

The

# **ULTIMATE GUIDE**

to

## **Do-It-Yourself Divorce**

Legal knowledge to maximize your chances of success.

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# A DYI divorce is a lifesaver for some.

“DYI” is not an option for everyone. A DYI divorce is possible when the following conditions are met:

## 1. Living Arrangements

- You and your spouse have not lived together in the same home for at least 1 year, and
- You have not had “marital relations”, any kind of sex, with your spouse for at least 1 year before filing (the same time period that you were living separate and apart).



## 2. Debts

- Neither you or your spouse have marital debts that the court must divide.

## 3. Property

- Neither you or your spouse have marital property that the court must divide.

## 4. Children

- You don't have any children under the age of 18 or 19 and still in high school, and you are not expecting any additional children.

## 5. Location

- Both you and your spouse have lived in South Carolina for at least 3 months, or
- You have lived in South Carolina for at least 1 year.

We'll cover what to do and more if you qualify for a DYI divorce and point you in the right direction.

*Ready to get your feet wet? Let's go!*

# ebook Outline



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## **Legal Disclaimer**

This ebook is very general in nature and does not constitute legal advice. There is no attorney-client relationship between you and the author, or Klok law Firm LLC. You are strongly encouraged to seek the advice of an attorney before filing any legal matter. Divorce is complicated and should not be done without an attorney. The information in this ebook is subject to change so make sure you follow the links provided to make sure you have the most up-to-date information.

# Chapter One: The Process

Complete the following documents for filing: [Family Court Coversheet](#), [Certificate of Exemption](#), [Summons for Divorce](#), [Complaint for Divorce](#), and your [Financial Declaration](#).

## Part 1. Fees and Costs

*a. Filing Fees:* When you file the initial divorce papers, you will need to pay the Clerk of Court \$150 for the filing fee. You are not allowed to pay by personal check or credit card. Bring cash, a cashier's check, or money order for the filing fee.

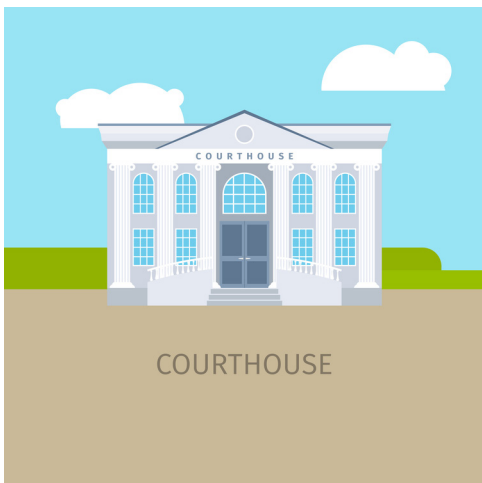


*b. Service of Process Fees:* Once you have filed and received file stamped copies of your documents, you will need to serve the defendant either through mail, personally or by commercial delivery service. This can cost from \$5.00 up to \$125.00, depending on the situation.

*c. Miscellaneous Costs:* In addition to service of process and filing fees, you will need to pay for photocopies and mailing expenses.

## Part 2. Where to File

There are several counties in South Carolina, and you must file in the county where:



1. you and your spouse last shared a residence, OR
2. your spouse lives at the time of filing, OR
3. you live, if your spouse is not a resident of South Carolina.

If you are not a resident of South Carolina, you must file in the county where your spouse lives at the time of filing.

***Pro Tip: Use the instructions provided by the SC Supreme Court to fill out your documents.***

The South Carolina Supreme Court provides detailed [Instructions For Completing the Self-Represented Litigant Simple Divorce Packet](#).

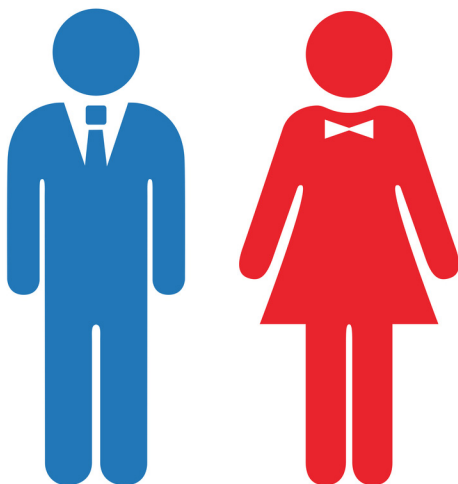
## Part 3. Service of Process

After you have filed the initial documents with the Clerk of Court, you must serve these documents on the defendant. Serving the documents means delivering the documents to the defendant in the manner required by state law. In South Carolina, this can be done in different ways. You only have to serve the documents one of the ways allowed.

*a. U.S. Mail:* You may serve the documents by mailing these through the United States Post Office “by registered or certified mail, return receipt requested and delivery restricted to the addressee.” The date the documents were delivered as shown by the date on the return receipt determines the date the defendant was served, not the date you mailed the documents. See [SCRPC Rule 4\(d\)\(8\)](#).



