

# **Guide to Answering a Divorce**

## **When You Have Kids**



**TWENTY-FIRST JUDICIAL CIRCUIT: Kankakee County**  
**First Edition, 2017**

## TO THE RESPONDENT:

You are using this guide because you and your spouse agree how to share responsibility for your children. **If you and your spouse cannot work out an agreement on these issues, you should get advice from a lawyer.** These guides cannot help with cases where spouses disagree about children.

This guide does not give legal advice. Only a lawyer licensed to practice in Illinois can do that. This guide also does not create a lawyer-client relationship or promise confidentiality.

**This guide cannot address everything you will need to know during your divorce, but it can help you get started and know what to expect.**

**Welcome to the Kankakee Courthouse!**

# CONTENTS

---

<b>What is Dissolution of Marriage?</b>	. . . . .	<b>1</b>
---	-----------	----------

---

<b>What Options Do I Have?</b>	. . . . .	<b>1</b>
--------------------------------	-----------	----------

---

<b>What If I Can't Afford the Filing Fee?</b>	. . . . .	<b>2</b>
---	-----------	----------

---

<b>Where Do I Get the Forms?</b>	. . . . .	<b>2</b>
----------------------------------	-----------	----------

---

<b>How Do I Respond?</b>	. . . . .	<b>3</b>
<b>1. Figure Out the Response Time Period</b>	. . . . .	<b>3</b>
<b>2. Fill Out an Entry of Appearance</b>	. . . . .	<b>4</b>
<i>SAMPLE: Appearance Form</i>	. . . . .	<b>4</b>
<b>3. Answer the Petition</b>	. . . . .	<b>5</b>
<b>4. Finding the Appearance and Answer Forms on ILAO</b>	. . . . .	<b>5</b>
<b>5. Print and Sign the Forms</b>	. . . . .	<b>6</b>
<b>6. Filing the Answer and Appearance and Delivering a Copy to Your Spouse</b>		<b>6</b>

---

<b>What Happens Next?</b>	. . . . .	<b>8</b>
---------------------------	-----------	----------

---

<b>Final Judgment Order</b>	. . . . .	<b>8</b>
-----------------------------	-----------	----------

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# What Is Dissolution of Marriage?

A **dissolution of marriage** is the same thing as a divorce. **Petitioning for dissolution** starts a divorce lawsuit. The marriage is officially ended when a judge signs the divorce **order** (also called the **final judgment** or **decree**).

## Who Is Involved?

The **petitioner** starts a divorce. The **respondent** is the other person. Together, the petitioner and respondent are the **parties** to the lawsuit.

## How Does The Divorce Process Start?

The petitioner starts a divorce by filing a **Petition for Dissolution** at the courthouse. A copy of the **Petition** and a **Summons** are delivered to the respondent by a sheriff or other authorized person. This is called **service of process**, or just **service** for short.

All **issues** must be resolved before the marriage is over. For example, the parties may not agree how property should be divided or how their children should be cared for. These issues are part of the case that the judge hears.

## What are the Summons and Petition For?

The Summons has two purposes: (1) to tell the respondent that a divorce case has begun, and (2) to call the respondent to appear in court. The petition lists all the issues that need to be discussed and how the petitioner hopes the issues will be decided.

## What Do I Do?

As the respondent, you have the right to respond to (or **answer**) the Petition for Dissolution. You do not have to, but not answering means you give up the right to tell the court what you want.

## When Will the Divorce Be Over?

The divorce process will be over when the judge has entered a **final judgment order**. Some divorces take just a few months. Others can take more than a year. The amount of time depends on the facts of your case and how many issues there are.

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# What Options Do I Have?

Respondents can either answer the Summons and Petition, or choose to do nothing. **However, if the respondent ignores the Petition or replies too late, he or she risks losing the right to become involved in the case.** The petitioner can then ask for a **default judgment** against the respondent. This means that the final outcome of the case is in favor of the petitioner.

