

**THIRD JUDICIAL DISTRICT  
PRO SE\* DIVORCE INSTRUCTIONS  
FILLING OUT YOUR COMPLAINT FOR DIVORCE  
CHILDREN INVOLVED**

These instructions will tell you step-by-step what information you need to provide the court when filling out your Complaint for Divorce. Read these instructions and the blank Complaint for Divorce form carefully BEFORE you start filling out the form.

Your documents must be **TYPED**, not handwritten. The court clerk CANNOT accept documents that are handwritten. If it has been awhile since you have typed anything, you might want to photocopy the forms and practice on the copies before you start filling in the originals. You are expected to file forms that are neat and readable.

If you need more information, you should talk to a lawyer. The court clerk CANNOT help you fill out the forms.

**STARTING AT THE TOP LEFT HAND CORNER OF THE FIRST PAGE....**

*NAME, ADDRESS AND PHONE NUMBER:*

Type your FULL name, your mailing address (including zip code) and your phone number (including area code) on the lines provided.

*PLAINTIFF vs. DEFENDANT:*

Type your FULL name on the line for plaintiff (for example, JANE LULUBELLE DOE) and type your spouse's FULL name on the line for the defendant (for example, JOHN BILLYBOB DOE).

*CASE NO.:*

For the Complaint for Divorce and the Summons, leave the case number blank. The court clerk will give your case a number when you file your Complaint for Divorce with the court clerk. After you file the Complaint for Divorce, and the court clerk gives your case a number, you must type the case number on any papers you file in your case in the future.

*FILING FEE:*

As of June 1, 2000, the filing fee for a divorce case is \$118.00. Filing fees are sometimes raised, so you would be wise to call the court clerk's office to make sure that is still the correct amount. Type the amount of the filing fee in the filing fee blank.

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\* Pro se refers to a person who is representing him or herself in court without an attorney.

*PARAGRAPH I (Idaho Residence):*

You provide no information for this paragraph. DO NOT file your Complaint for Divorce until you have been a resident of the State of Idaho for at least six (6) full weeks.

*PARAGRAPH II (Marriage):*

In the first two blanks, type in the date you were married (for example, April 1, 1998). In the next two blanks, type in the name of the town and the state in which you were married (for example, Reno, Nevada).

*PARAGRAPH III (Grounds for Divorce):*

You provide no information for this paragraph. There are other grounds for divorce, like desertion or extreme cruelty. If you want to ask for a divorce on other grounds, you should talk to a lawyer.

*PARAGRAPH IV (Real Property):*

Real property is land or buildings that you purchased or are purchasing. It does not include a mobile home that is not permanently affixed to land you purchased or are purchasing. Generally, community real property is real property that 1) you purchased after you were married or are purchasing, and 2) you paid for or are paying for with money you or your spouse earned after you were married. (Property can be either the community property of both spouses, or the separate property of one spouse. Issues about whether property is community or separate can become complicated. If you have questions about whether your real property is community property, or whether it is property that belongs separately to one spouse, you should talk to a lawyer to get legal advice.)

- (1) If you don't have any community real property, then type an "X" in the first box.
- (2) If you have community real property, then type an "X" in the second box. There are four blanks after the box you must fill in. In the first blank, type in the street address of the property. In the next two blanks, type in the name of the city and the county in which the property is located. In the last blank, type in the LEGAL DESCRIPTION of the property from your DEED or CONTRACT OF SALE.

NOTE: The legal description is NOT the street address, and is not the property description from your tax statement. It is very important that you CORRECTLY type in the FULL legal description from your deed or contract of sale. (For example, a property description for a house in a subdivision might say, "Lot 5, Block 2, Mesa View Subdivision"; or a property description for a farm might say ("the West one-half of the Northeast quarter of Section 23, Township 7 North, Range 4 West, Boise Meridian.") If you don't include this information in your divorce papers, it

may be very difficult when you later sell the property to get title insurance or to get approval of a loan.

*PARAGRAPH V (Disposition of Real Property):*

In this paragraph, you tell the judge how the community real property described in Paragraph IV is to be divided between you and your spouse. If there is no community property in Paragraph IV, then skip this paragraph, and go on to Paragraph VI. Paragraph V lists the three most common alternatives for dividing up the community real property. If one of those three alternatives describes your plan for the community property, then type an "X" in the box in front of it.

