

## Instructions and Procedures for a Default Decree by Motion, without a Hearing

### Requirements

Sometimes a court hearing is not required to get a default decree. If you meet the following requirements, you may use this “no hearing” process to request a default decree:

- ✓ All parties must be legally competent and sane.
- ✓ The Summons and Petition were served to the other party, other than by publication.
- ✓ The Petition requests to the Court are the same as the requests proposed in the default order.

This means, you cannot use this process if . . .

- the responding party was served by publication,
- if the other party is insane or incompetent, or
- if the other party has filed a response, or made an appearance in the cases, or
- the requests to the Court in the proposed default order are not the same as those requested in the Petition.

You must have already filed and mailed to the other party an Application and Affidavit for Default. Also, it must be at least ten (10) court (business) days since you filed and mailed the Application.

If you filed for divorce or legal separation, it must also have been at least 60 calendar days since service of the Summons and Petition was completed.

### Instructions

Complete the Motion and Affidavit for Default Decree without a Hearing.

1. Complete the top part of the page with your personal information, name of parties, and case number.
2. On the upper page right, mark the box that describes the kind of court order you are requesting (i.e., divorce, annulment, etc.).
3. SECTION A:
  - Read the information carefully.
  - Mark the boxes in front of the statements that are true.

4. SECTION B: (To be completed only by parties seeking a decree of dissolution, legal separation, or annulment)

- Mark the boxes that best apply to your situation.
- Note: Attachments. If you marked a box next to a statement that requires an “attachment,” be sure to attach the required document at the end of the original Motion and Affidavit for Default Decree without a Hearing. If you are missing an attachment or any required document, your case could be rescheduled for a hearing, which extends the process and delays your decree or court order.

5. SECTION C: (To be completed only by parties seeking a judgment of paternity/maternity, and/or legal decision-making, parenting time or child support.)

- Mark the boxes that best apply to your situation.
- If the statement next to the box asks for an explanation, write it clearly in black ink.
- Note: Attachments. If you marked a box next to a statement that requires an “attachment,” be sure to attach the required document at the end of the original Motion and Affidavit for Default Decree without a Hearing. If you are missing an attachment or any required document, your case could be rescheduled for a hearing, which extends the process and delays your decree or court order.

6. SECTION D: To be completed if it applies to you.

Note: Attachments. If you marked a box next to a statement that requires an “attachment,” be sure to attach the required document at the end of the original Motion and Affidavit for Default Decree without a Hearing. If you are missing an attachment or any required document, your case could be rescheduled for a hearing, which extends the process and delays your decree or court order.

7. OATH or Affirmation: Sign and date this in front of the Clerk of Superior Court or Notary, with a picture identification.

8. Copy: Make three (3) copies of the original Motion and Affidavit for Default Decree without a Hearing. (Make additional copy if the Arizona Division of Child Support Services (DCSS) is involved in your case.)

After completing instructions above, you are ready to complete the Decree/Judgment/Order, also in this packet.

Before you request a Default Decree by Motion without a Hearing, CHECK TO BE SURE THAT YOU:

- Properly served the Petition, Summons and other papers to other party and filed the proof of service. (Service cannot be done by publication if you are using this method (without a hearing)); AND
- Completed and filed the Application and Affidavit for Default, with all the required attachments and mailed a copy to the other party; AND
- If the other party is on active duty in the United State Military, you completed and notarized Service Member Civil Relief Act Waiver; AND
- Waited at least 61 days after the completion of service, if you filed for divorce or legal separation.

Complete the Default Decree/Judgment/Order.

1. See the instructions in this packet to complete the Default Decree/Judgment/Order.
2. If children are involved, there will be additional forms to complete, such as a Parenting Plan, Education Order (if applicable), Child Support Worksheet, Child Support Order, and Current Employer Information Sheet. See additional instructions in this packet.
3. Copy:
  - Make two (2) copies of the original Decree/Judgment/Order, plus attachments and any additional required forms. (Make additional copy if DCSS is involved in your case.)
  - Note: If you are missing an attachment or any required form, your case could be rescheduled for a hearing, which extends the process and delays your decree or court order.

If you will eFile your forms, you may not need as many paper copies. You will need a paper set of the filed forms to serve on the other party, Division of Child Support Services if they are involved in your case, and one for your judge or Family Administration (when required). For more information about how to eFile your papers, read the eFiling instructions:

<https://superiorcourt.maricopa.gov/media/7448/dref93i.pdf>

Procedures

Step 1: Separate your papers into 4 sets: (Make additional copy if DCSS is involved in your case.)