Answering the Petition and Summons allows respondents to defend their legal rights.

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## What If I Can't Afford the Filing Fee?

Filing documents with the court costs money. In 2016, filing an answer to dissolution cost \$156.00. If you cannot afford the filing fee, you can ask the court to **waive** your fee. You would file a **request for a fee waiver**, also called an **Application to Sue as Indigent Person**. You can get this form at the circuit clerk's office.

After you fill out the waiver form and leave it with the circuit clerk, a judge reads it and decides whether to grant it. This may take a few days. The circuit clerk will call you to tell you whether your waiver has been granted or not.

If it is granted, you can return to the circuit clerk's office to finish filing and delivering your answer. You will keep the waiver throughout your divorce. Every time you come to the courthouse to file papers, you show it to the clerks and they will not charge you a filing fee. If it is not granted, you will have to pay the filing fee.

You can ask the court to waive your fees either **before** you file your answer or **at the same time** you file your answer. It is recommended to do it before filing.

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## Where Do I Get the Forms?

You can find forms on Illinois Legal Aid Online (ILAO). ILAO was designed to help people representing themselves in court without a lawyer.

**Note:** The Illinois Supreme Court's website and the Kankakee Circuit Clerk's office also offer some divorce forms. Circuit clerks cannot give legal advice, so you have to know the name of the form you need ahead of time.

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## How Do I Respond?

1. **Figure Out the Response Time Period**
2. **Enter an Appearance**
3. **Answer the Petition**
4. **Finding the Appearance and Answer Forms on ILAO**
5. **Print and Sign the Forms**
6. **File with the Court and Deliver to Spouse**

## 1. Figure Out the Response Time Period

1. Read the instructions on the summons to see how much time you have.
2. Day 1 starts the day *after* the Date of Service marked on your Summons.
3. Count each following day, including weekends, and stop on Day 30.  
**Don't count** court holidays (days that the courthouse is closed, like Thanksgiving Day). You can call the circuit clerk to ask if holidays fall in your response period.
4. If Day 30 falls on a weekend or a court holiday, find the *next business day* that the courthouse is open. Day 30 will move to that day.

For example, see calendar below. If the date of service is **March 3**, 30 days later is **April 2**, a Sunday. (There are no court holidays in between.) Courthouse is closed on weekends, so the due date moves to Monday, April 3.

MARCH 2017						
			1	2	<b>3 DAY SERVED</b>	4
5	6	7	8	9	10	11
12	13	14	15	16	17	18
19	20	21	22	23	24	25
26	27	28	29	30	31	APRIL 1
2 "DAY 30"	<b>3 ACTUAL DUE DATE</b>	4	5	6	7	8

The Appearance and Answer must be filed within these 30 days.

### If You Miss the Due Date

Even if you are late, file your Appearance and Answer at the courthouse. At your first court date, you can ask to vacate any default judgments against you.

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## 2. Fill Out an Entry of Appearance

Quick Link:

[http://www.k3county.net/files/circuitclerk/appearance\\_prose\\_self\\_represented\\_litigant.pdf](http://www.k3county.net/files/circuitclerk/appearance_prose_self_represented_litigant.pdf)

**Entering an appearance** tells the Court that you plan to be involved in the case. To do this, you fill out an appearance form (see below). Get a paper copy of the Entry of Appearance form from the circuit clerk or download one from the clerk's website.

See page 6 for instructions on **filing** your appearance form, which you can do when you file your answer.

# SAMPLE: Appearance Form

STATE OF ILLINOIS  
IN THE CIRCUIT COURT OF THE TWENTY-FIRST JUDICIAL CIRCUIT  
KANKAKEE COUNTY

VS.