- (1) In the first alternative, the plan is to sell the property and split the net proceeds. (The net proceeds are the amount of money left over after the costs of selling the property are paid and after any liens or mortgages on the property have been paid.) An equal split is the most common. For an equal split, type "50" in the blank for the plaintiff's (your) percent, and "50" in the blank for the defendant's (your spouse's) percent.
  
- (2) In the second alternative, the plan is for you to keep the property, and for you to pay your spouse for the value of your spouse's share. Type the amount you are to pay your spouse in the blank space. (For example, you and your spouse have a house worth \$80,000, and you have a mortgage with an outstanding principal balance of \$60,000. You and your spouse have equity in the property worth \$40,000. You plan to split the value equally, so you plan to pay your spouse one-half the equity, or \$20,000.)  
  
--- If the plan is for simply for you to keep the property, with no payments to your spouse, you can use alternative, but type "0" in the blank space.
  
- (3) In the third alternative, the plan is for your spouse to keep the property, and for your spouse to pay you for the value of your share. (See the example under number 3 above.) Again, if the plan is simply for your spouse to keep the property, with no payments to you, then type "0" in the blank space.
  
- (4) If none of the first three alternatives work, type an "X" in the fourth box. Then type in what your plan is for how the property is to be divided. (For example, "Plaintiff will live in the community residence for five (5) years, pay all mortgage payments, taxes, and maintenance costs, then the property will be sold and the net proceeds will be divided equally between the parties.")

*PARAGRAPH VI (Community Personal Property):*

Personal property is property other than land or buildings, such as cars, furniture, bank accounts, etc. It also includes mobile homes that you have purchased or

are purchasing that are not permanently affixed to land that you purchased or are purchasing. Generally, community personal property is personal property that 1) you purchased after you were married or are purchasing, and 2) you paid for or are paying for with money you or your spouse earned after you were married. (Property can be either the community property of both spouses, or the separate property of one spouse. Issues about whether property is community or separate can become complicated. If you have questions about whether your real property is community property, or whether it is property that belongs separately to one spouse, you should talk to a lawyer to get legal advice.)

- (1) If you don't have any community real property, then type an "X" in the first box.
- (2) If you have community personal property, but you and your spouse have already divided it up between you, then type an "X" in the second box.
- (3) If you have community personal property, but you and your spouse have not already divided it up between you, then type an "X" in the third box. You must also complete Exhibits A and B. List in detail the community property that is to be yours on Exhibit A, and list in detail the community property that is to be your spouse's on Exhibit B. The exhibits must also be typed, not handwritten. The completed exhibits must be attached to your completed Complaint for Divorce.

*PARAGRAPH VII (Separate Property):*

Generally, separate property is property owned by one spouse prior to the marriage, acquired during marriage by gift or inheritance, or acquired during marriage with the proceeds from separate property. (Property acquired during marriage with one spouse's earnings during marriage is NOT separate property - the property is community property because a spouse's earnings during marriage are community property.) Issues about whether property is community or separate can become complicated. If you have questions about whether your real property is community property, or whether it is property that belongs separately to one spouse, you should talk to a lawyer to get legal advice.

- (1) If there is property to be confirmed as your separate property, check the first box, and type a description of the property in the blank. The description should be specific enough to identify the property in question. If the separate property is real property, include the street address and legal description of the property. If there is no property to be confirmed as your separate property, then type "N/A" in the blank. HOWEVER, if there is property to be confirmed as your separate property, that is still in your spouse's possession, check the THIRD box, and type the description of the property in the blank after the third box.

- (2) If there is property to be confirmed as your spouse's separate property, check the second box, and type a description of the property in the blank. The description should be specific enough to identify the property in question. If the separate property is real property, include the street address and the legal description of the property. If there is no property to be confirmed as your separate property, then type "N/A" in the blank.
- (3) If there is no property to be confirmed as your separate property that is still in your spouse's possession, then type "N/A" in the blank after the third box.

*PARAGRAPH VIII (Community Debts):*

Debts can also be either community debts or separate debts. Generally, community debts are debts that either or both spouses entered into after you were married. Generally, separate debts are debts that one spouse entered into before the marriage. Again, issues about whether debts are community or separate debts can become complicated. If you have questions about whether your debts are community or separate debts, you should talk to a lawyer to get legal advice. The complaint for divorce does not require you to identify debts as either separate or community; you need only identify the debts that are outstanding and who is going to pay them.

