

# THE STEPS – DIVORCE -- NO MINOR CHILDREN - PLAINTIFF

1. **Read all the instructions before completing forms to ensure that you qualify to file a divorce in Wyoming. To file a complaint you must live in Wyoming for at least sixty (60) days before you file.**
  - a. Consider making copies of forms both prior to and after you fill them out. (You must have copies of all forms you file for you and for the other party).
  - b. Complete *Vital Statistics Form*, (DO NOT fill out the “Decree” section. This will be completed by the clerk when your divorce is final).
  - c. Also complete the *Complaint for Divorce* and *Summons* to serve on the other party in accordance with the appropriate method in Step 3.

**Restoration of Wife’s previous name:** The wife should state whether or not she would like to resume her prior name in either the *Complaint* if she is the plaintiff, or a *Counterclaim* if she is the defendant. This is the wife’s choice ONLY; the husband cannot demand that his wife’s name be changed.

- d. **Copies.** Make two (2) copies of the document. The original will be filed by the clerk of district court, one copy is for your spouse (the defendant) and the other copy is for you (the plaintiff). You will need to repeat this step for all documents you file with the court.
- e. **File Stamp.** The clerk will “file-stamp” the documents. This will be proof of the date you filed your *Complaint for Divorce* and other documents with the court.

**\*\*NOTE:** Each time you sign a document, beneath your signature, you must print your name, address, including city/state/zip code, and your telephone number. If you do not include this information, the clerk of court can reject your document. If you have concerns about you or your children’s safety if your address or phone number is disclosed, you should contact an attorney for advice on potential options or to obtain a court order allowing you to maintain confidentiality of address or other identifying information. (See Wyo. Stat. § 20-5-309 (LEXIS 2005)).

## 2. File the forms with the District Court Clerk.

- a. **Where to file your documents.** Take the original and two (2) copies to the clerk of district court’s office in the courthouse in the county where

either you or your spouse reside and ask to have the original filed and the copies **file-stamped**. This will be where all further legal documents in your case will be filed. Wyo. Stat. §20-2-104 allows the district court in the county in which *either party resides* to enter a **Decree of Divorce** on the complaint of the aggrieved party on the grounds of irreconcilable differences in the marital relationship .

- b. **Case number.** The clerk will keep the original in your file at the courthouse and will assign a case number. Make note of the case number assigned to your case.

**Case Number:** When you start a lawsuit by filing the paperwork with the clerk of the district court, a case number will be assigned by the clerk. You must include that case number on all further paperwork in the “**caption**”. The caption is the top section of a pleading, motion, and complaint stating the name of the plaintiff, defendant, which district court the case is filed in and identifying the case number.

- c. Pay the **filing fee**. Although the fee for filing a complaint or petition (opening a new case) is currently seventy dollars (**\$70.00**), many district courts in the state have additional fees. Those fees can change each year. Some counties do not accept personal checks. You will need to contact the clerk of the district court where you will be filing the **Complaint for Divorce** to ask how much the fees are and to inquire as to what type of payment methods they accept.
- d. **Asking the court to waive filing fees and costs.** If you financially qualify, you may ask the judge to allow you to file your **Complaint for Divorce** and to waive the costs of the filing fee and having the sheriff serve your spouse with the paperwork by completing and filing an **Affidavit of Indigency and Request for Waiver of Filing Fees and All Fees Associated Therewith** together with the **Order on Request for Waiver of Filing Fees and All Fees Associated Therewith**. The judge will then make a determination about whether or not to grant your request. Again, procedures and policies vary from court to court so there is no guarantee that the judge will grant your request.

### **3. After the papers are filed with the Clerk, have your spouse officially served by the County Sheriff or a process server.**

- a. **Notice.** You MUST give your spouse (a/k/a “the other party,” “defendant”, husband or wife) **official notice** that you are filing for divorce.
- b. **Who may “serve” the papers?** Your spouse must receive a copy of the *Complaint for Divorce* and *Summons* and any documents filed with them (temporary motions may also be served at this time but this packet is best utilized in uncontested actions and if a temporary motion is necessary, you may want to contact an attorney for assistance) by a person authorized to serve the papers under Wyoming law. You may not serve the papers yourself unless your spouse signs an *Acknowledgment and Acceptance of Service* in front of a notary and files it with the clerk.
- c. **Time limit to serve.** You will have ninety (90) days from the date you file your *Complaint for Divorce* at the courthouse to make sure your spouse is served with the papers. If you fail to timely serve the other party, the lawsuit can (and in many district courts will) be dismissed for lack of progress. See Uniform Rules of District Courts, State of Wyoming, Rule 203.
- d. **Methods to Serve.** Choose ONLY ONE of the four methods to serve the opposing party.

