



26th Judicial District
SelfServe Center
Superior
COMPLAINT

NOTE:

THIS PACKET CONTAINS INFORMATION REGARDING FILING A GENERAL CIVIL SUPERIOR COURT CLAIM.

DUE TO THE CHANGING NATURE OF THE LAW, the forms and information contained in this packet may become outdated. Therefore, you should review and research statutes and rules of procedure referenced in the instructions to ensure that the forms are accurate and current.

IF THERE ARE ANY QUESTIONS in your mind concerning these forms, the use of these forms, or your legal rights, it is strongly recommended that you consult with or retain an attorney.

IN NO EVENT will the SelfServe Center staff, Clerk of Court, Caseflow Management Division, or anyone contributing to the production of these forms, instructions, or guidelines be liable for any indirect or consequential damages resulting from the use of the forms or information provided to you by the SelfServe Center.

USE THESE FORMS AT YOUR OWN RISK. THESE FORMS MAY OR MAY NOT BE APPROPRIATE IN YOUR PARTICULAR CASE. ANY DESIRED OUTCOME FROM THE USE OF THESE FORMS CANNOT BE PREDICTED OR GUARANTEED. IT IS STRONGLY RECOMMENDED THAT YOU SEEK LEGAL ADVICE!

THE FILING FEE FOR THIS ACTION IS: _____

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**PLEASE CAREFULLY READ THE FORMS AND
INSTRUCTIONS CONTAINED IN THIS PACKET.**

**IF YOU HAVE ANY QUESTIONS, PLEASE
CONSULT WITH AN ATTORNEY.**

THESE ARE EDUCATIONAL FORMS DESIGNED TO
ASSIST YOU, BUT YOU ARE REPRESENTING
YOURSELF. PLEASE REVIEW AND FOLLOW THE
DIRECTIONS TO IMPROVE YOUR PERFORMANCE IN
YOUR CASE. FAILURE TO READ AND FOLLOW THE
INSTRUCTIONS MAY ADVERSELY IMPACT YOUR
CLAIM.

You are required to keep the Court advised of your current address and contact phone number. A Notice of Change of Address form is provided in this form packet.

INTRODUCTION

What is this?

This packet of information is provided for individuals who wish to pursue a case without the assistance of an attorney. This is called a *pro se* or self represented case. If you are not sure that you want or need to go to court, please ask the Self Serve Center or Caseflow Management Division staff to direct you to a lawyer referral service or list of local attorneys willing to provide “unbundled services” (*representation for a limited portion of a case at an hourly rate*).

How will it help me?

If you do not plan to use an attorney, this packet will start the process for you by providing certain forms you will need. Since you are representing yourself, it is YOUR responsibility to ensure that these are the correct forms for the nature of your case. Therefore, you should review and research *applicable laws* and *rules of procedure* that apply to your type of case. If you are not able to do this, you should talk with an attorney. If at any point during the process you become confused or wish to proceed with the help of an attorney, contact the Mecklenburg County Bar Lawyer Referral Service at (704) 375-0120 or the North Carolina Bar Lawyer Referral Service at (800) 662-7660.

What does this mean?

Certain legal terms will be used throughout your case. A complete legal glossary is available for your convenience in the SelfServe Center. If you still do not understand the term, consult a legal dictionary or the SelfServe Center staff. You may also want to consult a law library for the North Carolina Rules of Court or the website www.nccourts.org to review the local rules for Mecklenburg County. Staff CANNOT provide legal advice, but can provide procedural information and definitions of legal terms.

Can or should I file a Complaint in Mecklenburg County?

Please note that the SelfServe Center staff CANNOT provide legal advice. Therefore, we cannot tell you if you should file or what you should file. We can tell you that this packet is designed to assist with the preparation of forms for filing a civil lawsuit claiming an amount **from \$25,001 up to \$999,999.00**. *If you wish to file a civil lawsuit in excess of \$1,000,000.00, you must file your case in Federal Court.* **The Defendant in this action must be a resident of Mecklenburg County. The Defendant is a person, persons, or a corporation from whom you are attempting to recover money.**

What do I do first?