The Decree of Divorce can only determine the rights and obligations of each spouse as to the other spouse. The Decree of Divorce cannot alter the rights of creditors. So if you have a community debt, both you and your spouse are liable to the creditor for the debt. If the Decree of Divorce says that your spouse will pay the debt, and your spouse doesn't pay it, the creditor can still require you to pay the debt. So in your Complaint for Divorce, you are also asking the court to order your spouse to "hold you harmless" from any debts your spouse is to pay. This means that if your spouse fails to pay the creditor, and the creditor comes after you for payment, then you can hold your spouse liable to you for the debt.

- (1) If you have no outstanding debts, type an "X" in the first box.
- (2) If you have outstanding debts, type an "X" in the second box. You must also complete Exhibits A and B. List in detail the debts you are to pay on Exhibit A, and list in detail the debts your spouse is to pay on Exhibit B. The exhibits must also be typed, not handwritten. The completed exhibits must be attached to your completed Complaint for Divorce.

*PARAGRAPH IX (Debts Incurred Since Separation):*

In most divorce cases, one spouse has moved out of the marital residence before the complaint is filed. Each of the spouses often incur additional debt afterwards - for an additional vehicle, credit card charges, etc. Sometimes the spouses know about the others' new debt, sometimes they don't. It is customary

for each spouse to pay debts he or she incurs during the separation. The blank line is for the date the parties separated - usually the date one of the spouses left the marital residence. Type in the date, including the month, day and year, that you and your spouse separated. (For example, "December 26, 1998.") If you don't recall the exact date, give the date you can best remember, when you are certain the parties were actually separated.

*PARAGRAPH X (Children):*

Type an "x" in the first box, and type the name, birth date, and present address of each child in the blanks. If there is more than one child, start with the oldest child first, and then work down to the youngest child.

If the wife is not now pregnant, type an "X" in the second box. If the wife is pregnant, type an "X" in the third box, and type the month and year the baby is due in the blanks after the box.

*PARAGRAPH XI (Uniform Child Custody Jurisdiction):*

Idaho's version of the Uniform Child Custody Jurisdiction and Enforcement Act requires the information in this paragraph. You cannot get a default divorce decree if children are involved in the divorce case and this information is not provided. Remember that when you file your Complaint for Divorce, you are stating under oath that this information is true.

(1) In section 1, type in the name of each child, the city or town and state where each child has lived, and the person(s) with whom the child has lived, for the last five years. For example, the information might look like this:

John Billybob Doe, Jr.	Pearl, Idaho	11/98 - present	Jane & John Doe
John Billybob Doe, Jr.	North Pole, Alaska	1/95 - 11/98	Jane & John Doe
Ellie May Doe	Pearl, ID	11/98 - present	Jane & John Doe
Ellie May Doe	North Pole, Alaska	1/95 - 11/98	Jane & John Doe

(2) In section 2, type in the names of each of the people you listed in the last column of section 1. Type in each person's current address.

(3) In section 3, type an "X" in the appropriate box to tell the court whether or not you have participated in any other proceeding concerning custody of or visitation with any of the children. This includes proceedings in other states or other countries. It includes being named as a party the proceeding, appearing as a party or a witness in a proceeding, or any other kind of participation. If so, type in the information about the proceeding in the blank.

(4) In section 4, type an "X" in the appropriate box to tell the court whether or not you know of any proceedings that could affect this divorce case. This includes proceedings in other states or other countries. It includes proceedings for protection

orders, termination of parental rights, adoption, and other divorce or custody proceedings. If so, type in the information about the proceeding in the blank.

(5) In section 5, type an "X" in the appropriate blank to tell the court whether or not there is any person, other than you or your spouse, who has physical custody of any of the children, or who claims to have custody or visitation rights with respect to any of the children. If so, type in the name and current address of each person in the blank.

*PARAGRAPH XII (Custody):*

"Physical custody" refers to time in which a child resides with or is under the care and supervision of one of the parents. "Legal custody" refers to the decision-making rights, responsibility, and authority relating to the health, education and general welfare of a child. Generally, it is assumed that joint custody is in the child's best interest. This includes sharing physical custody in a way that enables the child to have a meaningful relationship with each parent.

Sometimes it is in a child's best interest for one parent to be awarded sole custody. If you are asking for sole custody, you must provide SPECIFIC FACTS as to why sole custody is in the child's best interest. This can include, but is not limited to: a) incidents of physical or sexual abuse to the child or to other members of the household, 2) neglect of the child, by failing to provide care or support necessary to the child's well-being, or 3) abandonment of the child, by failing to maintain a normal parental relationship with the child. Your feelings about your spouse, your assessment of your spouse's parenting skills, or the fact that your spouse may owe you money, is not enough to support an award of sole custody. You must provide specific facts to justify a decree that limits or denies contact between your children and their other parent.