**Method #1 – Service by Wyoming Sheriff (Summons).** Wyoming Rules of Civil Procedure, Rule 4(c), states that “process may be served within the State of Wyoming, by the sheriff of the county where the service is made, or by the under sheriff or deputy.” **It is recommended to have the sheriff’s department in the county where your spouse can be found serve him or her with the papers.** There will be a separate **service fee** (usually thirty five (\$35.00) in Wyoming). You can contact the sheriff’s department in the county where the defendant lives or can be found to determine the fee charged for the sheriff to serve the defendant. This is also true if your spouse is going to be served out of state.

**Return of Service.** The sheriff’s office will complete the last page (some have their own forms) of the *Summons* and usually file the original with the clerk’s office and send you a copy. If you receive what looks like the original “return of service” or “affidavit of service”, call the clerk’s office to ensure the original has been filed. If not, file it with the clerk’s office and keep a copy for yourself. This is the proof that your spouse has been given proper notice.

**Method #2 – Service by a Private Party (Summons).** In some counties and in some states, private parties are available to serve court papers for a fee. Wyoming Rules of Civil Procedure, Rule 4(c)(1) require that the person serving the *Summons* to be of the age of majority and not a party to the action. You will still need to have a return of service filled out and filed with the clerk.

**Method #3 – Acknowledgement and Acceptance of Service.** This form of service is appropriate if the other party will accept the papers and sign for them. You or the other party will need to completely fill out the *Acknowledgement and Acceptance of Service*. The other party must sign the document in front of a notary and file the original with the clerk of district court. If you and your spouse are in agreement, it is also a good idea to fill out the *Decree of Divorce* and all other required documents and for both you and your spouse to sign the documents in front of a notary for presentation to the judge. **You MUST wait 20 days after the Complaint for Divorce is filed to present the Decree of Divorce to the judge.**

**Method #4 – Service by Publication.** There are additional fees for service by publication. Before selecting this method of service, you must completely read and understand Wyoming Rules of Civil Procedure, Rule 4(e) & (f). Rule 4(e) states that service by publication is applicable “in suits for divorce, alimony, to affirm or declare a marriage void, or the modification of any decree therefor entered in such suit, when the defendant is a nonresident of the state, or the defendant’s residence cannot be ascertained, or the defendant keeps concealed in order to avoid service of process.”

**If you do not understand what is involved, see a lawyer.** However, if you have read the rules and can demonstrate that you have made every effort to find the defendant’s address, completely fill out the *Affidavit to Allow Service by Publication* and *Publication Notice*. (DO NOT sign where the clerk needs to sign).

Before service of publication can be made, an *Affidavit to Allow Service by Publication* must be filed stating that service of *Summons* cannot be made within this state, on the defendant to be served by publication, and stating the defendant’s address, if known, or that the defendant’s address is unknown.

**If the defendant’s address is UNKNOWN** and cannot be found after making every effort to find the defendant’s address, the affidavit must detail the efforts you made to obtain an address.

**If the other party’s address is KNOWN**, Wyoming Rules of Civil Procedure, Rule 4(f) states: In any case in which service by publication is made when the address of the defendant is known, it must be stated in the publication. Immediately after the first publication, the party making the service shall deliver to the clerk copies of the publication, and the clerk shall mail a copy to each defendant whose name and address is known by registered or certified mail and marked “**Restricted Delivery**” with return receipt requested, directed to the defendant’s address listed, and make an entry thereof on the appearance docket.” [NOTE: **you must supply the clerk with the envelope and proper postage – the envelope must be ready to mail with the necessary postal forms completed**].

**Contact the newspaper.** After the clerk signs and files the publication notice, it is your responsibility to contact the appropriate newspaper and to arrange for the publication and

pay the appropriate fees. An appropriate newspaper is one that has been regularly issued at least once each week for a period of fifty-two (52) consecutive weeks prior to the date of the first publication of notice or advertisements. It must have a paid circulation of at least five hundred (500) and each page must not be less than ten (10) inches by twelve and one-half inches in size. The newspaper must publish the notice once a week for four (4) consecutive weeks.