1. After you get the packet, **READ THE INSTRUCTIONS!** You should read through the entire packet before filling out any forms. Once you have read all the instructions, fill out the forms by typing or printing *neatly* in ink. You may fill them out at home or at the courthouse. Please read the forms carefully.
2. Please make sure that you have cash or a money order. Personal checks are not accepted. If you want the Sheriff of Mecklenburg County to serve the documents on the defendant, please bring an additional **\$30.00** (cash, cashier's check or money order) made payable to the Mecklenburg County Sheriff's Office. If the defendant lives outside of Mecklenburg County, pay the service of process fee to the sheriff of the county where the defendant resides. (Please refer to the "Service of Process" sheet in this packet for more information).
3. Take your completed forms, 2 copies, filing fee, and fee for the Sheriff to serve (if desired) to the Civil Filing Department (Clerk's Office) at 832 E. Fourth Street, Room 3725.

IMPORTANT REMINDERS BEFORE YOU BEGIN

Your case involves complicated legal issues! This packet describes the general process, but it is impossible to cover everything that may affect your rights. If you get confused during the process, you should stop and get advice from an attorney. Judges, Clerk of Court, SelfServe Center staff or the Caseflow Management Division **CANNOT** give you legal advice. All persons (attorneys and self-represented parties) are required to know and follow the court rules. If you choose to represent yourself, you are responsible for reading and understanding the State and Local Rules of Court.

STEP 1

Reviewing and Filling Out Your Documents

CHECKLIST

Review your packet to make sure that the following documents are included:

- ◆ **COMPLAINT**
- ◆ **CIVIL SUMMONS**
- ◆ **AFFIDAVIT OF SERVICE OF PROCESS BY REGISTERED OR CERTIFIED MAIL**
- ◆ **NOTICE OF ADDRESS CHANGE (Use this form only when necessary.)**

Once you have reviewed your documents and read all instructions, you should fill out the Complaint and Civil Summons. The Affidavit of Service of Process by Registered or Certified Mail only needs to be filled out if you are serving the other party through the U.S. Postal Service. Remember to sign your forms wherever a signature is required.

You are required to keep the Court advised of your current address and contact phone number. A Notice of Change of Address form is provided in this form packet.

STEP 2

Photocopying Documents

Make two (2) copies of your Complaint and Civil Summons. Copies can be made for a fee in the Civil Files Office, Room 3342.

Once you have completed the necessary documents and made your copies, you may move forward to Step 3.

STEP 3

Filing the Documents

Take these documents, two copies and the filing fee to the Civil Filing Department (832 E. Fourth St., Room 3725) for filing. At that time, a case number will be assigned to your Complaint. Until you receive that number from the clerk, leave the upper right hand corner of the documents blank. Once you have been assigned a case number however, please make a note of it and print or type it on the upper right hand corner of ALL of your papers filed with the court in this case.

STEP 4

Service of Process

PLEASE READ THIS SECTION VERY CAREFULLY.

If you are confused or have questions, consult an attorney immediately.

Once you have filed the documents to initiate your Complaint you must “serve” (give notice to) the opposing party of the action. In order for your Complaint to be properly served against the Defendant, you must serve the Defendant in a manner that is recognized by the Court. The forms needed for Service of Process and the procedures you must follow are complex and will vary. In order to learn which steps to take next, review the following and choose the correct forms and procedures for your case.

YOU CANNOT SERVE THE PAPERS ON THE DEFENDANT UNTIL YOU HAVE FILED THEM IN THE CLERK'S OFFICE.

Note: Your lawsuit is subject to dismissal or discontinuance by the Clerk if you fail to acquire service or obtain an extension through an Alias & Pluries Summons within 90 days of the filing of the Complaint.

You are required to keep the Court advised of your current address and contact phone number. A Notice of Change of Address form is provided in this form packet.