<p>Set 1: For Clerk of Superior Court:</p> <ul style="list-style-type: none"><li>• Motion and Affidavit for Default Decree without a Hearing</li></ul>	<p>Set 2: For Judge:</p> <ul style="list-style-type: none"><li>• COPY Motion and Affidavit for Default Decree without a Hearing</li></ul> <p>ORIGINAL:</p> <ul style="list-style-type: none"><li>• Default Decree/Judgment/Order (plus any attachments)</li><li>• Parenting Plan (if applicable)</li><li>• Education Order (if applicable)</li><li>• Child Support Worksheet (if applicable)</li><li>• Child Support Order (if applicable)</li><li>• Spousal Maintenance Worksheet (if applicable)</li><li>• Current Employer Information Sheet (if applicable)</li></ul>
<p>Set 3: Your copies:</p> <ul style="list-style-type: none"><li>• Motion and Affidavit for Default Decree without a Hearing</li><li>• Default Decree/Judgment/Order (plus any attachments)</li><li>• Parenting Plan (if applicable)</li><li>• Education Order (if applicable)</li><li>• Child Support Worksheet (if applicable)</li><li>• Child Support Order (if applicable)</li><li>• Spousal Maintenance Worksheet (if applicable)</li><li>• Current Employer Information Sheet (if applicable)</li></ul>	<p>Set 4: Copies for the Other Party:</p> <ul style="list-style-type: none"><li>• Motion and Affidavit for Default Decree without a Hearing</li><li>• Default Decree/Judgment/Order (plus any attachments)</li><li>• Parenting Plan (if applicable)</li><li>• Education Order (if applicable)</li><li>• Child Support Worksheet (if applicable)</li><li>• Child Support Order (if applicable)</li><li>• Spousal Maintenance Worksheet (if applicable)</li><li>• Current Employer Information Sheet (if applicable)</li></ul>
<p>Set 5: Copies for DCSS (if applicable)</p> <ul style="list-style-type: none"><li>• Motion and Affidavit for Default Decree without a Hearing</li><li>• Default Decree/Judgment/Order (plus any attachments)</li><li>• Parenting Plan (if applicable)</li><li>• Education Order (if applicable)</li><li>• Child Support Worksheet (if applicable)</li><li>• Child Support Order (if applicable)</li><li>• Spousal Maintenance Worksheet (if applicable)</li><li>• Current Employer Information Sheet (if applicable)</li></ul>	

Step 2: File the original Motion and Affidavit for Default Decree without a Hearing, and two copies at one of the Clerk of Superior Court locations.

- The Clerk of Superior Court will keep the original Motion and all the attachments, as well as date-stamp the copy, and return both copies to you.

Central Court Building  
201 West Jefferson, 1st floor  
Phoenix, Arizona 85003

Southeast Court Complex  
222 East Javelina Avenue, 1st floor  
Mesa, Arizona 85210

Northwest Court Complex  
14264 West Tierra Buena Lane  
Surprise, Arizona 85374

Northeast Court Complex  
18380 North 40th Street  
Phoenix, Arizona 85032

Step 3: Hand-deliver or mail the following documents as indicated below to the Family Department:

- One (1) file-stamped copy of the Motion and Affidavit for Default Decree.
- The original and two (2) copies of the Decree/Judgment/Order and related forms and attachments for signature by the Judge.
- Two (2) 9" x 12" envelopes with sufficient postage, one addressed to you, and one addressed to the other party.

Central Court Building  
201 West Jefferson, 3rd floor  
Phoenix, Arizona 85003  
(To Family Department)

Southeast Court Complex  
222 East Javelina Avenue, 1st floor  
Mesa, Arizona 85210  
(To Family Department)

Northwest Court Complex  
14264 West Tierra Buena Lane  
Surprise, Arizona 85374  
(To Family Department)

Northeast Court Complex  
18380 North 40th Street  
Phoenix, Arizona 85032  
(To Family Department)

- If the Division of Child Support Enforcement (DCSE) is involved in your case, you must include an extra copy of each form and stamped envelope addressed to:

Office of the Attorney General  
Child Support Services Section,  
2005 N. Central Avenue – Mail Drop 7611  
Phoenix, AZ 85004-2926

Step 4: The Judge will review your file and the documents you have submitted.

- If the Judge determines that everything is in order, they will sign the final Decree/Judgment/Order. The Clerk will file-stamp your copies and they will be mailed to you and the other party in the envelopes you have provided.
- If the Judge finds anything wrong with your court file or paperwork, your documents will be returned to you in the envelope you have provided along with a coversheet describing the deficiency, and in most cases, how it can be corrected.
- In some cases, the Judge may set a hearing. The court will send you notice of the hearing date and time.

Common reasons why your paperwork may be rejected:

- Incomplete: The Decree/Judgment/Order was not fully completed.
  - Not all applicable boxes were marked.
  - An explanation(s) was missing.
  - An attachment(s) was missing.
- Different Requests: Items asked for in the Decree/Judgment/Order were not the same as the items asked for in the Petition.
- Missing Documents: The original Decree/Judgment/Order and copies were not submitted with the Motion and Affidavit for Default Decree without Hearing.
- Overlooked True Statements: You did not mark all boxes on the Motion and Affidavit for Default Decree without Hearing as true statements.
- No notarized Waiver: Did not provide a notarized Service Members Civil Relief Act Waiver, if required.

Arizona Rules of Family Law Procedure (ARFLP), Rule 44.1, allows for application for a default decree without hearing in Family cases for divorce, legal separation, annulment, maternity or paternity, money judgments, attorney fees, and spousal maintenance, but be WARNED:

- There are special legal requirements involved in qualifying for an annulment, and a default decree with no hearing.
- If your court papers do not fully explain how you meet those requirements, it could result in your case being delayed or dismissed.

Consulting an experienced attorney about whether your situation and your papers indicate you qualify for an annulment or a default decree, may help you to avoid unnecessary expense, delay, and disappointment.