This paragraph lists the four most common alternatives for dividing custody of the child. Type an "X" by the box that describes your plan for the children, and type in the information in the blanks that follow the box. Again, if you choose either of the last two options, you must provide specific facts as to why sole custody is in the child's best interest, and that justify a decree that limits or denies contact between your children and their other parent.

If you need more space than is allowed on the form, you can put it on a separate sheet of paper. The separate sheet should be labeled Exhibit C, and it must be typed and double-spaced. In the blank space on the form, type "See Exhibit C, which is attached to this complaint and incorporated by reference." Attach Exhibit C to your complaint.

### *PARAGRAPH XIII (Child Support):*

#### Part A. Monthly Support Payments

Usually, both parties are in good enough health to be employed and earn money to support their children. If either party has a disability that makes them unable to work to earn money to support their children, then type an "X" in the appropriate box, and type the information about the nature of the disability in the blank following the box.

The Idaho Supreme Court has adopted guidelines for determining the amount of monthly child support based on the parties earning ability, and upon other factors. In the Complaint for Divorce form, you are asking the court to award support in accordance with the guidelines. You do not have to include this amount in the Complaint for Divorce. Instead, you figure out the amount by completing the Affidavit Verifying Income and the Child Support Worksheet (either Standard Custody or Shared/Split Custody), and filing those with the court clerk with your Complaint for Divorce. If you need help filling out the Child Support Worksheet, you can contact the local office of the Idaho Department of Health and Welfare.

In your Complaint for Divorce, the only additional information you need to type in is the day of the month the payments will be due, your social security number, and your spouse's social security number.

#### Part B. Health Care Expenses and Insurance

In the first paragraph, you are telling the court how the costs of the children's healthcare expenses and insurance should be divided. It is customary for the parties to split these, either 50/50, or in the same income percentage shown in item two on the Child Support Worksheet. Type in the percent of the costs to be paid by each party. If all of the costs are to be paid by one party, type in "100" for that party and "0" for the other party.

Sometimes people can get health insurance for their children through their jobs. In the second paragraph, you are telling the court whether one or both of the parties should be required to get health care insurance for the children through their jobs. If both parents have insurance available through their jobs, it is customary for the parent who has the better insurance plan or the lower insurance premium available through their job to get the insurance. Sometimes both parents have insurance available through their jobs, but the insurance plans don't cover very much, and they may want to provide for both parents to get whatever insurance they can get through their jobs. Type an "X" in one or both boxes as is appropriate in your case.

In the third paragraph, you are telling the court if one of the parties should be required to get health insurance for the children if neither party has insurance available through their jobs. Type an “X” in the boxes as is appropriate in your case. Note that if one party obtains the insurance, the first paragraph divides the cost of the insurance premium between the parties.

In the fourth paragraph, you are telling the court if one or both parties will get life insurance and name the children as beneficiaries. For example, if the one party will have a child support obligation, that party might obtain life insurance, and name the child as a beneficiary, in case that party dies before the child reaches the age of majority. Type an “X” in the boxes as is appropriate in your case.

### Part C. Child Care Expenses

In the first section, you are telling the court whether one party will reimburse the other for a portion of the other party’s work-related child care expenses. Type an “X” in one or both boxes as is appropriate in your case.

In the second section, you are telling the court what formula will be used to determine the amount to be reimbursed. Type an “X” in one of the boxes and type in the percentage to be paid by each party in the blanks following the box. It is customary for the parties to split these costs, either 50/50, or in the same income percentage shown in item two on the Child Support Worksheet.

#### *PARAGRAPH XIV (Former Name):*

If the wife is asking to be restored to a former name, type an “X” in the first box and type the FULL former name in the blank (for example, “Jane Lulubelle Doe”). If the wife is not asking to be restored to a former name, type an “X” in the second box.

#### *DATE, SIGNATURE, NOTARY PUBLIC:*

Sign and date your Complaint for Divorce in front of a notary public. The notary public will then sign and seal it.

### **The Decree of Divorce Form**

The Decree of Divorce form “mirrors” the Complaint for Divorce form. In other words, the Decree of Divorce form has spaces for the same information as the Complaint for Divorce form. Make sure that you include all the same information in your proposed Decree of Divorce that you included in your Complaint for Divorce.