At this point, there are three ways you can proceed with service:

1. **SERVICE BY SHERIFF:** If the Defendant lives in North Carolina and can be served by sheriff you will need to pay a fee to the sheriff in the county where the Defendant resides to serve the papers and you will need the following forms:

- ◆ CIVIL SUMMONS
- ◆ COMPLAINT

If the Defendant lives in Mecklenburg County, the fee is \$30.00. You may take the \$30.00 service fee (cash, money order, or certified check) along with the original Summons and a copy of the Summons and Complaint to the Clerk's office when you file your Complaint. The Clerk's Office *may* deliver the documents to the sheriff for you. Otherwise, you must deliver the payment and the necessary forms to the sheriff yourself. If the Defendant does not live in Mecklenburg County, you must mail or deliver the documents to the sheriff in the county where the defendant is located. You should include a certified check or money order for the fee for service made payable to the sheriff of that county. Contact the sheriff's office in the county where the person is located to determine the fees and process associated with service of process. **YOU MUST PROVIDE THE DEFENDANT'S MOST RECENT ADDRESS IN THE SUMMONS ALONG WITH ANY OTHER INFORMATION THAT WILL ASSIST THE SHERIFF IN LOCATING THE DEFENDANT.**

2. **SERVICE OF PROCESS BY REGISTERED OR CERTIFIED MAIL:** If you choose not to have the Sheriff serve your papers, you must serve the other party through Registered or Certified Mail. Service of Process can be completed within the state and outside of the state, but within the US (**please consult with an attorney if the Defendant is in the military) by mailing a copy of the Summons and Complaint by registered or certified mail, return receipt requested, addressed to the party to be served and delivered to the address. A postal worker can help you fill out the necessary forms for the registered or certified mailing. If you choose this type of service, you must file an *Affidavit of Service of Process by Certified or Registered Mail* when you receive the return receipt. You must attach the original return receipt (the "green card") to your affidavit.
3. **YOU DO NOT KNOW WHERE THE DEFENDANT IS LOCATED:** If you do not know where the Defendant is located, you will need to serve the Defendant by "publication." This is a complex process using the newspaper to run notice of the civil action.

****PLEASE NOTE:** This type of service is a **LAST RESORT**. If you either know where the defendant is or can find out, you should never attempt this type of service. ******

After Service of Process has been successfully completed, you must wait **30 days** from the date of service in order to give the Defendant an opportunity to file an "Answer" (response) to the Complaint. If the Defendant has not filed an answer, you should check the court file to see if a Motion to Extend Time to File an Answer has been filed. The Defendant has an additional 30 days to file an Answer if the motion is in the court file and signed by the Clerk of Court.

You are required to keep the Court advised of your current address and contact phone number. A Notice of Change of Address form is provided in this form packet.

STEP 5

Receiving a Court Date

For your case to be placed on the court's calendar to be heard, you must have filed all of the required documents, served the other party, and the party who is being sued typically has responded to the Complaint by filing an Answer. After all of the documents have been correctly completed and filed, your case may be put on the court's calendar for Arbitration or Trial. Cases set for trial may be tried by a judge or before a jury. Arbitration is a simple, inexpensive, and quick way to resolve disputes prior to trial and is required in all cases involving claims for \$15,000 or less. Collection on account cases (where that is the sole claim), summary ejection evictions, and titles to real estate are not subject to arbitration. **Please note: Because of the nature of Superior Court, most cases will consist of arbitration, a jury or bench trials. Should you seek a jury trial (if it is a triable issue), you will be responsible for selecting and questioning prospective jurors. The judge will not be able to advise you on legal terminology or assist you in any way.**

If the Defendant has been served with the Complaint and has not filed an Answer within 30 days or has not filed an Extension of Time to File an Answer, you may then seek a Default Judgment against that defendant. You may not seek Default Judgment if an Answer has been filed in the case.

