A GUIDE TO REPRESENTING YOURSELF IN AN IOWA DIVORCE CASE: FOR SPOUSES WITH NO MINOR OR DEPENDENT CHILDREN

© 2011 Iowa Judicial Branch

- **If you represent yourself (without an attorney) in a divorce case – and you do not have minor or dependent children – you must use the court-approved forms identified in this Guide.**

- If you have minor or dependent children, you cannot use the forms identified in this Guide. The forms also are not recommended for people who own a business, a lot of investments, or a lot of real estate.

- **Read this Guide carefully.** Even if you both agree to get divorced and how to divide your property, you must still go through several steps in the court process to get divorced. This Guide will help you get through each step.

- **You are not divorced until a judge signs a final "Decree of Dissolution of Marriage.**"

- If you are still uncertain what to do after reading this Guide, you should talk with an attorney. An attorney can help you with all or just some of the steps in a divorce case.

- The term "**dissolution of marriage**" means the same thing as "divorce." The "**Petitioner**" is the spouse who files the first paper (a Petition) to start a divorce case. The other spouse is the "**Respondent**." You keep these titles for the rest of your divorce case. The Petitioner and Respondent are also called the "**parties**" in the case. Part **F.** of this Guide defines many other legal terms you should know.

  - On page 3 of this Guide is a list of forms approved court forms. You can get them on the Iowa court system's website at**: www.iowacourts.gov/Court_Rules_and_Forms/Family_Law_Forms/**

- Carefully read the specific instructions for each form. You should also read part **G.** of this Guide: *Tips on Handling Your Own Case in Iowa's Courts.*

- If you want alimony, a share of your spouse's pension, or other property -- you must ask for it during the court process. You cannot get it after a judge signs your final divorce Decree.

- Whenever you file a paper at the district court clerk's office, you must deliver a copy of that paper to your spouse or your spouse's attorney. You should also keep a copy for yourself. The only ***exception*** is the Confidential Information Form (**FL-103**)*. Do not give a copy of it to your spouse.*

- It is illegal to sign another person's signature on any court form or other legal paper.

- **IMPORTANT: Court staff cannot give you legal advice.**

- The divorce laws in Iowa are in Chapter 598 of the *Iowa Code*. You can find the *Iowa Code* in public libraries – OR – on the Iowa legislature's website: **www.legis.iowa.gov/IowaLaw/statutoryLaw.aspx**

- **Form numbers:** The official court forms are in Chapter 17 of the Iowa Court Rules. The official form numbers include three parts. For example, the "Petition for Dissolution of Marriage With No Minor Children" is form "**FL-17.101**." The **FL** stands for "Family Law;" **17** stands for Chapter 17 of the Iowa Court Rules; **101** is the actual form number. To make it somewhat easier to use, the Guide does not include the **17** in the form numbers. In this Guide, for example, the Petition for Dissolution of Marriage With No Minor Children is **FL-101**.

- **See the Table of Contents for the Guide on the next page.**

A Guide to Representing Yourself in an Iowa Divorce Case:
For Spouses With No Minor or Dependent Children

Table of Contents

Page	
3	**List of Approved Court Forms for a Divorce with No Minor Children**
4	**A. How to Begin a Dissolution of Marriage (Divorce) With No Minor Children**
7	**B. What to do if Your Spouse Has Filed for Divorce and You Have Received the Divorce Papers**
8	**C. What You Should do During the 90-Day Waiting Period for Getting a Final Divorce Decree**
10	**D. How to Get a Final Divorce Decree**
13	**E. Things You Might Have to Do After a Judge Signs the Divorce Decree**
13	**F. Terms Used in the Divorce Process**
17	**G. Tips on Handling Your Own Case in Iowa's Courts**

List of Approved Court Forms & Instructions to Help Self-Represented Parties With No Minor or Dependent Children Get a Divorce Decree in Iowa*

Before using any Iowa court forms listed below,
read this "Guide," including part G: "Tips on Handling Your Own Case in Iowa's Courts"

Forms a Petitioner can use to start the divorce process:

Form number ("FL" stands for "Family Law")

FL-101*	**Petition for Dissolution of Marriage With No Minor Children**
FL-102*	**Coversheet for a Petition for Dissolution of Marriage With No Minor Children**
FL-103	**Confidential Information Form**
FL-104*	**Original Notice for Personal Service**
FL-105*	**Acceptance of Service of Original Notice**
FL-106*	**Directions for Service of Original Notice**
FL-107*	**Motion and Affidavit to Serve by Publication** – Use if you cannot find your spouse to deliver a copy of the Petition (FL-101) and Original Notice (FL-104) by mail or in-person.
FL-108*	**Original Notice by Publication** – Use if you cannot find your spouse to deliver a copy of the Petition (FL-101) and Original Notice (FL-104).
FL-109*	**Application and Affidavit to Defer Payment of Costs --** Optional: Use if you cannot afford to pay the court filing fees.

Forms a Respondent can use to file an Answer to the Petition:

FL-115*	**Answer to Petition for Dissolution of Marriage With No Minor Children** -- Use this if the Petitioner uses FL-101.
FL-116*	**General Answer** – Use this if Petitioner does **not** use form FL-101.