CASE NO. \_\_\_\_\_

APPEARANCE  
PRO-SE

The undersigned, as defendant, hereby enters his/her appearance in the above entitled case.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Printed Name REQUIRED

\_\_\_\_\_  
Address REQUIRED

\_\_\_\_\_  
City/State REQUIRED

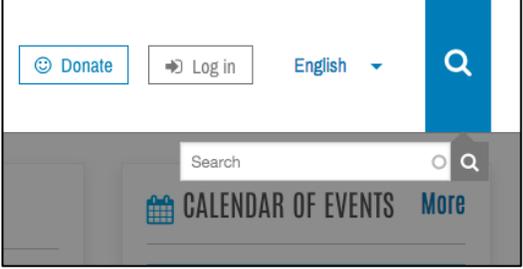
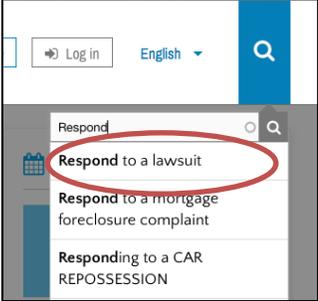
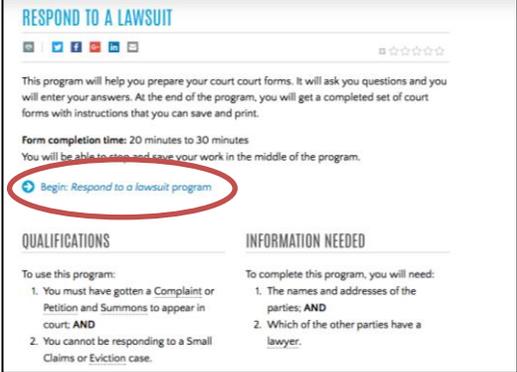
\_\_\_\_\_  
Telephone

\_\_\_\_\_  
Email address REQUIRED

### 3. Answer the Petition

Next, complete an answer to the petition. You can either get a paper copy of an answer from the clerk's office, or fill out the online version on ILAO. You will need these items to complete the answer: (1) the petition and summons that were served on you, and (2) a computer connected to a printer.

### 4. Finding the Answer and Appearance Forms on ILAO

<p><b>Step 1.</b> Go to <a href="https://www.illinoislegalaid.org">https://www.illinoislegalaid.org</a></p> <p>Click on the Search icon in the top right corner (it looks like a magnifying glass).</p> <p>Type the word <b>Respond</b>.</p>	 <p>The screenshot shows the ILAO website homepage. At the top, there are buttons for 'Donate', 'Log in', and a language dropdown set to 'English'. A search bar is located in the top right corner. Below the search bar, there is a 'CALENDAR OF EVENTS' link with a 'More' option.</p>
<p><b>Step 2.</b> In the drop-down options, click <b>Respond to a lawsuit</b>.</p>	 <p>The screenshot shows the search results for the word 'Respond'. The search bar contains the word 'Respond'. Below the search bar, there are three search results: 'Respond to a lawsuit', 'Respond to a mortgage foreclosure complaint', and 'Responding to a CAR REPOSSESSION'. The first result, 'Respond to a lawsuit', is circled in red.</p>
<p><b>Step 3.</b> Take a few minutes to read the "Respond to a Lawsuit" page.</p> <p>When you are ready, click <b>Begin: Respond to a lawsuit program</b>.</p>	 <p>The screenshot shows the 'RESPOND TO A LAWSUIT' page. The page title is 'RESPOND TO A LAWSUIT'. Below the title, there is a description of the program: 'This program will help you prepare your court court forms. It will ask you questions and you will enter your answers. At the end of the program, you will get a completed set of court forms with instructions that you can save and print.' Below the description, there is a 'Form completion time: 20 minutes to 30 minutes' and a note: 'You will be able to stop and save your work in the middle of the program.' A blue button with a circular arrow icon and the text 'Begin: Respond to a lawsuit program' is circled in red. Below the button, there are two columns: 'QUALIFICATIONS' and 'INFORMATION NEEDED'. The 'QUALIFICATIONS' column lists two requirements: '1. You must have gotten a Complaint or Petition and Summons to appear in court; AND' and '2. You cannot be responding to a Small Claims or Eviction case.' The 'INFORMATION NEEDED' column lists two requirements: '1. The names and addresses of the parties; AND' and '2. Which of the other parties have a lawyer.'</p>
<p><b>From this point on, ILAO will guide you through the program.</b></p>	

## 5. Print and Sign the Forms

**Print** your documents. You should get at least three:

- the Answer;
- a Proof of Delivery; and
- the Appearance.