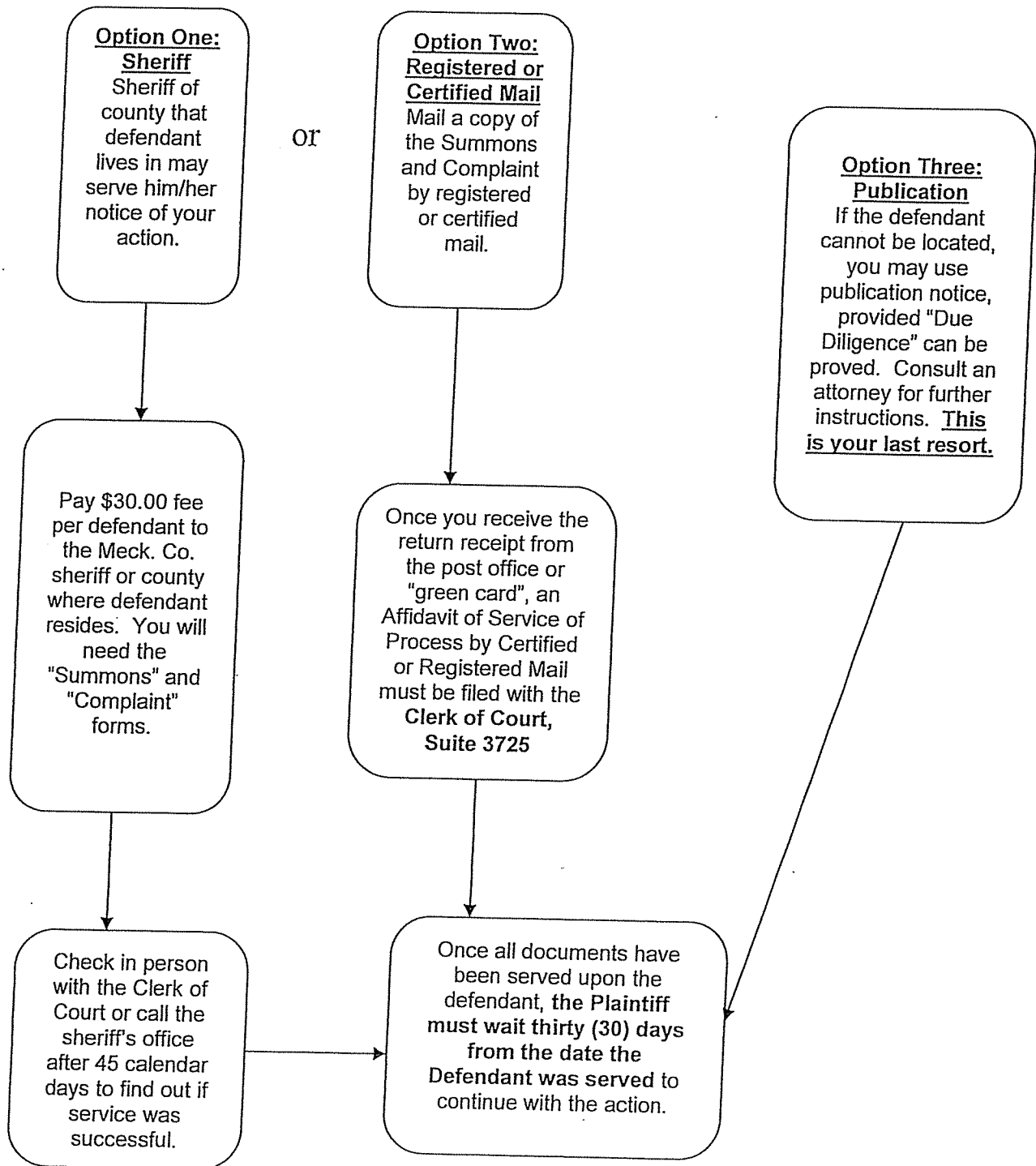
Lawyer Referral Services:

Mecklenburg County Bar Lawyer Referral Service: (704) 375-0120 or www.meckbar.org

North Carolina Lawyer Referral Service: (800) 662-7660

You are required to keep the Court advised of your current address and contact phone number. A Notice of Change of Address form is provided in this form packet.