**Waiting period.** The other party will have thirty (30) days **from the date of the last publication date** to file a written response to the divorce action. After the thirty (30)-day waiting period, fill out, sign and notarize an *Affidavit Following Service by Publication*. This should be filed with the clerk of district court. If the other party fails to respond by that time limit, you can obtain a default divorce. [See Step 9 below].

**Method #5 – Service by Certified or Registered Mail.** In all cases where service by publication can be made or where a statute permits service outside this state, the plaintiff may obtain service by registered or certified mail. Wyoming Rules of Civil Procedure, Rule 4(l) provides that “(u)pon the request of any party the clerk shall send by registered or certified mail a copy of the complaint and *Summons* addressed to the party to be served at the address given in the affidavit required under” Rule 4(f).

The mail shall be sent marked “**Restricted Delivery**”, requesting a return receipt signed by the addressee or the addressee’s agent who has been specifically authorized in writing by a form acceptable to, and deposited with, the postal authorities. When such return receipt is received signed by the addressee or the addressee’s agent the clerk shall file the same and enter a certificate in the cause showing the making of such service. Wyoming Rules of Civil Procedure, Rule 4(l).

## **4. Initial Disclosures.**

- a. **Initial Disclosures.** A special rule was adopted for use in divorce actions. That rule requires certain information be made available at least thirty (30) days after the defendant is served, including a schedule of financial assets; schedule of non-financial assets; schedule of all debts owed individually or jointly; location(s) of safety deposit box(es); employment information; information regarding other income and retirement accounts; and a summary of the facts believed to support the claim of superior entitlement to custody where child custody is at issue.

Please note that “A party must make its disclosures based on the information then reasonably available to it and is not excused from making its disclosures because it has not fully completed its investigation of the case or because it challenges the sufficiency of another party’s disclosures or because another party has not made its disclosures.”

WHEN TO SERVE: You should fill out an INITIAL DISCLOSURE IMMEDIATELY and send it to the other party (or their attorney if he or she has one) WITHIN 30 DAYS AFTER THE DEFENDANT IS SERVED. DO NOT FILE THE INITIAL DISCLOSURES IN THE COURT.

Fill out the *Notice of Service of Initial Disclosures*, make two (2) copies and file the original with the court and send or deliver one copy to the other party (or his or her attorney if he or she has one) and keep a copy for yourself.

## 5. After the other party is served, wait the required waiting period.

You must wait the time limit for the other party to respond after service is completed.

- a. **Waiting period if defendant is served in Wyoming.** If the other party is served in Wyoming other than by publication, he/she will have twenty (20) days (starting the day after being served) to respond in writing and to file the response in the clerk's office.
- b. **Waiting period if the defendant served out-of-state.** If the other party was served out-of-state OR was served by publication, he/she will have thirty (30) days (starting the day after being served) to respond to the lawsuit.
- c. **Computation of Time Limits.** - In computing most time limits, unless otherwise stated, the day the pleading is served shall not be included. The last day of the time period is included, unless it lands on a Saturday, a Sunday, or a legal holiday, or, if the courthouse is closed then the time limit will be on the very next day that the courthouse is open. **If you have questions about time limits you should seek the advice of an attorney.**

## 6. Service of other papers filed with the court.

- a. **Service.** Except for the *Complaint for Divorce* which is served using one of the above methods, other papers filed with the court must be served upon the attorney for the other side if there is one or upon the other party, service is accomplished by delivering a copy to the attorney or party or by transmitting it to the attorney or party if he or she is not represented by an attorney in this divorce case at the attorney's or party's last known address by mail or by other equally reliable means, including facsimile transmission, or, **if no address is known**, by leaving it with the clerk of the court. Wyoming Rules of Civil Procedure Rule 5(b).

Before filing the original, fill out the *Certificate of Service* completely showing the *exact* date you mailed or otherwise delivered a copy to your spouse (it must be postmarked the same day if you mail it), or, if your spouse is represented by an attorney, then the date you mailed a copy to your spouse's attorney. Also, if you are not filing the documents in person, provide the clerk with self-addressed, stamped envelopes (one addressed to you and one addressed to your spouse or his/her attorney) for return of the file-stamped copies.