Forms either the Petitioner or Respondent can use to get a final divorce Decree:

FL-122*	**Motion** -- Optional; use this to ask a judge to take some action in your case. See the instructions for this form.
FL-123*	**Response to a Motion** -- Use this if your spouse files a Motion (FL-122) and you disagree with something your spouse is asking for in the Motion.
FL-124*	**Financial Affidavit –** Each party (Petitioner and Respondent) must fill out one of these. If the Respondent does not fill one in, the Petitioner can get a final Divorce decree by default.
FL-125	**Affidavit of Mailing Notice** -- Petitioner *must* file this if he or she served Notice by Publication in a newspaper and asks the court for a divorce Decree by default.
FL-126	**Notice of Intent to File a Written Application for Default Decree --** Petitioner uses this if the Respondent has not filed an Answer to the Petition and the Petitioner wants to ask the court for a final divorce Decree.
FL-127*	**Request for Relief (Final Decree) in a Dissolution of Marriage With No Minor Children** -- If a Petitioner is getting a final divorce Decree by default – just the Petitioner fills this in. If the spouses will be going to trial to get a final divorce Decree -- each spouse should fill in one of these.
FL-128*	**Settlement Agreement for Dissolution of Marriage With No Minor Children** (Use this if both parties agree how to divide property, assets, and debts.)

*Includes a specific set of instructions

A. How to Begin a Dissolution of Marriage (Divorce) With No Minor or Dependent Children

1. Petitioner must fill in and sign the forms required to start the divorce process.

- You can get the forms you need from the Iowa court system's website at:
  www.iowacourts.gov/

- Carefully read the specific instructions for each form. If you don't understand something, you should contact an attorney. *Do not contact court staff.*

- Type or print clearly on each form. You should use a blue ink pen to sign each form (if possible).

Here is a list of the four forms a self-represented Petitioner *must* use to start the divorce process:

Form Number ("FL" stands for "Family Law")

FL-101*	**Petition for Dissolution of Marriage With No Minor Children**
FL-102*	**Coversheet for a Petition for Dissolution of Marriage With No Minor Children**
FL-103	**Confidential Information Form** *(Do not give a copy to your spouse.)*
FL-104*	**Original Notice for Personal Service**

*NOTE: Each form with an asterisk [*] includes a specific set of instructions.

The district court clerk in your county can tell you what the filing fee will be. If you believe you cannot afford the court filing fee, the court might allow you to postpone your payment of the fee. To ask the court to postpone (defer) payment of the filing fee, fill in and file form **FL-109** (see below).

FL-109*	**Application and Affidavit to Defer Payment of Costs --** Optional: Use this if you cannot afford to pay the court filing fees.

*Includes a specific set of instructions

2. Make photocopies of the forms you filled in.

- **FL-101 and FL-104:** Make two photocopies if you can deliver copies of these forms to your spouse in-person or by mail. Make three photocopies if you are going to ask the county sheriff or a civil process server to deliver these forms to your spouse. (See step 4, below.)
- **FL-102** and **FL-103**: You do not have to make photocopies of these forms.

Note about making photocopies: You should make your photocopies before you go to the courthouse to file your papers. It is expensive to make photocopies at the district court clerk's office. It's cheaper to make the copies at a business that makes photocopies or at a public library.

3. Take the original forms you filled in -- and the photocopies -- to the district court clerk's office in your county.

- Tell the clerk at the counter you are filing a Petition for a divorce.
- Give the clerk at the counter the original forms and the photocopies of these forms:
  - **FL-101** Petition for Dissolution of Marriage (Divorce) With No Minor Children
  - **FL-102** Coversheet for a Petition for Dissolution of Marriage With No Minor Children
  - **FL-103** Confidential Information Form (*Do not make copies of this form*)
  - **FL-104** Original Notice

- Pay the filing fee – or file form **FL-109**. (See above.) The clerk at the counter can tell you the amount of the filing fee. (See the term "Fees" in part **F.** of this guide for a list of the fees you might have to pay during the divorce process. The Iowa legislature sets these fees and periodically raises them, so check with the clerk's office to confirm the current filing fee.)

- The district court clerk will sign the Original Notice form (**FL-104**). You will have to serve this form on (deliver it to) your spouse. (See step 4, below.)

- The clerk at the counter will time-stamp each of the copies (original and photocopies).

- Ask the clerk at the counter for a "*Report of Dissolution of Marriage or Annulment Form*." Fill in the form, but leave items 18 through 22 blank for the district court clerk to complete. Give the form back to the clerk at the counter.

4. Serve (deliver) the Original Notice (FL-104) and a copy of the Petition (FL-101) on your spouse. Then file your "proof of service." (This is a paper that proves you delivered the Original Notice to your spouse.)

IMPORTANT: Petitioner has <u>90 days</u> after filing the Petition at the district court clerk's office to serve the Petition on the Respondent (Petitioner's spouse). If Petitioner fails to meet this deadline the dissolution of marriage case will be dismissed.

The way you do step 4 depends on whether you know where your spouse is:

a. <u>If you know where your spouse is</u>, you have two options for completing step 4:

- **Option 1**: You can hand the forms to your spouse yourself – or send the forms to your spouse by regular mail. You must also get your spouse to sign an "Acceptance of Service" form (**FL-105**; see below). After your spouse signs the Acceptance of Service form, you must:
  - Make a photocopy of the Acceptance of Service form for your records – and –
  - Take the original Acceptance of Service form (the one signed by your spouse) to the district court clerk's office. This meets the requirement for "proof of service."

FL-105*	**Acceptance of Service of Original Notice** – Petitioner uses this when Petitioner personally delivers the Original Notice and a copy of the Petition to the Respondent and the Respondent is willing to sign the "Acceptance of Service" form.

*Includes a specific set of instructions

- **Option 2**: You can ask the county sheriff or other civil process server to serve the forms on your spouse. (**Note**: If you filed an Application & Affidavit to Defer Costs (**FL-109**) and the court approved it, you *must* have the county sheriff serve the forms.)