THREE SERVICE OF PROCESS METHODS:



You are required to keep the Court advised of your current address and contact phone number. A Notice of Change of Address form is provided in this form packet.

STATE OF NORTH CAROLINA

File No.

County

In The General Court Of Justice
 District Superior Court Division

Name Of Plaintiff

Address

City, State, Zip

VERSUS

Name Of Defendant(s)

Date Original Summons Issued

Date(s) Subsequent Summons(es) Issued

CIVIL SUMMONS

ALIAS AND PLURIES SUMMONS (ASSESS FEE)

G.S. 1A-1, Rules 3 and 4

To Each Of The Defendant(s) Named Below:

Name And Address Of Defendant 1

Name And Address Of Defendant 2



IMPORTANT! You have been sued! These papers are legal documents, DO NOT throw these papers out! You have to respond within 30 days. You may want to talk with a lawyer about your case as soon as possible, and, if needed, speak with someone who reads English and can translate these papers!
¡IMPORTANTE! ¡Se ha entablado un proceso civil en su contra! Estos papeles son documentos legales. ¡NO TIRE estos papeles!
Tiene que contestar a más tardar en 30 días. ¡Puede querer consultar con un abogado lo antes posible acerca de su caso y, de ser necesario, hablar con alguien que lea inglés y que pueda traducir estos documentos!

A Civil Action Has Been Commenced Against You!

You are notified to appear and answer the complaint of the plaintiff as follows:

1. Serve a copy of your written answer to the complaint upon the plaintiff or plaintiff's attorney within thirty (30) days after you have been served. You may serve your answer by delivering a copy to the plaintiff or by mailing it to the plaintiff's last known address, and
2. File the original of the written answer with the Clerk of Superior Court of the county named above.

If you fail to answer the complaint, the plaintiff will apply to the Court for the relief demanded in the complaint.

Name And Address Of Plaintiff's Attorney (if none, Address Of Plaintiff)

Date Issued

Time

AM PM

Signature

Deputy CSC Assistant CSC Clerk Of Superior Court

ENDORSEMENT (ASSESS FEE)

This Summons was originally issued on the date indicated above and returned not served. At the request of the plaintiff, the time within which this Summons must be served is extended sixty (60) days.

Date Of Endorsement

Time

AM PM

Signature

Deputy CSC Assistant CSC Clerk Of Superior Court

NOTE TO PARTIES: Many counties have **MANDATORY ARBITRATION** programs in which most cases where the amount in controversy is \$25,000 or less are heard by an arbitrator before a trial. The parties will be notified if this case is assigned for mandatory arbitration, and, if so, what procedure is to be followed.

(Over)

RETURN OF SERVICE

I certify that this Summons and a copy of the complaint were received and served as follows:

DEFENDANT 1

Date Served	Time Served <input type="checkbox"/> AM <input type="checkbox"/> PM	Name Of Defendant
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- By delivering to the defendant named above a copy of the summons and complaint.
- By leaving a copy of the summons and complaint at the dwelling house or usual place of abode of the defendant named above with a person of suitable age and discretion then residing therein.
- As the defendant is a corporation, service was effected by delivering a copy of the summons and complaint to the person named below.

Name And Address Of Person With Whom Copies Left (if corporation, give title of person copies left with)

Other manner of service (specify)

Defendant WAS NOT served for the following reason:

DEFENDANT 2

Date Served	Time Served <input type="checkbox"/> AM <input type="checkbox"/> PM	Name Of Defendant
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- By delivering to the defendant named above a copy of the summons and complaint.
- By leaving a copy of the summons and complaint at the dwelling house or usual place of abode of the defendant named above with a person of suitable age and discretion then residing therein.
- As the defendant is a corporation, service was effected by delivering a copy of the summons and complaint to the person named below.

Name And Address Of Person With Whom Copies Left (if corporation, give title of person copies left with)

Other manner of service (specify)

Defendant WAS NOT served for the following reason:

Service Fee Paid \$	Signature Of Deputy Sheriff Making Return
Date Received	Name Of Sheriff (type or print)
Date Of Return	County Of Sheriff

STATE OF NORTH CAROLINA

COUNTY OF MECKLENBURG

_____,
_____,

Plaintiff,

vs.