## 7. If the other party fails to respond, file the default paperwork.

- a. **Default divorce.** After the required waiting period has expired, you may obtain what is referred to as a **divorce by default.**
- b. **Necessary forms.** Prepare and sign the *Application for Entry of Default*. Fill out completely and submit the *Affidavit of Plaintiff in Support of Default*. Make sure the *Affidavit Following Service by Publication* has been filed if service was by publication. If your paperwork is correct, the clerk of the district court will sign an *Entry of Default* so you need to bring the blank *Entry of Default* with you when you file your *Affidavit*.
- c. **Default Decree of Divorce.** In some counties, you can present the clerk a copy of the *Decree of Divorce* at the same time as the default paperwork is presented. **MAKE SURE TO MARK "DEFAULT" ON DECREE.** Confirm the proper procedure with the clerk of court's office. You must have the *Decree of Divorce* completely filled out, with the appropriate copies made. Also provide the clerk with self-addressed stamped envelopes addressed to yourself and the other party.
- d. **Other necessary forms.** Include:
  - ✓ *Certificate of Mailing* (check with clerk)
  - ✓ *Affidavit for Divorce* (only if no hearing is required. Check with clerk)
  - ✓ *Self addressed, stamped* envelopes (one addressed to you and one to the other party. Many counties require an *Affidavit for Divorce* which should be filled out completely, signed, notarized, and presented with the *Decree of Divorce* and a *Certificate of Mailing*.)
- e. **Copies.** See "Copies" above at 1(d).
- f. **Default Hearing.** Some counties will not enter a *Default Divorce Decree* unless there is a hearing. In those counties, fill out a *Request for Setting for a default hearing*. Request fifteen (15) minutes for the

hearing. At the hearing make sure you tell the judge how long you have lived in Wyoming (must be at least sixty (60) days immediately prior to filing the *Complaint for Divorce*), the reason(s) why there are irreconcilable differences, and what you want in the divorce. You will also need to bring the completed *Decree of Divorce* to court.

**Your divorce will not become final until the judge signs the *Decree* and it is filed by the clerk of court.** Giving the papers to the clerk does not ensure you are divorced or will be divorced. If you do not fill out the paperwork correctly, the judge will not sign the *Decree* and you will not be divorced.

**8. If the other party answers and you both agree on all of the issues:**

- a. **Decree of Divorce.** This form will need to be completely filled out, signed by both you and your spouse and both of your signatures notarized.
- b. **Other necessary documents.** SEE Above 6(d).
- c. **Copies.** Make two (2) copies of each of the documents. One copy will be for your records and the other is for your spouse.
- d. **Hearing.** In some courts, a hearing is required before the judge will sign the *Decree of Divorce*. You request a hearing by completing the *Request for Setting*. If you have reached an agreement, check the box that states that the parties have entered into a Settlement Agreement. Indicate how much time you think it will take for you and the other party to present your evidence and write that in (usually fifteen (15) minutes if there is an agreement). You will file the *Order Setting Hearing* with the clerk's office and they will fill in the hearing date and time and mail a copy to you and the other party. Remember to provide self-addressed, stamped envelopes for you and the other party to the clerk.
- e. **Evidence at the hearing.** At the hearing, you will need to inform the judge that you have lived in Wyoming for at least sixty (60) days immediately before you filed the complaint, the reason(s) there are irreconcilable differences in the marriage and the settlement reached (who gets what) and give the *Decree of Divorce* with the appropriate number of copies to the judge. The judge may ask you questions. **The judge will not guide you through the hearing, tell you how to proceed or advise you on the law. Following the hearing, the judge will ideally sign your *Decree*.**

- f. **When will your divorce become final?** Your divorce will not be final until the judge signs the *Decree of Divorce* and it is filed with the clerk of district court. It may take several days for the judge to sign the *Decree*. You must verify with the clerk's office that the *Decree* has been file-stamped before you can be sure your divorce is final.

**9. If the other party answers or answers and counterclaims, and you and the other party do not agree on all the issues:**