If you choose option 2, you must fill in two forms: **FL-104** and **FL-106** (see below)

FL-106*	**Directions for Service of Original Notice** – Use this if you know where your spouse lives or works, but you want the county sheriff or other civil process server to deliver the divorce Petition (**FL-101**) and Original Notice (**FL-104**) to your spouse.

*Includes a specific set of instructions

- Give the county sheriff or other process server <u>two</u> copies of the:
  - Original Notice (**FL-104**),
  - Petition (**FL-101**), and
  - Directions for Service (**FL-106**).

- Tell him or her to deliver the Original Notice and Petition to your spouse.
- The sheriff or other process server will file the "proof of service" with the district court clerk after you pay the service fee. If the court granted your Application to Defer Costs (**FL-109**), the county sheriff *must* be the one who delivers the forms to your spouse.

b. If <u>you do not know where your spouse is</u>, you can ask the court for permission to give notice to your spouse by publication in a newspaper.

- A court will give a Petitioner permission to give notice by publication in a newspaper only if the Petitioner has tried several ways to find his or her spouse. Some steps you can take to find your spouse include:
  - Contacting your spouse's parents, brothers, sisters, friends, former employer, or people she or he used to work with.
  - Checking local or area phone books, or phone books where you think your spouse might be living.
  - Searching for your spouse in telephone directories on the internet. If you do not know how to do this, go to your local library and ask a librarian for help.
  - Contacting an attorney to help you.

  - If you cannot find your spouse, you should mail a copy of the Original Notice (**FL-104**) and the Petition (**FL-101**) to your spouse's last known address. You *<u>must</u>* do this to get a divorce Decree by default. (See part **D.1.** and form **FL-125** below.)

- If you cannot find your spouse after taking these steps, you can ask the court for permission to serve notice by publication in a newspaper. To do this, you *must* fill in and file this form:

FL-107*	**Motion and Affidavit to Serve by Publication** – Use this if you cannot find your spouse. With this form you will ask the court's permission to serve Notice by Publication in a newspaper.

*Includes a specific set of instructions

  - Make two photocopies of the form.
  - Take the original and both copies to the district court clerk's office.
  - The clerk at the counter will time-stamp the original and photocopies.
  - The clerk will keep the original and give the copies back to you.
  - Mail one copy of the form to your spouse's last-known address.
  - Keep one copy for your records.

  - The court might schedule a hearing on your Motion and Affidavit. The district court clerk's office will mail you a notice of the date and time for the hearing. You must attend the hearing. Follow the advice in part **G:** *Tips on Handling Your Own Case in Iowa's Courts.*

  - Note: Using form **FL-107** does not guarantee that a judge will let you serve notice by publication in a newspaper.

- If the judge signs an Order allowing you to publish the Notice in a newspaper, you should fill out form **FL-108** (see below) and take it to a newspaper.

FL-108*	**Notice by Publication** – Use this if you cannot find your spouse to deliver a copy of the Petition (**FL-101**) and Original Notice (**FL-104**).

*Includes a specific set of instructions

  - ***Important:*** You must closely follow the specific instructions for **FL-108** to publish the Notice by Publication in the newspaper.

B. What to Do if Your Spouse Has Filed for Divorce and You Have Received the Divorce Papers

1. Carefully read the papers served on you (a divorce Petition and Original Notice)

- It is very important that you read the papers carefully so you understand what your spouse (the **Petitioner**) is asking for in the Petition. You (the **Respondent**) might also receive other papers (court "orders") that tell you things you must do as part of the divorce process. Examples of these orders are:
  - Setting the date for the pretrial conference,
  - Requiring each spouse to give financial or other information to the other spouse, or
  - Requiring attendance at mediation (in some counties)

2. Get an Answer form, fill it in, and make two photocopies.

- Within 20 days after receiving a copy of the Petition and Original Notice, you must file an Answer to the Petition at the district court clerk's office. You can get the forms you need from the Iowa court system's website at: www.iowacourts.gov/

  - Almost every form comes with a specific set of instructions. You should *carefully read the instructions* for filling in the form. If you still don't understand something after reading the instructions, you should contact an attorney.

  - Respondent should use one of these forms to answer the Petition:

FL-115*	**Answer to Petition for Dissolution of Marriage (Divorce) With No Minor Children** -- Use this to file an Answer if you received Petition form **FL-101** from your spouse (the Petitioner).
FL-116*	**General Answer --** Use this if you received a divorce Petition from your spouse, but it was **not** form **FL-101**.

*Includes a specific set of instructions

  - Decide which form you need. Then do the following:
    - Fill out the form. Print clearly.
    - Sign the form using blue ink (if possible).
    - Make two photocopies of the original.

3. Take your original Answer form and the photocopies to the district court clerk's office in the county where the Petition was filed. (The county is listed at the top of the Petition form.)

- The clerk will time-stamp your forms and copies.
- The clerk will take the original one and give the copies back to you.
- Keep one of the copies for your records.

4. Serve one of the copies of your Answer on your spouse.

- You can hand one of the copies of the Answer form to your spouse (the Petitioner) – OR – mail a copy to your spouse at the address shown on the Petition.
- If your spouse has an attorney, mail a copy to the attorney at the attorney's address on the Petition. You can also take a copy to the attorney's office at the address on the Petition.