If you receive the green card back (return receipt) and it is signed by your spouse then the date your spouse signed it is the date they were served. Write on the top of the green card “Summons and Complaint” and make a copy. You will then need to fill out the [Affidavit of Service by Mailing](#) in front of a notary, attach the green card and file it with the court.



*b. Acceptance of Personal Service:* You do not have to serve your spouse if they are willing to accept service. If they agree, your spouse will need to fill out the [Acceptance of Service](#) form, and when complete you will take the original and file it in family court. See [SCRPC Rule 4\(j\)](#).

***Pro Tip: Don't don't sign affidavits until you are in front of notary.***

Affidavits need to be witnessed and notarized. A notary will not notarize the document unless you are in front of the notary when you sign it.



c. *Sheriff's Office:* The Sheriff or his deputy may serve the defendant with your legal papers. Ask the Sheriff's office to complete the Affidavit of Service form before a notary and return the original to you for filing. The Sheriff's office should have this form. There is usually a minimal cost for the Sheriff, or his deputy to serve your documents. See [SCRCP 4\(c\)](#).

d. *Personal Service Processor:* Anyone 18 years old and older may serve the summons and complaint on the defendant as long as the person is not an attorney in your case or a party to the action. See [SCRCP 4\(c\)](#). There are many companies who offer service of process for legal matters. Search on the internet for ones located near your spouse. Also, ask them to send you a completed Affidavit of Service form signed before a notary and return it to you for filing. You must have the original to file with the court.



e. *Commercial Delivery Service:* You can use a private commercial delivery service like FedEx, UPS, or DHL to serve your legal documents on your spouse. See [SCRCP 4\(d\)\(9\)](#). The commercial delivery services must be on the [IRS' approved list](#). Once you receive the delivery record you must file an affidavit stating that the documents were served and attach the delivery record. If your spouse does not sign the receipt, refuses delivery or it is returned as undeliverable, you will need to try another method.



## Part 4. The Final Hearing

Once you have served your spouse you need to calendar the date they are required to answer. Your spouse has 35 days to answer your complaint if served by mail. Note: If you do receive an Answer from your spouse, you will need to fill out and file an [Affidavit of Default](#) and [Request for Hearing](#) (you have already filed the [Affidavit of Service by Mailing](#)).



If your spouse does not agree with everything in your complaint and you have received their Answer, then your divorce is contested. When your divorce is contested, you need to hire an attorney to help you.



If your spouse responds with an Answer agreeing with your complaint within the 35 days, then you are good to go. Complete and file a Request for Hearing with the family court.

***Pro Tip: Don't miscalculate your deadlines.***

One easy way to calculate due dates is to use an online [Date Calculator](#).

Once your hearing is scheduled, the family court will send you the Notice of Hearing so that you know the hearing date. You must provide a copy to your spouse, or their attorney, at least 10 days before the hearing. You must send the Notice of Hearing by certified mail, return receipt requested.

Next, you need to complete the [Affidavit of Service by Mailing](#) before a notary to show that you have served the Notice of Hearing on your spouse or your spouse's attorney. You will then file this with the family court.

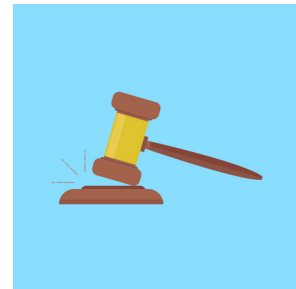
If your mailing is returned, take the returned mailing with you to the hearing. You just have to show that it was mailed, not that your spouse or spouse's attorney received it.



Now, you need to get ready to go to court for your hearing.

- You will need to fill out the [Final Order of Divorce, Form 4F](#), and the [Report of Divorce](#) before you go to court. Make two copies.
- Arrive at the family court 30 minutes before your hearing time.
- Dress appropriately: suits, jackets, dresses or dress slacks. Do not wear hats or casual clothing.
- Children are not allowed in the courtroom. Make sure you arrange childcare, if needed.
- Turn off your cell phone and to be safe, it is best to leave your cell phone in your car.
- Bring your witness who will testify that he or she has personal knowledge that you and your spouse have lived separate and apart for 1 year and have not reconciled.

When it is time for your hearing to start, the Bailiff will call your name. Check in with the Bailiff and then go into the courtroom and sit at one of the tables. Wait for the judge to speak to you. After the judge states he or she is ready to begin stand up and say “May it please the Court, my name is \_\_\_\_\_, and I am ready to proceed in this divorce action.”



The judge will instruct you on what to do next. Generally, you will take the witness stand and take an oath to tell the truth. Tell the judge everything you stated in your complaint. See the [Sample Script for Plaintiff's Testimony](#) so you know what to say in court. The judge may ask you questions so listen carefully and answer. Do not interrupt.

Next, you will call your witness to the stand. The judge will swear in your witness. You will ask your witness questions to show that you and your spouse have been living separate and apart for 1 year and have not reconciled. See [Sample Script for Questioning the Witness in a Simple Divorce Action](#).

If the judge grants your divorce, ask permission to approach to hand the judge one copy of the completed [Final Order of Divorce](#), [Report of Divorce](#), and [Form 4F](#). The judge will then sign the Final Order of Divorce and Form 4F.



