

MALISEET NATION TRIBAL COURT

DIVORCE WITH MINOR CHILDREN CASES: What to do with these Court Forms

Helpful Tips:

- Always use full legal names, not nicknames.
- You will file each form with the Court. Before you do that, make copies of your completed forms—one for yourself and one copy for each of the other parties.

Step One: Fill out the Forms

Family Matter Summary Sheet (FM-002)

This form is required for the clerk to start an action. In order to fill out this form you need to enter contact information for yourself and the defendant.

Complaint for Divorce (FM-004)

The section at the top of the form is called the “caption.” The clerk will fill in the docket number later. You are the plaintiff and your spouse is the defendant. Write your full legal name in the blank before “Plaintiff.” Write your spouse’s full name in the blank before “Defendant.” If you or your spouse owns a house or other real estate or land, check the box next to “Title to Real Estate Involved.” You should check this box even if title to the real estate is only in one party’s name. Fill in the other blanks on the form. Near the end, where it says, “Plaintiff requests,” check all the boxes that apply. (If you are not sure, check the box; you can drop that request later.) You must sign this form in front of a notary public. You can find a notary at a bank, a legal services office, through your own town office, or at the court clerk’s office. **Please note: parties must use the same form whether or not the divorce involves minor children.**

Family Matter Summons and Preliminary Injunction (FM-038)

You must use the **original** form you got from the clerk. It has the clerk’s original signature and seal. You cannot use a photocopy or on-line version of this form.

Fill out the “caption” as you did on the complaint. Fill in the name and address of the court. Date and sign the form. Leave the spaces on the second page empty.

Social Security Number Form (CV-CR-FM-PC-200)

You are required by both state and federal law to provide your social security number along with your children’s social security numbers. This information is collected on the Social Security Number Disclosure form, which will be confidential in the court file. This form is included in your packet.

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Child Support Affidavit (FM-50)

Fill out the "caption" the same way you did on the complaint form. Fill out the rest of the form to the best of your knowledge. Note that you list year's earned income and this year's expected earned income separately under #1. Also note that you list other income under #2 and fringe benefits under #3. You may have to look at your records to get financial information. You must sign this form in front of a notary public. After the defendant get your complaint, the Court will ask the defendant to fill out the same financial form and send you a copy.

Step Two: Serve the Forms

Now you must give copies to the defendant. This is called "serving" the court papers. Court rules say you can do this in one of three ways: 1) You can mail the papers, asking the defendant to agree to "service;" 2) you can send the papers by certified mail, restricted delivery; or 3) you can pay the sheriff to give the copies to the defendant. You must file proof of service with the court.

Service by Mail

Mail or hand-deliver these papers to the defendant:

- Copy of the Complaint
- Copy of the Summons and Preliminary Injunction
- Copy of Child Support Affidavit
- Two copies of Acknowledgment of Receipt of Summons and Complaint (after you have filled in the "caption" on both copies)
- Stamped, self-addressed envelope

The Acknowledgement of Receipt form asks the other party to sign it, showing that the other party got the papers, and to return the form to you in 20 days. If you get the signed Acknowledgement back within 20 days, go on to Step 3. If not, then you will need to serve the papers another way.

Service by Certified Mail, Restricted Delivery

Take these papers to the post office along with an envelope:

- Copy of the Complaint
- Copy of the Summons and Preliminary Injunction
- Copy of Child Support Affidavit

Tell the postal clerk that you want to send the papers by certified mail. Make sure you ask for a "Return Receipt" and "Restricted Delivery." This costs more and involves a few extra steps. Get the forms and help from your post office. File with the court clerk the green card you get back from the post office, to prove that the other party got the papers.

Service by Sheriff

Mail or take to your county sheriff's office:

- Copy of the Complaint
- Copy of the Summons and Preliminary Injunction
- Copy of Child Support Affidavit

In a letter, or in person, ask the sheriff's office to serve the papers on the other party (the defendant). Give the defendant's home address. If you think the defendant will be hard to find at home, give the defendant's work address. The deputy who "serves" the papers will complete page two of the Summons and return the original to you. There is a charge for this service- please contact the sheriff's office for the county where the defendant lives to get information on costs of service.

Step Three: File the Forms

Within 20 days after serving the other party, file these forms with the court:

- Summary Sheet**
- Complaint**
- SSN Disclosure Form**
- Summons** (REQUIRED regardless of how service was completed, and should be filed with deputy's signature if you used sheriff's service)
- Child Support Affidavit**
- Acknowledgement of Receipt** (if you used service by mail)
- Green card if you got back from the post office** (if you used certified mail for service)

PLEASE NOTE: you must file at least one type of proof of service.

Once the Court receives a complete filing, the clerk will schedule the first court event with judge.

Forms required after initial filing:

Whenever you file with the court any of these forms, or any other document, you must send a copy to the opposing party.

Financial Statement (FM-043)

You must file a Financial Statement if you and the defendant disagree about how to divide you property, about spousal support (alimony), or about attorney's fees. After filling it out, file it with the clerk and send a copy to the defendant. The defendant must also file one of these forms and give you a copy. There will be a court order setting the deadline for filing of this form.

Certificate in Lieu of Financial Statement (FM-042)

If there is no dispute about personal property, real estate, spousal support or attorney's fees, you should file the Certificate in Lieu of Financial Statement. After filing it out, file it with the clerk and send a copy to the defendant.

Certificate Regarding Real Estate (FM-056)

In every divorce action in which a party has interest in real estate, each party must file with the Court a Certificate Regarding Real Estate (FM-056), **at least 7 days before the final hearing**, containing the following information: the street address of the property, the date of the Deed and which parties' name are on the Deed, the book and page number of the applicable Registry of Deeds where the Deed is recorded, the date of the parties' marriage, and whether the property was acquired by gift or inheritance.

Federal Affidavit (FM-052)

If the defendant has not entered an appearance or appeared in court for the divorce proceedings at the time of the final hearing, the plaintiff must file a Federal Affidavit (FM-052) stating under oath that the defendant is not serving in the military or an affidavit signed by defendant waiving rights conferred by the Service Members Civil Relief Act.