C. What You Should Do During the 90-Day Waiting Period for Getting a Final Divorce Decree

1. 90-Day Waiting Period

Under Iowa law, there is a waiting period of 90 days before a judge can sign the final divorce Decree. The 90 days usually begins on the latest of the following dates:

- When the Petition and Original Notice are served on the Respondent by a sheriff our civil process server – OR –
- When you file the Acceptance of Service (**FL-105**) at the district court clerk's office – OR –
- If Petitioner serves notice by publication in a newspaper, the 90-day waiting period begins 20 days after the final (third) date of publication in the newspaper.

In some situations, this 90-day waiting period may be shortened if you file a Motion (**FL-122**) and explain to the court why you think the waiting period should be shortened in your case. Judges will require a very good reason for shortening the waiting period.

Here is a list of forms that either the Petitioner or Respondent can use during the 90-day waiting period to complete the steps necessary to get a final divorce Decree.

FL-122*	**Motion** – Use this to ask the court to do something in your case (optional); see instructions for this form.
FL-123*	**Response to a Motion** -- Use this if your spouse filed a Motion (**FL-122**) and you disagree with something your spouse is asking for in the Motion.
FL-124*	**Financial Affidavit --** Each spouse *must* fill out one of these forms (required).
FL-125	**Affidavit of Mailing Notice** -- Petitioner *must* file this if he or she served Notice by Publication in a newspaper and asks the court for a divorce Decree by default.
FL-126	**Notice of Intent to File a Written Application for Default Decree --** Petitioner uses this form if the Respondent is "in default" --- which means he or she has not filed an Answer to the Petition and Petitioner wants to ask the court to sign a final divorce Decree.
FL-127*	**Request for Relief (Final Decree) in Dissolution of Marriage With No Minor Children** -- Either spouse can use this. Usually the Petitioner uses this if the Respondent has not filed an Answer to the Petition and the Petitioner wants to move forward and ask the court to sign a final divorce Decree.
FL-128*	**Settlement Agreement for Dissolution of Marriage With No Minor Children** -- Use this if both parties agree how to divide property, assets, and debts.

*Includes a specific set of instructions

2. Other things one or both spouses can or *must* do during the 90-day period

- You *must* complete a Financial Affidavit

  During the waiting period, each spouse must fill out, sign, and file a Financial Affidavit form (**FL-124**) at the district court clerk's office. This gives the court information about all your property, the amount of your debts, and your income. You will *not* get a final divorce Decree until you complete the Financial Affidavit.

- If you and your spouse agree how to divide your property, assets and debts, you *must* complete a Settlement Agreement (**FL-128**).
  - Work together to fill it out and sign the form.
  - Make a photocopy for each person.
  - File the original Settlement Agreement form (**FL-128**) with the district court clerk.

- If you served Notice by Publication in a newspaper (step **A.4.b**. on page 4), you *must* do this to get a divorce Decree by default.
  - Fill in and sign an Affidavit of Mailing Notice (**FL-125**).
  - Make two copies.
  - Take the original and both copies to the district court clerk's office.
  - The clerk will time-stamp your form and copies.
  - The clerk will take the original one and give the copies back to you.
  - Keep one of the copies for your records.
  - Mail a copy to your spouse's last known address.

- You may file a Motion for a Temporary Order (Optional).

  You (or your spouse) might need something that requires a temporary order from the court. For example, one of the spouses might request temporary financial support or to pay attorney fees. If so, file a Motion (**FL-122**) with the district court clerk to ask the court for what you want.
  - Make two copies of the Motion.
  - Take the original and both copies to the district court clerk's office.
  - The clerk will time-stamp your form and copies.
  - The clerk will take the original one and give the copies back to you.
  - Keep one of the copies for your records.
  - Deliver a copy to your spouse or your spouse's attorney (by mail or in-person).
  - The court might schedule a hearing on your Motion.

  If your spouse files a Motion (see above) – and you disagree with what your spouse is asking the court to do -- you should fill in and file a Response to the Motion form (**FL-123**). This form allows you to tell the court that you oppose your spouse's Motion. After you fill it in you must:
  - Make two copies of the Motion.
  - Take the original and both copies to the district court clerk's office.
  - The clerk will time-stamp your form and copies.
  - The clerk will take the original one and give the copies back to you.
  - Keep one of the copies for your records.
  - Deliver a copy to your spouse or your spouse's attorney (by mail or in-person).
  - The clerk's office will send you a notice telling you the date and time of the hearing.
  - You must go to the hearing.

- You might have to attend educational or mediation programs. (This varies by judicial district.)

  Many courts have educational programs about mediation. The court might require you to attend a mediation session.

- If you will be changing the title to any real estate as part of your divorce, you should contact an attorney to get advice on how to do this.

.

D. How to Get a Final Divorce Decree

You and your spouse are not divorced until a judge signs a final divorce Decree (called a "Decree of Dissolution of Marriage"). A judge writes the final Decree.

You can get a final divorce Decree by: (1) default, (2) written agreement, or (3) trial.

1. Divorce Decree by Default

A Petitioner can ask the court for a Decree by default if the Respondent did not file an Answer by the deadline. When and how you (the Petitioner) ask the court for a Decree by default depends on how you served notice on your spouse:

a. You served *Notice by Publication in a newspaper* -- and your spouse (the Respondent) did not file an Answer within 20 days after the third (final) date of publication. In this situation, you can ask for a Decree by default by doing the following:

- File a Motion (**FL-122**) to set a hearing date. On the Motion form, check item C.2.d. ("Set a hearing date for a divorce Decree by default"). **Note**: If you want the judge to shorten the 90-day waiting period, you should also check C.2.e. ("Shorten the 90-day waiting period for getting a divorce Decree"), and explain reasons for this request on the lines in item 3.
  - Make two photocopies of this form.
  - Take the original and copies to the clerk of district court's office.
  - The clerk will time-stamp your form and copies.
  - The clerk will take the original one and give the copies back to you.
  - Keep one of the copies for your records.
  - Promptly mail a copy of this form to your spouse's last-known address.