Read through them one last time to make sure there are no mistakes.

**Then sign your name in the space provided** at the end of the Answer.  
**Sign your name in the space provided** on the last page of the Appearance.  
**Do not write anything on the Proof of Delivery yet.**

I certify that everything above is true and correct to the best of my knowledge.  
 I understand that making a false statement in this form could be perjury.

Your Signature
1590 Three St  
Street Address

Brad Pitt  
Your Name
Manteno, Illinois 60950  
City, State, ZIP

(815) 222-2222  
Telephone
Email Address (optional)

**Make two copies of the documents.** You will then have:

- **One original** of each document (the Clerk keeps these in the court file)
- **One copy for you**
- **One copy to send to your spouse**

## 6. Filing the Answer and Appearance and Delivering a Copy to Your Spouse

Bring to Court Clerk's Office	
<p><b>1. Filing Fee</b>                      or your court-approved Fee Waiver                      (Application to Sue as Indigent Person)</p>	<ul style="list-style-type: none"> <li>• \$156.00 (Cash or cashier's check only)</li> </ul>
<p><b>2. Answer to Petition for Dissolution of Marriage</b>                      (ILAO copy already contains a Proof of Mailing)</p>	<ul style="list-style-type: none"> <li>• 1 signed original</li> <li>• 2 copies of the original</li> </ul>
<p><b>3. Entry of Appearance</b></p>	<ul style="list-style-type: none"> <li>• 1 original and</li> <li>• 2 copies of the original</li> </ul>

1. You should plan to file and mail before 5PM on the same day.
2. Take your filing fee (or fee waiver) and all copies of your forms to the clerk's office, Room 209, on the second floor of the courthouse.
3. Tell the clerks that you are replying to a petition for dissolution and give them your documents.
4. The clerk will **file-stamp** your appearances and answers. The original copies stay in the courthouse. You get two copies back – one to keep and one to deliver to your spouse.
5. Delivery:
  - a. On **each copy** of the answer, turn to the **Proof of Delivery** page.
  - b. Write the **date you mail or deliver** the documents. (You must put it in a mailbox, email it, or hand-deliver it to your spouse **before 5PM**)
  - c. Write your spouse's name and address.
  - d. Mark the type of delivery (Hand Delivery, Mail, or Email).

<p>In 2, enter the date you send this form to the other parties. You must send this form by 5:00 p.m. on the same day it was filed with the Circuit Clerk.</p>	<p><b>Proof of Delivery</b></p> <p>1. I sent the <i>Answer/Response to Complaint/Petition</i>.</p> <p>2. At or before 5:00 P.M. on: <u>February 15, 20 17</u> <small>Date</small></p> <p>3. To: Name: <u>James Doe</u> <small>First Middle Last</small></p> <p>Address: <u>1600 North Ave, Kankakee, IL 60901</u> <small>Street, Apt # City State ZIP</small></p> <p>Email: _____</p> <p>By: <input type="checkbox"/> Hand Delivery  <input checked="" type="checkbox"/> Regular, First-Class Mail, deposited into the U.S. Mail with postage paid  <input type="checkbox"/> Email</p>
<p>In 3, enter the full name and address of the parties or lawyers you are sending a copy of this form to, and check if you will send copies of this form by hand, by mail, or by email.</p>	
<p>If a party has a lawyer, you must send a copy of this form to the lawyer.</p>	
<p><b>CAUTION:</b> You may only send this form by email if the other party has agreed to receive documents in the lawsuit by email.</p>	
<p>AR-A 1403.2</p>	<p style="text-align: center;">Page 2 of 3 <span style="float: right;">(11/16)</span></p>