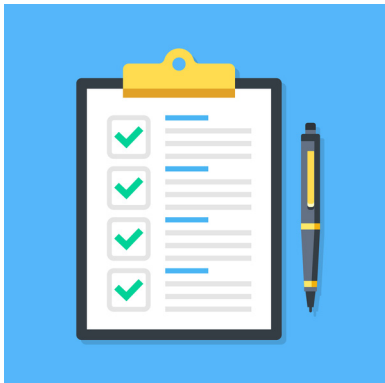
## Part 5. Final Order

Take the signed Final Order of Divorce and the Form 4-F along with your copies and the Report of Divorce to the Clerk of Court for filing immediately after leaving the courtroom. The Clerk of Court will file the originals and give you certified copies, if you ask for them. Your divorce is not final until the signed papers are filed with the Clerk of Court.

Congratulations! You are now divorced!

## Chapter Two: Plaintiff's Checklist

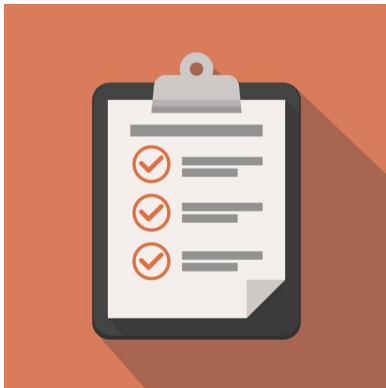
- Complete the following documents for filing: [Family Court Coversheet](#), [Certificate of Exemption](#), [Summons for Divorce](#), [Complaint for Divorce](#), and your [Financial Declaration](#).
- File the documents.
- Serve the documents on your spouse or spouse's attorney
- Schedule the date your spouse must answer (35 days from the day your spouse was served).
- File your [Affidavit of Service by Mailing](#).



- If your spouse does not Answer, file [Affidavit of Default](#) and [Request for Hearing](#).
  - If your spouse does Answer and agrees with everything in your complaint, then file a [Request for Hearing](#).
  - If your spouse does Answer and does not agree with everything in your complaint, you need to hire a lawyer because your divorce is contested.
- When you receive the Notice of Hearing, mail a copy to your spouse or their attorney. Complete the [Affidavit of Service by Mailing](#) and file.
  - Complete the [Final Order of Divorce](#), [Form 4F](#), and the [Report of Divorce](#) and make two copies and determine who your witness will be.
  - Arrive 30 minutes early to your hearing with your witness. Leave your cell phone in your car.
  - Testify at the hearing.
  - If your spouse attends, they will also testify. You will have the opportunity to ask questions.

- At the end of the hearing, the judge will sign the [Final Order of Divorce](#) and [Form 4F](#) if the judge grants your divorce.
- Bring the [Report of Divorce](#) as well as the signed [Final Order of Divorce](#) and [Form 4F](#) to the Clerk of Court for filing. Provide the Clerk with your copies so that you can get certified copies.

## Chapter Three: Defendant's Checklist



- After you are served with the [Summons for Divorce](#) and [Complaint for Divorce](#), complete your [Answer](#) and [Financial Declaration](#).
- File the completed [Answer](#) and [Financial Declaration](#) with the Clerk of Court within 30 days of service.
- Mail a file stamped copy of your [Answer](#) and [Financial Declaration](#) to your spouse or spouse's attorney.
- Your spouse or their attorney will mail a Notice of Hearing to you. This document tells you the time and date of your hearing.
- Arrive 30 minutes early, dress appropriately and leave your cell phone in your car.
- Your spouse will testify, then his or her witness. You will have the opportunity to ask questions of your spouse and the witness.
- If the judge grants the divorce, the judge will sign the Final Order for Divorce and you will receive a copy.
- Make sure the signed Final Order for Divorce is filed with the Clerk of Court and you receive a certified copy.

## Chapter Four: Important Terms

- [Affidavit](#) is a written statement or declaration confirmed by oath before a notary.
- Answer is the document filed by the defendant in a legal action responding to the facts and relief requested by the plaintiff in a complaint.



- [Complaint](#) is the first document filed by the plaintiff in a legal action stating facts and what the plaintiff wants.
- [Defendant](#) is the person defending or denying what the plaintiff says in the complaint.
- Filing fees are the fees that the court requires for you to pay in order to file a case.
- [Final Hearing](#) is the hearing that will settle the case.
- [Marital](#) describes things related to marriage.
- [Plaintiff](#) is the person who files the complaint.
- [Service of Process](#) is “...the terms for the delivery of a summons...” and complaint of a lawsuit.

## Chapter Five: Additional Resources

### Don't Stop Here!

We've got links to information to help you maximize your chances of success.

Here's a list of some things that might help you:

- [South Carolina Judicial Department Self-Represented Litigant Simple Divorce Packets](#)
- [Law Help.org/SC - Marriage, Divorce, Separation, Annulment](#)
- [South Carolina Legal Services](#)

#### Contact Klok Law Firm LLC

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