--- **OR** ---

b. You served the Original Notice and a copy of the Petition on your spouse (by mail, in-person, or by process server). Your spouse did not file an Answer within 20 days. The 20-day period starts on:

- The date the Original Notice (**FL-104**) and a copy of the Petition (**FL-101**) were served on the Respondent by the county sheriff or other civil process server. **– OR –**
- The date you filed the Acceptance of Service (**FL-105**) at the district court clerk's office.

If your spouse did not file an Answer within the 20-day period -- you can ask the court for a Decree by default if. Before you can do that, you must first give your spouse 10 days notice in writing that you intend to ask the court for a divorce Decree by default. (Note: This 10-day notice requirement does not apply to the situation in 1.a., above.) To give your spouse 10 days notice, you must:

- Fill in and file **FL-126** (Notice of Intent to File a Written Application for a Default Decree).
  - Make two photocopies of this form.
  - Take the original and copies to the district court clerk's office.
  - The clerk will time-stamp your form and copies.
  - The clerk will take the original one and give the copies back to you.
  - Keep one of the copies for your records.
  - Promptly deliver a copy of the form to your spouse (by mail or in-person).

After you file and serve **FL-126**, wait 10 days – plus 3 more days for mailing. If your spouse does not file an Answer within **13 days**, you can ask the court for a divorce Decree by default. To do this, you should:

- Fill in a Motion (**FL-122**) to set a hearing date. On the Motion form, check item C.2.d. ("Set a hearing date for a divorce Decree by default"). **Note**: If you want the judge to shorten the 90-day waiting period, you should also check C.2.e. ("Shorten the 90-day waiting period for getting a divorce Decree"), and explain reasons for this request on the lines in item 3.

- Make two photocopies of the form.
- Take the original and copies to the district court clerk's office.
- The clerk will time-stamp your form and copies.
- The clerk will take the original one and give the copies back to you.
- Keep one of the copies for your records.
- Promptly deliver a copy of the form to your spouse (by mail or in-person).

- The district court clerk will let you know the date, time, and location of the hearing.

For <u>all Petitioners</u> who ask the court for a divorce decree by default:

- Before you go to the hearing:
  - Fill in a "Request for Relief" (**FL-127**). This form tells the judge you want a final divorce Decree and what you want in the Decree.
    - Make two photocopies of the original form.
    - Take the papers to the district court clerk's office.
    - The clerk will time-stamp your form and copies.
    - The clerk will take the original one and give the copies back to you.
    - Keep one of the copies for your records.
    - Deliver one copy to your spouse.
      - Petitioners in **1.a.** (above) – mail a copy to your spouse's last-known mailing address.
      - Petitioners in **1.b** (above) –deliver a copy to your spouse by mail or in-person.
    - Bring the original form and your photocopy with you to the hearing.
  - Read part **G.** in this Guide: *Tips on Handling Your Own Case in Iowa's Court.*
  - On the date of your hearing, go to the courthouse early and ask the district court clerk if the file for your case has been delivered to the judge.

- At the hearing:
  - Be on time. Follow the advice in part **G.**: *Tips on Handling Your Own Case in Iowa's Courts.*
  - Give the judge the original copy of your "Request for Relief" (**FL-127**) – and –
  - Respectfully ask the court to decide that your spouse is "in default."

- After the hearing*:*
  - If the judge determines that your case is ready for a Decree, the judge will fill out a final Decree and file it at the district court clerk's office. The district court clerk will either give you a copy or mail a copy to you.

2. Divorce Decree by Written Agreement

If you and your spouse agree on how to divide your property and debts, you can work together to fill in a Settlement Agreement form (**FL-128**). After you complete the form, you should:

- Make two photocopies of the original (one copy for each spouse).
- Take the original Settlement Agreement (the one with your original signatures) to the district court clerk's office.
- Ask the district court clerk when a judge can meet with you about your Settlement Agreement. Because most courts have very busy schedules, it might be one week (or more) before you can meet with a judge. The clerk will tell you or mail you a notice with the date and time when you can meet with the judge.

Note about the 90-day waiting period: You might complete the steps for getting a divorce Decree by written agreement before the 90-day waiting period is up. If you want to shorten the 90-day waiting period, you must ask the court to do so. When you take your Settlement Agreement form (**FL-128**) to the district court clerk's office, you should also take a Motion

form (**FL-122**). Fill in the Motion form; check C.2.e. ("Shorten the 90-day waiting period for getting a divorce Decree"), and explain reasons for this request on the lines in item 3.
    - Make two copies of the Motion form (one for each spouse)
    - Take them to the district court clerk's office.
    - The clerk will time-stamp your form and copies.
    - The clerk will take the original one and give the copies back to you.
    - Keep one of the copies for your records.

- Before you see the judge:
  - Ask the clerk if the judge has your case file.
  - Read part **G.**: *Tips on Handling Your Own Case in Iowa's Courts.*

- When you see the judge*:*
  - Be on time. Follow the advice in part **G.**: *Tips on Handling Your Own Case in Iowa's Courts.*
  - Bring (1) a completed Financial Affidavit (**FL-124**)(it should already be in the court file) – and (2) the original Settlement Agreement **FL-128** signed by you and your spouse. (Note: If you filed a Motion (**FL-122**) to shorten the 90-day waiting period, bring it with you.)
  - The judge will probably ask you some questions about your Settlement Agreement.

