We'll discuss an important step called service, how to respond to or answer a complaint for absolute divorce, and what court appearances you can expect.

Before we get started, you should be aware of two terms: plaintiff and defendant. In this context, the spouse who files a Complaint for Absolute Divorce is called the plaintiff. The other spouse is referred to as the defendant. Both are considered "parties" to the case.

After the plaintiff files a complaint, the court will issue a notice called a Writ of Summons. A copy of the Writ of Summons, the Complaint for Absolute Divorce, and copies of any attachments must be given to the defendant through a formal process called service within 60 days.

CHAPTER HEADING FULL SCREEN TEXT: SERVICE

Service, also called service of process, is how the defendant is notified about the case and receives case papers. There are special rules about service. For example, you can't give the papers to the defendant yourself. The person who serves the defendant must also provide proof to the court that service happened.

There are three methods of service. You can ask the Sheriff's office to hand-deliver the case papers to the defendant. There will be a fee. The Sheriff will let the court know when service is complete. You can also ask another adult to hand-deliver the papers to the defendant. Have them complete an Affidavit of Service and file that with the court as proof of service. They can use form CC-DR-055. Another adult can also serve the paperwork by certified mail requesting "Restricted Delivery." They can use form CC-DR-056 and attach the original return receipt, or green card, as proof of service. The defendant must be the person to sign the green card, not another household member.

Don't overlook this crucial step. A divorce cannot move forward until the defendant is properly "served." Visit mdcourts.gov/ccservice to learn more.

Once they are served, the defendant must file a document called an answer.

CHAPTER HEADING FULL SCREEN TEXT: ANSWER

This is a formal written response to the complaint. In the answer, the defendant states which parts of the complaint they agree with and any they disagree with.

If you are the defendant, you can use form CC-DR-050 to file your answer. You have limited

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time to file it. If you were served the case papers in Maryland, you have 30 days. You have 60 days if you were served in another state or the District of Columbia. If you were served outside the United States, you have 90 days.

If you want something significantly different from what your spouse is requesting in the complaint, you may want to file a Counter-Claim for Absolute Divorce. You can use form CC-DR-094.

File your answer and any counter-claim with the court where the Complaint for Absolute Divorce was filed. You will need to mail or hand-deliver copies of everything you file to the plaintiff. Then, complete a Certificate of Service to let the court know you gave the plaintiff copies. If you don't, the clerk will not accept your answer and counter-claim. The forms I just mentioned include this certificate at the end. If you file a counter-claim, the plaintiff has 30 days to file their own answer in response. After an answer is filed, the court will set a date for a court appearance.

So, what happens if someone does not file an answer on time? The other party can ask the court to hold them in default.

CHAPTER HEADING: DEFAULT

Default is a court ruling that allows one party's case to move forward without the other party's input or participation. For example, if the defendant is properly served but does not file an answer on time, the plaintiff can ask that they be held in default. Or, if the plaintiff fails to file a response to a counter-claim, the defendant can request a default ruling on their counter-claim.

You can use form CC-DR-054 to request that the other party be held in default. If the court is convinced that service was properly made, it will issue an Order of Default. That order allows the divorce case to be heard and concluded without the other party's participation. The defendant has 30 days from the date of the order of default to ask the court to vacate or undo the order and to explain why they didn't respond. Talk to a lawyer if you find yourself in this situation.

After the period to file a request to vacate an order of default has passed, the court will set a date for a court appearance.

CHAPTER HEADING: COURT APPEARANCE

What happens at your first appearance depends on your situation. For example, if you and your spouse filed a marital settlement agreement that addresses alimony, how property will be divided, and support and custody of any children, your first appearance will be at a hearing before a magistrate or judge who will review your agreement. If the court accepts your agreement, that hearing may be your final divorce hearing. The court will then enter a

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divorce decree, formally ending your marriage.

If you and your spouse are not able to reach an agreement on any of those issues, you may need to make multiple court appearances. Courts have different processes. Your first appearance may be with a magistrate or judge who will set important deadlines and decide whether certain court services should be ordered. For example, if it is safe and appropriate, the court can also direct you and your spouse to participate in mediation, which is a way to resolve your disagreements with the help of a trained neutral professional. If you have children, the court may also direct you to participate in family services, which are programs that help you during this period of transition or help the court learn more about your situation. Visit mdcourts.gov/familyservices to learn more.

If you or your spouse need the court to put in place temporary arrangements for alimony, child support, or custody, or for one of you to stay in the family home until the divorce is finalized, the court can hold what's called a *pendente lite* or temporary hearing.

If you need the court to make decisions for you and your spouse, your last appearance will be what's called a merits hearing or trial. You can present evidence and testimony, call witnesses, and explain why the court should agree with you.

Trials are complicated, so you should definitely talk to a lawyer if your case goes to trial.

CHAPTER HEADING: TALK TO A LAWYER

The Maryland Court Help Center is a service that allows you to speak with a lawyer for free. Call 410-260-1392 or visit mdcourts.gov/selfhelp. You can also visit a Family Court Help Center. Each Circuit Court has one. Visit mdcourts.gov/familyselfhelp for a list.

CHAPTER HEARING: IF THE COURT GRANTS YOUR DIVORCE

If the court grants you a divorce, it will issue a divorce decree or judgment of divorce that formally ends your marriage. Once your divorce is finalized, you can remarry. If you want your name changed back to the one you used before you were married and that wasn't addressed as part of your divorce case, you still have options. Check out part 7 of this series to learn more.

I hope this has been helpful.