

STARTING YOUR DEFAULT DIVORCE (WITH CHILDREN)

INSTRUCTIONS AND COURT PAPERS

THIS PACKET IS NOT A SUBSTITUTE FOR PROFESSIONAL LEGAL ADVICE

Inside are basic, fill-in-the-blank forms; they do not deal with every situation.

Divorce can be complicated and using legal forms without a lawyer's help can harm your legal rights. The Court assumes no responsibility and accepts no liability for actions taken by users of these documents, including reliance on their contents.

STEPS TO GET A DEFAULT DIVORCE

Third Judicial District
Las Cruces

**It takes this paperwork to start
your default divorce** (with children)

STEP 1:

Complete the following forms:

Form 4A-311 Affidavit as to Respondent's Failure to Plead

Form 4A-312 Certificate as to the State of the Record
AND

ATTACH... Military Duty Certificate to Form 4A-311

- Check for Instructions for the Military Website at <https://scra.dmdc.osd.mil/appj/scra> or come to the Court's Self-Help Center for Assistance.

AND

One (1) self-addressed, stamped envelope

Turn the page for
instructions and steps



Starting your default divorce

Checklist instructions



FILL-OUT and sign the Affidavit as to Respondent's Failure to Plead. *This is the attached form 4A-311.*



ATTACH a military duty certificate to your Affidavit. *This is not a court form. Print this certificate online at <https://scra.dmdc.osd.mil/appj/scra>. If you do not have a computer, you can come to the Court's Self-Help Center for help.*



FILL-OUT the Certificate as to the State of the Record. *This is the attached form 4A-312. Only fill-out the Caption. The court clerk will fill-out the rest.*



ADDRESS 1 stamped, letter envelope to you.



TAKE your 2 forms and your envelope to the court clerk.



WAIT . . . The court clerk will mail the Certificate back to you. While you are waiting, you can work on **FINISHING** your default divorce.

4A-311. Affidavit as to Respondent's failure to plead or otherwise defend (*domestic relations actions*). (rev 06/23)

STATE OF NEW MEXICO
COUNTY OF DONA ANA
THIRD JUDICIAL DISTRICT

Petitioner,

v.

No. _____

Respondent.

**AFFIDAVIT AS TO RESPONDENT'S
FAILURE TO PLEAD OR OTHERWISE DEFEND
(*domestic relations actions*)¹**

Petitioner affirms under penalty of perjury under the laws of the State of New Mexico that the following statements are true and correct:

(1) I am the Petitioner, and I submit this Affidavit to show that Respondent has failed to file an answer or otherwise respond to the Petition For Dissolution of Marriage that I filed on _____.

(2) Respondent was served as follows (*choose and complete one*):

As shown by the Affidavit of Service filed on _____,
Respondent was personally served on _____.

(Or)

As shown by the Affidavit of Publication filed on _____,
Respondent was served by publication.

(3) Respondent has not filed an answer, motion, or otherwise responded, and more than thirty (30) days have passed since Respondent was served with the Summons and Petition for Dissolution of Marriage.

(4) Upon information and belief, Respondent is not in the military service of the United States and is not an infant or incompetent person.

YES (*required*) I have attached a certificate verifying Respondent's active duty status.²

WHEREFORE, Petitioner asks the Clerk of this Court to certify Respondent's Default.

Signature of party

Name (*printed*)

Mailing address

City, state, and zip code (*print*)

Telephone number

VERIFICATION

I, _____, affirm under penalty of perjury under the laws of the State of New Mexico that I am the Petitioner in the above-entitled cause, and I know and understand that the contents contained in the above Affidavit are true to the best of my Knowledge and belief.

Signature of Petitioner

Date

USE NOTE

1. This form may be used anywhere in this state to request the clerk of the court to issue a certificate as to the state of the record (Form 4A-312 NMRA) in a domestic relations action.

2. This affidavit must include a certificate verifying the petitioner's active duty status, which you can obtain online at <https://scra.dmdc.osd.mil/appj/scra>.

[Approved by Supreme Court Order No. 13-8300-010, effective for all pleadings and papers filed on or after May 31, 2013, in all cases pending or filed on or after May 31, 2013; as amended by Supreme Court No. 14-8300-011, effective for all pleadings and papers filed on or after December 31, 2014, in all cases filed or pending on or after December 31, 2014.]

4A-312. Certificate as to the state of the record (*domestic relations actions*). (revised 5/18)

STATE OF NEW MEXICO
COUNTY OF DONA ANA
THIRD JUDICIAL DISTRICT

_____,
Petitioner,

v. No. _____

_____,
Respondent.

CERTIFICATE AS TO THE STATE OF THE RECORD
(*domestic relations actions*)¹

I, Clerk of the District Court of this Judicial District in this County, New Mexico, pursuant to the Affidavit as to Respondent's Failure to Plead or Otherwise Defend on file herein, certify as follows:

(1) The Petition for Dissolution of Marriage was filed on _____.

(2) Respondent was served as follows (*choose and complete one*):

As shown by the Affidavit of Service filed on _____,
Respondent was personally served on _____.

(Or)

As shown by the Affidavit of Publication filed on _____,
Respondent was served by publication.

(3) Respondent has not filed an answer, motion, or otherwise responded, and more than thirty (30) days have passed since Respondent was served with the Summons and Petition for Dissolution of Marriage.

WHEREFORE, I, _____, hereby certify Respondent's default.

BERNICE A. RAMOS
Clerk of the District Court

By: _____
Deputy Clerk

USE NOTE

1. This form may be used anywhere in this state by the clerk of the court to certify a default in a domestic relations action.

[Approved by Supreme Court Order No. 13-8300-010, effective for all pleadings and papers filed on or after May 31, 2013, in all cases pending or filed on or after May 31, 2013; as amended by Supreme Court Order No. 14-8300-011, effective for all pleadings and papers filed on or after December 31, 2014, in all cases filed or pending on or after December 31, 2014; as amended by Supreme Court Order No. 15-8300-017, effective for all pleadings and papers filed on or after December 31, 2015, in all cases filed or pending on or after December 31, 2015.]