- After you see the judge:
  - If the judge decides your case is ready for a Decree, the judge will fill out a final Decree and file it at the district court clerk's office. The district court clerk will either give you a copy or mail a copy to you.

3. Divorce Decree after Trial

If your spouse and you do not agree on how to settle your divorce, ask the district court clerk how you can have your case scheduled for trial. Follow the district court clerk's instructions

- Before you go to court for the trial*:*
  - Read part **G.**: Tips *on Handling Your Own Case in Iowa's Courts.*
  - Prepare to tell the judge what you want*.*
  - Each spouse should complete a separate "Request for Relief" form (**FL-127**).

- When you appear before the judge at trial:
  - Be on time. Follow the advice in part **G.**: *Tips on Handling Your Own Case in Iowa's Courts*
  - Bring copies of:
    - The "Request for Relief" form (**FL-127**). (Each spouse should have completed his or her own form.)
    - The "Financial Affidavit" form (**FL-124**).
    - Any other forms and papers you and your spouse filed with the district court clerk.
  - The judge will ask the Petitioner and Respondent questions about the issues you disagree about. The judge will make a final decision on how to divide your property and debts.

- After the hearing:
  - The judge will fill out and sign a final Decree and deliver it to the district court clerk's office. The district court clerk will either give you a copy or mail a copy to you.

E. Things You Might Have to Do After a Judge Signs the Divorce Decree

Some important things might not automatically happen after the judge signs the final divorce Decree. You must take steps to make some things happen. For example:

- You may want to close any credit cards and joint bank accounts that are in the names of both spouses. Creditors often try to collect debts from anyone whose name was on the account, even if the divorce Decree orders one person to pay the debt.

- If the divorce Decree gives you or your spouse part of the other person's retirement account or pension, a separate order must be entered. It's called a Qualified Domestic Relations Order (QDRO). Ask an attorney for help with a QDRO, so it is done correctly.

- If you will be changing the title to real estate – you should talk to an attorney. This is a complicated and very important step in the divorce process. You want to be sure to do this correctly.

F. Terms Used in the Divorce Process

Acceptance of Service: **FL-105** This is a paper the Respondent can sign to acknowledge (admit) that he or she has received a copy of the divorce Petition and Original Notice from the Petitioner. Signing this paper does not mean the Respondent agrees to the divorce or anything else that is in the Petition. (Note: the county sheriff or other civil process server does not need to serve divorce Petition and Original Notice if the Respondent signs this Acceptance of Service.)

Alimony: This is the same as spousal support. (Courts rarely award alimony.)

Answer: **FL-115** or **FL-116** The Respondent uses this paper to respond to what the Petitioner – the Respondent's spouse – asks for in the Petition.

Application and Affidavit to Defer Payment of Costs: **FL-109** This is a paper that asks the court for an order to allow you to file the Petition with the district court clerk without paying the filing fee at that time. You might be required to pay the fee later.

Cover Sheet: **FL-102** is a form that identifies the type of lawsuit being filed (dissolution of marriage). It must be completed and filed with the Petition (see below).

Community property: Property that belongs to both the wife and the husband, not just to one of them.

Confidential Information Form: **FL-103**. This is information required by Iowa law. It is not a public record.

Decree of Dissolution of Marriage: A paper signed by the judge that ends your marriage. It will require you and your spouse to do certain things, including dividing your property and debts in a certain way. By getting together with your spouse and filling out a Settlement Agreement (**FL-128**), you can tell the judge what you both want the final Decree to say. If you and your spouse do not agree how to settle your divorce, you can tell the judge what you want the final Decree to say by filling out a Request for Relief (**FL-127**). But the judge will always make the final decision on what the divorce Decree will say.

Default: A ruling by the court that your spouse (or you) did not do something that was required during the divorce process. For example, the judge could enter a default judgment if the respondent did not file an Answer after receiving an Original Notice. Once the court enters a judgment of default, the court may then issue other orders, including an order of divorce (or dissolution of marriage). See forms **FL-126** and **FL-127**, which can be used to get a "Decree by Default" (see p. 8 of this Guide).

Directions for Service of Original Notice: **FL-106** A paper which gives information to the county sheriff or

other civil process server on how and where to serve the Petition on the Respondent.

Discovery: You and your spouse give each other information (usually in writing) which explains the facts of your marriage, property, income, and debts. You may have to answer questions or provide papers.

Encumbrance: This is a general term for a charge against real estate and may include liens, mortgages and other charges -- such as special tax assessments -- against real estate.

Equity: This term means fairness and justice. "Equity cases" usually include family law cases (divorce, child custody and support) and real property issues, where a court must fairly divide property and responsibilities among the parties.

Fair Market Value: This is the price you are likely to get for something when you offer it for sale to the public in an open market.

Fees: Money you must pay to the district court clerk when you file your Petition and at other times. (*NOTE: The fees listed below are set by the state legislature, which sometimes changes the fees*.)

1. **Court fees** are paid to the district court clerk in the county where the case is filed.
   a) Filing fee -- to start a divorce case ($185) – Iowa Code 602.8105(1)(a)
   b) Final Decree fee – at the end of the divorce case ($50) – Iowa Code 602.8105(1)(d)
   c) Court reporting fee for each hearing in court ($40) – Iowa Code 625.8(2)
   d) Certification of change of real estate title ($50) – Iowa Code 602.8105(2)(d)

   Note on payment of court fees: At the end of your divorce the court can determine, or the parties can agree, who will pay the fees. This would include the filing fee, court fees, service fees and costs of things such as a subpoena or a deposition.