_____,
_____,

Defendant.

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION

FILE NUMBER: _____

JURY REQUESTED

COMPLAINT

I, the Plaintiff(s), complaining of the Defendant(s), say and allege that

1. The Plaintiff is a citizen and resident of _____ County, North Carolina.
2. The Defendant is a citizen and resident of _____ County, North Carolina.
3. The Court has jurisdiction over this matter.
4. *(State what the defendant has done to cause the damages you are claiming by listing each wrongful act separately)*

A. _____

B. _____

C. _____

D. _____

WHEREFORE, the Plaintiff demands judgment against the Defendant for:

I am asking the court to award judgment against the defendant(s) in the sum of \$ _____.
(state claimed damages)

I am also asking for reimbursement of my court costs and interest at the legal rate from the date of judgment.

For such other, further, and different relief to which the Plaintiff may be entitled.

This the _____ day of _____, 20____.

Plaintiff

Address

City/State/Zip

Telephone

VERIFICATION

_____ says that he/she is the Plaintiff in this matter, that he /she has read and understood this COMPLAINT and knows the contents to be true of his/her own personal knowledge, except for those matters and things set forth upon information and belief; and as to those matters and things, he/she believes them to be true.

Plaintiff

Sworn to and subscribed before me this ____ day of _____, _____.

Notary Public

My commission expires: _____.

County

In The General Court Of Justice

Name And Address Of Plaintiff

VERSUS

Name And Address Of Defendant

SERVICEMEMBERS CIVIL RELIEF ACT AFFIDAVIT

50 U.S.C. 3901 to 4043

NOTE: Though this form may be used in a Chapter 45 Foreclosure action, it is not a substitute for the certification that may be required by G.S. 45-21.12A.

AFFIDAVIT

I, the undersigned Affiant, under penalty of perjury declare the following to be true:

- 1. As of the current date: (check one of the following)
a. I have personal knowledge that the defendant named above is in military service.*
b. I have personal knowledge that the defendant named above is not in military service.*
c. I am unable to determine whether the defendant named above is in military service.*
2. (check one of the following)
a. I used the Servicemembers Civil Relief Act Website (https://scra.dmdc.osd.mil/) to determine the defendant's military status.
b. I have not used the Servicemembers Civil Relief Act Website and the following facts support my statement as to the defendant's military service: (State how you know the defendant is not in the military. Be specific.)

*NOTE: The term "military service" includes the following: active duty service as a member of the United States Army, Navy, Air Force, Marine Corps, or Coast Guard; service as a member of the National Guard under a call to active service authorized by the President or the Secretary of Defense for a period of more than 30 consecutive days for purposes of responding to a national emergency; active service as a commissioned officer of the Public Health Service or of the National Oceanic and Atmospheric Administration; any period of service during which a servicemember is absent from duty on account of sickness, wounds, leave, or other lawful cause. 50 U.S.C. 3911(2).

SWORN/AFFIRMED AND SUBSCRIBED TO BEFORE ME

Date

Date

Signature Of Affiant

Signature Of Person Authorized To Administer Oaths

Name Of Affiant (type or print)

Deputy CSC Assistant CSC Clerk Of Superior Court Magistrate

SEAL Notary

Date My Commission Expires

NOTE TO COURT: Do not proceed to enter judgment in a non-criminal case in which the defendant has not made an appearance until a Servicemembers Civil Relief Act affidavit (whether on this form or not) has been filed, and if it appears that the defendant is in military service, do not proceed to enter judgment until such time that you have appointed an attorney to represent him or her.

(Over)

Information About Servicemembers Civil Relief Act Affidavits

1. Plaintiff to file affidavit

In any civil action or proceeding, including any child custody proceeding, in which the defendant does not make an appearance, the court, before entering judgment for the plaintiff, shall require the plaintiff to file with the court an affidavit—

- (A) stating whether or not the defendant is in military service and showing necessary facts to support the affidavit; or
- (B) if the plaintiff is unable to determine whether or not the defendant is in military service, stating that the plaintiff is unable to determine whether or not the defendant is in military service.