- a. **You must file a Reply to Counterclaim.** If the other party has filed a counter-complaint (*Counterclaim*) for a divorce, you will have a time limit (usually **twenty (20) days**) to file a written response (***Reply to Counterclaim***) to the *Counterclaim*. The original, signed copy of your reply must be filed with the court and a copy of your reply must be sent to the other party or the attorney representing the other party if there is one and a *Certificate of Service* (attached to or at the bottom of the document) filed with the court showing the exact date the copy was put in the U.S. mail, first class with postage pre-paid and the exact name and address of the person it was mailed to. **If you fail to file the original response in writing in the time allowed, the defendant can seek a default divorce against you and may get what he or she asked for in the Counterclaim.**
- b. **Mediation.** Judges may order or the parties may agree to appear before a mediator, who is a specially trained, neutral third party. A mediator will see if the issues can be resolved. The parties will be responsible for any fees associated with mediation. (NOTE: The American Bar Association recommends that court-mandated mediation include a choice for one of the parties to opt-out of (decline) mediation in any action in which one party has perpetrated domestic violence upon the other party. See [http://www.abanet.org/domviol/med\\_reccomend.html](http://www.abanet.org/domviol/med_reccomend.html))
- c. **Trial.** If there is no agreement, your case will have to be heard and decided by a judge at a trial. **It is strongly recommended that you hire or find an attorney to represent you at trial, though you may represent yourself. You proceed at your own risk and will be expected to know the laws.**
- d. **Request a trial date.** You or the other party will need to request a hearing by completing a ***Request for Setting***. Write in "trial" where it asks the type of hearing. Indicate how much time you think it will take for you and the other party to present your evidence and write that in (usually between one (1) and three (3) hours). You also need to decide whether or not you want a court reporter to record the proceeding. If you request a court reporter, you will be responsible for paying the fees. SEE BELOW FOR DETAILS ON GETTING A COURT REPORTER. It is very

difficult to appeal the judge's decision if you do not get a court reporter to take down everything that is said at the trial.

1) You must file the *Request for Setting* and the *Order Setting Divorce Trial and Requesting Pretrial Statements* with the clerk's office and someone there will fill in the hearing date and time and mail a copy to you and the other party.

- e. **Pretrial Disclosures.** - A party must provide to other parties AND PROMPTLY FILE WITH THE COURT the *Pretrial Disclosures* regarding the evidence that it may present at trial. If you have questions, you should contact an attorney.

When are the *Pretrial Disclosures* due? Unless otherwise directed by the court, these disclosures must be made at least **30 days before trial.**

Fill out the *Notice of Service of Pretrial Disclosures*, make two (2) copies and file the original with the court and send or deliver one copy to the other party (or his or her attorney if he or she has one) and keep a copy for yourself.

- f. **Disclosure of Expert Witnesses.** (If you plan on calling an expert witness to testify in your case, it is recommended that you contact an attorney for assistance with this information and representation, if possible)

With regard to expert testimony, the parties are required to disclose the identity of experts who may be used at trial and with regard to retained experts or employees whose duties regulate the giving of expert testimony; the provision of a written report prepared and signed by the witness setting forth the opinions to be expressed; the reasons and basis therefore; the foundation for formation of such opinions and exhibits; the qualifications of the witness; compensation paid for the study and testimony; and a listing of all cases in which the witness has testified as an expert at trial or by deposition within the preceding four (4) years.

Expert witness disclosures are required to be made, unless otherwise ordered, **at least ninety (90) days before the trial date**, and for rebuttal experts, thirty (30) days after the disclosure made by the other party.

Additionally, the court has adopted rules regarding pretrial disclosures mandating that the parties provide the court with the names and addresses of all witnesses who may be testifying at time of trial, designation of those witnesses whose testimony is expected to be presented by means of deposition, and identification of each document or exhibit that the party expects to offer. Those disclosures are required to be made at least thirty (30) days before trial.

**Fill out the *Notice of Service of Expert Witnesses*, make two (2) copies and file the original with the court and send or deliver one copy to the other party (or his or her attorney if he or she has one) and keep a copy for yourself.**

- g. **Settlement before trial.** In the event that your case settles before the trial, you must present the court with the agreement (or completed and signed *Decree of Divorce*) in writing before the court will take the trial off of the schedule. There will be no continuances or canceling of the trial date based on telephone calls. If you need a continuance, you should contact an attorney for assistance in seeking one.
- h. **Court reporter.** If you wish to have a court reporter you are required to provide notice to the official court reporter at least **five (5) working days** before the matter is set for hearing. The five-day notice requirement will not be waived by the Court. The notice is required for all civil matters including jury trials. Payment of the **statutory reporting fee of \$45.00 per day** must be paid to the official court reporter prior to the commencement of the hearing/trial. Checks for the statutory reporting fee shall be made payable to the Wyoming State Treasurer. Rule 904 Uniform Rules of the District Courts of the State of Wyoming.

A **court reporter** is the person who will type word-for-word what is spoken at a hearing or trial. The court reporter can then prepare a transcript of the hearing/trial for use at other hearings and/or appeals. If you would like to have a court reporter present, you must request one and pay a fee. There will be an additional fee charged to have a written transcript of the proceedings created.