*(If your Answer has multiple sets of these blanks, just fill in **one** set, since there is only one other party in this case.)*

- e. **Sign your name** on the **Your Signature** line.
- f. Give the original copy of the answer and proof of delivery back to the clerk.
- g. If mailing, put one copy of the answer and proof of delivery into an envelope addressed to your spouse and seal it.
- h. Drop the envelope in a mailbox before 5PM. (If you choose to deliver it by hand or email it instead, you must successfully do so before 5PM.)

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## What Happens Next?

Usually, the next court date is the **case management date**. This is the date stamped on the petition.

At the case management date, you, your spouse, and the judge will discuss where the case stands. You will discuss the issues that still need to be resolved and what you'll need to do to prepare for the next court date.

There are some things you can do to prepare for your appearance in court on the case management date:

1. **Get your Financial Affidavit ready.** This is the information your judge needs to help you decide issues including child support, spousal support, and property division. You should bring the finished version to the case management date. (See separate Financial Affidavit guide for instructions.)
2. **Begin a Parenting Plan.** Because you and your spouse agree on child care responsibilities, you will work on a **Joint Parenting Plan** together. (See separate Parenting Plan guide for instructions.) By law, the petitioner's finished Plan is due 120 days after filing the petition for dissolution in court.
3. **Attend the Class for Parents.** Each parent must successfully complete this class before the divorce judgment is entered. Information is available in the circuit clerk's office. If you aren't able to complete this before the case management date, the judge will give you the information at that time.

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## Final Judgment Order

A marriage is officially ended when a judge signs the final judgment order. This order specifies how property will be divided between spouses. If there are children, the order will also specify how each spouse is responsible for the children.

Completing an ILAO petition for dissolution also creates a number of other documents, one of which is a judgment order. You and your spouse can use this now. Handwrite any new information and cross out information that no longer applies.

If you or your spouse no longer has the copy of the ILAO Judgment Order, you can find a blank copy online at the Illinois Supreme Court's website:  
[http://www.illinoiscourts.gov/forms/approved/divorce/Divorce\\_No\\_Children\\_Suite\\_Aproved.pdf](http://www.illinoiscourts.gov/forms/approved/divorce/Divorce_No_Children_Suite_Aproved.pdf)

(Or search online for **Illinois Supreme Court forms**. Once on the **Standardized State Forms** page, you'll click the **Approved Statewide Forms** button; then choose **Divorce**; finally, choose **Dissolution of Marriage/Civil Union (Divorce No Children) Suite**.)

Be as specific as you can when listing property. Write down any item you would regret losing. If an item is not written out in the order, the judge cannot enforce ownership of it in the future.

Child care will be set out in the Parenting Plan, so you don't need to restate those terms in the order.

### **Agreed Issues**

You and your spouse can fill out an **Agreed Judgment Order** together if you agree on how to divide everything and how to care for the kids.

### **No Agreement**

If you don't agree, you will first discuss the issues with the judge at the case management date. The judge will set those issues for pretrial, and you will continue to discuss the issues then. The judge can also order mediation. If there is still no agreement, the issues may be set for a hearing. At any time, if you find you have worked out the issues, you and your spouse can fill out a judgment order. If not, the judge ultimately decides how the issues will be resolved.

### **Presenting the Order in Court**

Any time you and your spouse come to an agreement, you can fill out a judgment order and bring it to your next court date. The judge will read through it and direct you to make any necessary changes. If the judge thinks the order is ready, he or she will sign it. The judge's clerk will scan it into the filing system and make copies for you and your ex-spouse. Your marriage will then officially be ended.