50 U.S.C. 3931(b)(1).

2. Appointment of attorney to represent defendant in military service

If in a civil action or proceeding in which the defendant does not make an appearance it appears that the defendant is in military service, the court may not enter a judgment until after the court appoints an attorney to represent the defendant. If an attorney appointed to represent a service member cannot locate the service member, actions by the attorney in the case shall not waive any defense of the service member or otherwise bind the service member. 50 U.S.C. 3931(b)(2).

State funds are not available to pay attorneys appointed pursuant to the Servicemembers Civil Relief Act. To comply with the federal Violence Against Women Act and in consideration of G.S. 50B-2(a), 50C-2(b), and 50D-2(b), plaintiffs in Chapter 50B, Chapter 50C, and Chapter 50D proceedings should not be required to pay the costs of attorneys appointed pursuant to the Servicemembers Civil Relief Act. Plaintiffs in other types of actions and proceedings may be required to pay the costs of attorneys appointed pursuant to the Servicemembers Civil Relief Act. The allowance or disallowance of the ordering of costs will require a case-specific analysis.

3. Defendant's military status not ascertained by affidavit

If based upon the affidavits filed in such an action, the court is unable to determine whether the defendant is in military service, the court, before entering judgment, may require the plaintiff to file a bond in an amount approved by the court. If the defendant is later found to be in military service, the bond shall be available to indemnify the defendant against any loss or damage the defendant may suffer by reason of any judgment for the plaintiff against the defendant, should the judgment be set aside in whole or in part. The bond shall remain in effect until expiration of the time for appeal and setting aside of a judgment under applicable Federal or State law or regulation or under any applicable ordinance of a political subdivision of a State. The court may issue such orders or enter such judgments as the court determines necessary to protect the rights of the defendant under this Act. 50 U.S.C. 3931(b)(3).

4. Satisfaction of requirement for affidavit

The requirement for an affidavit above may be satisfied by a statement, declaration, verification, or certificate, in writing, subscribed and certified or declared to be true under penalty of perjury.

50 U.S.C. 3931(b)(4). The presiding judicial official will determine whether the submitted affidavit is sufficient.

5. Penalty for making or using false affidavit

A person who makes or uses an affidavit permitted under 50 U.S.C. 3931(b) (or a statement, declaration, verification, or certificate as authorized under 50 U.S.C. 3931(b)(4)) knowing it to be false, shall be fined as provided in title 18, United States Code, or imprisoned for not more than one year, or both. 50 U.S.C. 3931(c).

STATE OF NORTH CAROLINA

File No.

_____ County

In The General Court Of Justice
 District Superior Court Division

Name Of Plaintiff(s)
VERSUS
Name Of Defendant

AFFIDAVIT OF SERVICE OF PROCESS BY

- REGISTERED MAIL
- CERTIFIED MAIL
- DESIGNATED DELIVERY SERVICE

G.S. 1-75.10(a)(5), (a)(6); 1A-1, Rule 4(j2)

I, the undersigned, did mail by registered mail (return receipt requested), certified mail (return receipt requested),
 designated delivery service (delivery receipt requested),
 a copy of the summons and complaint and other document(s) (list) _____

in the above captioned action to (name of person to be served) _____,
 addressed as follows: _____

Further, that copies of the summons and complaint and the above listed other document(s) (check, if applicable) were in fact received by the defendant on (date of receipt) _____, as evidenced by the attached original receipt.
 (Attach original receipt or electronic proof of signature confirmation to this affidavit.)

SWORN/AFFIRMED AND SUBSCRIBED TO BEFORE ME		Signature Of Plaintiff/Attorney
Date	Signature Of Person Authorized To Administer Oaths	Name (type or print)
Title Of Person Authorized To Administer Oaths		
<input type="checkbox"/> Notary	Date My Commission Expires	
SEAL	County Where Notarized	