2. **Service fees:** Money you must pay to a process server, such as the county sheriff, to serve your spouse with an Original Notice. (The amount varies by county.)

3. **Recording fee:** The County Recorder charges a fee to enter your change of title of real estate title – if your divorce includes a change of real estate title.

File: This word has two meanings:

- It is the act of giving something in writing to the district court clerk. The clerk will stamp the date and time that a filed document was received by the district court clerk.
- It also means the folder(s) in which the district court clerk places the documents for a court case.

Financial Affidavit: **FL-124** provides information to the court about you and your spouse's property, debts, income, and expenses. This form is available from the Iowa judicial branch website at:
www.iowacourts.gov/

Gross Monthly Income: This is the total of your income before subtracting for anything else, such as taxes, retirement account contributions, health insurance, etc.

Guardian Ad Litem: A person, usually an attorney, appointed to look out for the interests of someone in a lawsuit. For example, a guardian ad litem might be appointed for a child or someone who is in prison.

Joint ownership: Property being owned by more than one person.

Lien: This is a charge on specific property to cover a debt or obligation.

Local Rules: Some courts have local rules which must be considered while processing your case. You can find these local rules, if any, on the Iowa courts' website at: www.iowacourts.gov/

[When you get to this page, click on the judicial district where your case is filed – for example: "District 5" on the left side of the page – then click on the "Local Rules" link (if there is one) at the top of the page.]

Mortgage: This is a charge on real estate for a debt owed. Both the mortgage and the debt are written papers and the mortgage has been filed with the County Recorder.

Motion: **FL-122** is a paper in which one of the parties asks the court to order something to be done while a case is going on. For example, a party might ask for temporary alimony or to schedule a hearing.

Net Monthly Income: This is the amount of income which you have available to spend after the deductions from your gross monthly income. Your net monthly income might be the net amount of your paycheck.

Net Value: This is the amount of money something is worth after subtracting all liens, encumbrances, and mortgages from the fair market value. For example, if your car is worth $5,000 and there is a lien of $4,000 against it, then the net value is $1,000.

Order: A paper signed by the judge telling a party or both parties to do something.

Original Notice: **FL-104** A paper prepared by the Petitioner and signed by the district court clerk. The Petitioner serves this paper on his or her spouse (the Respondent) along with the Petition. This tells the respondent that his or her spouse has filed a lawsuit for dissolution of marriage (divorce). See Instructions for Original Notice **FL-104**.

Party: This refers to a person or business in a court case. In a divorce case, the two spouses (husband and wife) are the "parties" in the lawsuit.

Petition / Petitioner: See form **FL-101**. The Petition -- a paper filed by a **Petitioner** -- is the first paper filed in court to start a new court case. It gives the court information about the parties involved in the case, and it tells the court what the Petitioner wants the court to do. In a divorce (dissolution of marriage), the Petitioner asks the court to end his or her marriage. See the instructions for form **FL-101**.

Petitioner: The person who files the Petition to start a family law or other civil case in court.

Pro se (pronounced "pro say")**:** This is a Latin term, which means "for or on behalf of oneself." It is sometimes used to describe a person who handles his or her own court case with little or no assistance from an attorney (a *pro se* party). A *pro se* party is sometimes called a *self-represented* party.

Process Server: This is a person, other than you, who personally delivers a paper to your spouse. Often this process server is the county sheriff, but it may be another person who delivers legal papers. See "Service" (below).

Property: There are two types of property: personal property and real property.

1. **Personal property:** Personal property is all property that is not real property. Personal property could include clothes, cars, boats, money, household contents, pension rights, jewelry, bank accounts, and many other types of things.

2. **Real property:** Real property is any right to real estate (land and buildings on the land). It could include all types of ownership and all types of rights to occupy the property, such as a lease.

Report of Dissolution of Marriage or Annulment: A form that gives information about your divorce to the Iowa Department of Public Health. It is available from the district court clerk, and the district court clerk must sign it. You should fill it out and return it to the district court clerk before a judge signs your divorce Decree. Attorneys call this a "Statistical Abstract Form."

Respondent: The person who receives the Petition for Dissolution of Marriage (from that person's spouse, who is the Petitioner).

Return of Service: In this paper, the county sheriff or civil process server tells the court that the Respondent has received a copy of the Petition and the Original Notice, or some other paper.

Self-represented party: This refers to a person who handles his or her own court case with little or no assistance from an attorney. A self-represented party is sometimes called a *pro se* (pronounced "pro say") party. "Pro se" is a Latin term, which means "for or on behalf of oneself."

Serve (Service): To give your spouse a copy of a paper, like the Petition and Original Notice. Some papers must be given in-person and some papers can be sent by mail.

- **Personal Service:** This is where a paper (legal document) is delivered to a party in a court case by a sheriff or other civil process server. See forms **FL-105** (Acceptance of Service) and **FL-106** (Directions for Service).

- **Mailed Service:** This is where a paper (legal document) is delivered through the mail to a party in a court case to that party's last known address.

Settlement Agreement: A paper with the final agreement between you and your spouse on how to settle your divorce. It is filed with the district court clerk and then given to the judge. The Settlement Agreement (**FL-128**) will include the details of your dissolution of marriage (divorce), if the judge agrees.

Spousal support: See alimony.

Statistical Abstract Report: (See "Report of Dissolution of Marriage or Annulment," above.)

