

STATE OF NORTH DAKOTA

IN DISTRICT COURT

COUNTY OF _____

_____ JUDICIAL DISTRICT

(Plaintiff)

PLAINTIFF,)

Vs)

(Defendant)

DEFENDANT.)

Case No. _____

BRIEF IN SUPPORT OF MOTION FOR
DEFAULT DIVORCE JUDGMENT

STATEMENT OF FACTS

1. The above-captioned civil case, is a domestic relations action for divorce.
2. At the time this divorce action was started with service of the Summons and Complaint:
 - a. Plaintiff lived in _____ County, North Dakota, for the previous 6 months and continues to live in _____ County.
 - b. Defendant lived in _____ County, _____ (state).
 - c. Does **not** apply. **Applies**. The child(ren) lived in in _____ County, _____ (state), for the previous 6 months.

3. Service of Summons and Complaint:

Defendant, _____ (name) was properly served on _____, 20____ (date) with the Summons and Complaint for this divorce action and any other documents listed in the proof of service filed with the court.

4. **Type of Service:**

Defendant was served with the Summons and Complaint by (*choose one*):

Personal service in North Dakota by a sheriff or other officer. A certificate of service is filed with the court.

Personal service in North Dakota by an individual 18 years of age or older and not a party or interested in the case. An affidavit of personal service is filed with the court.

Personal service outside of North Dakota. A certificate of service or an affidavit of personal service is filed with the court.

Mail by an individual 18 years of age or older. An affidavit of service by mail and the green card receipt showing actual delivery are filed with the court.

Publication. Plaintiff's affidavit for service by publication and the affidavit of publication provided by the newspaper are filed with the court.

5. **Active Military Service** (*choose one*):

Defendant is **not** covered by the federal Servicemembers Civil Relief Act.

Defendant is **covered** by the federal Servicemembers Civil Relief Act, **but** Defendant is represented by a lawyer in this case, has not served an answer to the Summons and Complaint, **and** the court has not granted a stay.

Plaintiff **does not know** whether Defendant is covered by the federal Servicemembers Civil Relief Act.

6. Defendant has not answered Plaintiff's Summons and Complaint by serving an Answer on the Plaintiff, or by any other method.

LAW AND ARGUMENT

7. Rule 55 of the North Dakota Rules of Civil Procedure allows the court to enter a default judgment when “...a party against whom a judgment for affirmative relief is sought has failed to plead or otherwise appear and the failure is shown by affidavit or otherwise... .”

8. This case meets the requirements of Rule 55 of the North Dakota Rules of Civil Procedure because (*explain*):

9. Based on this, it is proper to find Defendant in default and for the court to enter a divorce judgment.

CONCLUSION

10. For the reasons stated above, Plaintiff respectfully requests that the court find:
- a. That the court has jurisdiction over the parties and subject matter of this divorce action.
 - b. That irreconcilable differences exist between the parties and Plaintiff is granted a default judgment of divorce against Defendant.

c. An equitable division of the property and accumulated debts of Plaintiff and Defendant.

d. Does **not** apply. **Applies.** (*Choose one.*)

Plaintiff and Defendant have minor children or are expecting a child or children to be born. Plaintiff requests a judgment for residential responsibility and parenting that serve the best interests of the minor child(ren).

e. Does **not** apply. **Applies.** (*Choose one.*)

For child support obligations that serve the minor child(ren)'s best interests, including those related to traditional child support, dependent medical and dental insurance coverage, and contribution to the child(ren)'s uninsured dental and medical expenses.

11. For such further and additional relief that the court may deem just and proper.

Dated this _____ day of _____, 20_____.

(Signature of Moving Party)

(Moving Party Printed Name)

(Address)

(City, State, Zip Code)

Telephone Number: _____

Email Address: _____