- i. **Evidence and witnesses.** At the hearing, you will need to present your evidence and witnesses. If the *Order Setting Divorce Trial and Requesting Pretrial Statements* is entered (signed by the judge), you must follow the terms and provide the court with the information requested in that document, including copies of exhibits you want to introduce at the trial and a list of your proposed witnesses and what their testimony is going to be about within the time frame ordered (usually 3 to 5 days prior to the trial). Under the law, the judge cannot help you or assist you at trial. You are on your own without an attorney.
- j. **Final Decision (Decree of Divorce).** Following the trial, the judge will make a decision or may take the matter under advisement, meaning he or

she will need to think further before making a determination. If the judge instructs you, you must take that decision and type it into the *Decree of Divorce* incorporating the judge's decision.

**You are again reminded that, if you choose to continue without an attorney, you are expected to know what to do and how to do it. The judge will not guide you through the trial/hearing, tell you how to proceed or advise you on the law.**

- k. **When will your divorce become final?** Your divorce will not be final until the judge signs the *Decree of Divorce* and it is filed with the clerk of court. It may take several days for the judge to sign the *Decree*. You must verify with the clerk's office that the *Decree* has been file-stamped before you can be sure your divorce is final. The time limit to appeal a decree begins to run from the day the *Decree* is filed with the clerk's office.

## **10. Motions for some action by the court.**

- a. There are several remedies that are available in divorce actions that are not included in these packets. For instance, requests for temporary relief are so different and complex that having an attorney assist you is highly recommended.
- b. For each motion you wish to file, you must complete appropriate pleading(s), as well as a *Request for Setting* and the *Order Setting Hearing/Trial*. These must be filed with the clerk's office. The *Request for Setting* allows the court to hear about your motion and to make a ruling regarding your request. It also tells the court what the hearing is for and the amount of time needed. If you require a court reporter, his/her fee must be paid by you. The judge's clerk will fill in the hearing date and time and return the *Order Setting Hearing/Trial* to you. You must mail or otherwise deliver a copy to the other party and complete a *Certificate of Service* stating that you have done so.
- c. **Emergencies.** There are some emergency procedures that may be taken regarding personal safety and property issues. It is highly recommended that you seek an attorney to assist you if you believe that the safety and welfare of any of your family or property, including finances, is at risk. Representing yourself in a divorce is not recommended when there are emergency situations or safety concerns.
- d. **If the other party files a motion:** You should fill out a *Response to Motion Form* and state your objections, if any, to the requested relief. If

you fail to respond in writing, you may be prevented from responding at the hearing, and the other party may be given what he/she asked for in the motion. Generally, your response must be filed and delivered to the other party within twenty (20) days from the date it was mailed or, there is a hearing three (3) days before the hearing date, whichever is sooner. You should attach to your response, any documents or other evidence you wish the judge to consider. Do not forget to include a *Certificate of Service*.

## 11. Time Limits on Motions

- a. **Time to file a response.** A party affected by the motion shall serve a response, together with affidavits, if any, at least three days prior to the hearing on the motion or within 20 days after service of the motion, whichever is earlier. (Also see *Reply to Counterclaim* information above). Unless the court by order permits service at some other time, the moving party (person making the motion) shall serve a reply, if any, at least one day prior to the hearing on the motion or within 15 days after service of the response, whichever is earlier. Unless the court otherwise orders, any party may serve supplemental memoranda or rebuttal affidavits at least one day prior to the hearing on the motion.
- b. A **Request for Setting** may be served by the moving party or any party affected by the motion within 30 days after service of the motion. Absent a timely request for hearing the court may, in its discretion, determine the motion without a hearing. A motion not determined within 90 days after filing shall be deemed denied. A party whose motion has been deemed denied shall have 10 days after the effective date of such denial to serve such pleadings or other papers, if any, as may be required or permitted.

## 12. DISMISSING THE DIVORCE

If you and your spouse decide to get back together or to postpone the divorce, you must file a *Motion to Dismiss Divorce Action*. Only the Plaintiff needs to sign if the Defendant has not been served with a copy of the *Complaint for Divorce* or has been served but has not answered or counterclaimed. If, however, the Defendant has been served with a copy of the *Complaint for Divorce* and has either answered or counterclaimed, both parties need to sign the *Motion to Dismiss* and the *Order Dismissing the Divorce Action*.