Subpoena: A paper ordering a person to appear in court and give testimony. The court may impose a penalty on a person who fails to obey a subpoena without a good reason,

G. Tips on Handling Your Own Case in Iowa's Courts

1. Judges and court staff cannot give you legal advice.

- They cannot tell you whether you should file a case, what you should put in your papers, or what you should say or ask in court. Why? Because:
  - Judges and court staff must not take sides in any case. It would be unfair for judges or court staff to give one person an advantage over another person in a court case.
  - If court staff gives you advice and it turns out to be wrong, you could lose your case.

2. Court staff cannot:

- Tell you what you *should* do about anything involving your court case. They *cannot* tell you;
  - Whether you should file a specific paper.
  - What words or phrases you should use in a paper.
  - What persons you should file a lawsuit against.
  - How much money to ask the other party for.
  - What questions to ask witnesses or other parties.
  - Whether to appeal a judge's decision.
  - How to fill in a form for a person involved in a case. [**Exception**: If a person has a physical disability or cannot read or write, and the person explains the disability to a clerk, then the clerk may fill in the form. However, the clerk must write down *only* the exact words provided by the person who requested help.]
- Tell you the meaning of laws or court decisions.
- Perform legal research for a person involved in a court case.
- Predict the outcome of a case, a paper filed, or some other action in a case.

3. Court staff can:

- Provide public information contained in: dockets, calendars, case files, indexes, and reports.
- Show or tell where to find laws or rules.
- Identify approved court forms that might meet the needs of a person who doesn't have an attorney.
- Answer questions about where to write in particular types of information on court forms -- but not *what* words to use when filling in the forms.
- Define terms commonly used in court.
- Provide phone numbers for lawyer referral services.

4. You cannot talk to the judge unless all parties and attorneys are present.

- You cannot communicate with the judge about your case by email or regular mail – unless you send copies of your email or regular mail to the other people involved in your case.
- You cannot talk with the judge about your case by telephone or in-person unless all other parties are on the phone at the same time or in the same room together.
- This rule is important because it prevents a person or an attorney from giving information to a judge that the other side does not know about. This would be unfair to the other side.
- If you want to give the judge information you think is important for your case – or you want the judge to take some action related to a case – you must:
  - Put the request in writing. (See approved Iowa court forms for examples of how to do this.)
  - Make enough copies for you and all the other parties.
  - Take the papers to the district court clerk's office. The clerk will stamp each copy and keep one.
  - Deliver a copy to each of the other parties or their attorneys. Keep a copy for yourself.

5. Be prepared

- Keep copies of all the papers you file in court and the ones you get from the other party.
- Know what evidence you need to prove your case. If possible, ask an attorney what you need to do before you go to court and what to do at the court hearing.
- Bring papers and witnesses that will help you win your case.

- Bring at least three copies of each document you want to use as evidence — one for you, one for the other party, and one for the judge.

- If a witness refuses to come to court to testify, you can ask the court to issue a *subpoena* (pronounced "suh - peena"). It's an order requiring a person to come to court. Be sure to ask the clerk's office for a subpoena several days before your court hearing.
- Bring physical evidence, if there is any. This might include a canceled check, contract, or invoice. If your case involves damaged property, bring the damaged item or a photograph of it.

6. Be on time

- If you are not in court when your case is called, and the other party is present, the judge might enter a judgment against you.
- If neither party is on time, your case might be skipped. You might have to wait until the very end of the court session that day before your case is called again. Or you might even have to come back on another day -- possibly a few weeks later.

7. Know and follow court rules

- Judges cannot make exceptions for people without attorneys. You could lose your case if you do not follow the correct procedures.
- When you file a paper at the district court clerk's office, you must mail or deliver a copy of that paper to the other party (or parties) or the other party's attorney. Always keep a copy for your records.

8. Be courteous and respectful

- Make a good impression on the judge. A judge can hold a person "in contempt of court" for bad behavior. This could result in a fine or time in jail.
- Wait for your turn to speak. Do not interrupt the judge or the other party. If you interrupt others in court, the judge will stop you and instruct you to wait your turn.
- *Turn off your cell phone.*

9. Dress appropriately

- You should wear a suit or sport coat, if you have one. Otherwise, wear nice, clean casual clothes and shoes. Remove your hat or cap while you are in the courtroom or in the judge's office.

10. Speak loudly and clearly so everyone in the courtroom can hear you.

- Judges and the other parties in court need to hear the facts correctly. The judge needs to hear you clearly so that he or she can make a correct decision.

11. If you can't attend a court hearing – or can't be on time – you must inform the court.

- You must have a *very good reason* to reschedule any court hearing.
- To reschedule a hearing at the *last minute*, there must be an emergency.
    - You should immediately call the district court clerk's office where your hearing is scheduled.
    - Calmly explain your problem, and ask to reschedule the hearing or trial. Court staff will write down the request and contact the judge. The judge will decide whether your reason for changing the hearing or trial date is serious enough to grant your request.
    - Give the clerk your phone number where you can be contacted that day.
- If something very important comes up *two or more days before the hearing* – like a death in the family or an accident that puts you in the hospital – you must submit your request for a new hearing date or time in writing and file it with the district court clerk. In a divorce case without minor children, use the family law Motion form (**FL-122**) to ask the court for a new hearing date.
    - Do this as soon as you know you need to reschedule the hearing.
    - After you file the Motion at the clerk's office, deliver a copy of your request to the other party.
    - It's more likely a judge will agree to your request if you get the other party to sign a written agreement to change the hearing time or date – and include it with your Motion for a new hearing date.
    - The clerk will give your request to a judge. Because judges are busy, you probably won't get an answer right away.

- **NOTE:** If you do not show up for the trial at the time it is scheduled -- and the other party does show up -- the judge may enter a judgment in favor of the other party.