

Topics	Suggested Responses to FAQs From Self-Representatives
Lawyer, Representation	<p>1. Do I need a lawyer? Or Should I hire a lawyer?</p> <p>A person is not required to have a lawyer to bring a case to court. The Court Assistance Office has forms and instructions for some routine types of civil cases. You can look at the forms and information and decide for yourself. If you represent yourself, you will be expected to know Idaho laws and court rules just like a lawyer. The laws and court rules are complex. Your lack of legal knowledge may cause you to make serious mistakes. We always recommend that you talk to a lawyer about your legal problems before filing any legal paperwork.</p>
Lawyer	<p>2. Can you give me the name of a good lawyer?</p> <p>We cannot recommend a particular lawyer. You can contact the Idaho State Bar Lawyer Referral Service (1-208-334-4500) for the name of a lawyer who practices in the area of law that you need and who will give you a half-hour consultation for \$35.00.</p>
Civil Procedure, Defendant, 20 Days, Answer, Counterclaim	<p>3. I was served with a notice that I have to file a written response with the court within 20 days, can I just write a letter to the judge?</p> <p>There are court rules about what is included in a written response and about how a response must be formatted. It will need to look like the court documents you were served. If you agree with everything the other person asked for, you do not need to file a written response. If the case is a family law case, we have standard forms for both a Family Case Answer and Family Case Answer and Counterclaim. In a divorce case if you want the judge to order a different property or debt division, parenting plan or child support, you would use the Answer and Counterclaim form.</p>
Venue, Jurisdiction	<p>4. Does my divorce have to appear in the newspaper?</p> <p>Divorces are public records. There is nothing you can do to prevent the information from being published.</p>
Venue, Jurisdiction	<p>5. What county do I file my divorce in?</p> <p>The instructions do not say that you have to file in a certain county. When you file any type of civil action, you usually file in the county where the defendant lives. If you file in another county, the defendant may take steps to ask the court to transfer the case to the county where the defendant lives.</p>
Venue, Jurisdiction	<p>6. I bought a product on the internet and still haven't received it. Can I sue in small claims to get my money back?</p> <p>The issue of where to sue is a complicated one. Although you can sue an out of state business in small claims, the claim must be one that arose in Idaho. You can find general information on the web and then consult an attorney about the facts of your case.</p>

Marriage	<p>7. Who can perform a marriage?</p> <p>A current or retired justice or judge, a current or former governor or lieutenant governor, a mayor, or a priest or minister of the gospel of any denomination may perform a marriage ceremony in Idaho.</p> <p>8. What if they aren't really a minister?</p> <p>If you and your spouse consummate the marriage believing the person was a minister, the marriage is still valid. To prove the marriage you will need to make sure your marriage license was returned to the County Recorder after the ceremony.</p>
Divorce, Military	<p>9. I am filing for divorce, but my spouse is in the military. He wants the divorce too. How do I get a divorce?</p> <p>If your spouse is in the military and on active duty, you should pay attention to the Servicemembers Civil Relief Act. If your spouse wants the divorce, there is a part in the Acknowledgment of Service form where s/he can waive those rights after talking with a superior officer. Your spouse can also get some legal services through the military if s/he has questions.</p> <p>If your spouse will not cooperate, you should talk to a lawyer before deciding when to file for divorce.</p>
Divorce with Children, Expecting	<p>10. We are getting divorced (or seeking a custody order if we were never married). We have one child, and I am pregnant with another child. Do I include my baby who is not born?</p> <p>No. You can file your case now and then after the baby is born you file to modify (change) the court order. There is a place on our standard forms for you to state that you are pregnant.</p>
Divorce without Children, Expecting	<p>11. We don't have any children but I'm pregnant. Which forms do we use?</p> <p>Our forms for divorce without children have a place for you to state that you're expecting. After the baby is born, you can file a modification to obtain a custody, visitation and support order.</p>
Expecting, Husband not Father	<p>12. I see a section where I can state that my husband is not the father of the child I'm expecting; what will happen if I don't fill that out?</p> <p>We can't tell you what will happen. Generally, a husband is considered to be the father of any child born to or conceived during a marriage. If another man does not acknowledge paternity of the child, your husband may be responsible to pay child support and cover birth costs once the child is born.</p>
Community and Separate Property	<p>13. We bought some things together before we got married and don't know if that's community or separate property.</p> <p>If the definitions in the instructions don't help you determine if property is community or separate, we'd recommend that you consult with an attorney who can analyze your facts and advise you.</p>
Child Support, Unknown Income	<p>14. I don't know what my ex/spouse makes, can I just list my income on the Affidavit Verifying Income?</p> <p>Since child support is based on the income of both parents, you'll need to provide some information about the other parent's income. When you don't know what the other parent earns, you can use their earnings form the last time you were in court; or contact the Department of Labor to find out what the prevailing wage is in the</p>

	place they live for the type of work they do. If you are estimating income in this way, you should put an * by the entry and then explain on the form how you came up with the figure.
Child Support, Public Benefits as Income	<p>15. Where do I put the Social Security monies I receive because the kids Dad is disabled?</p> <p>The SSDI benefits are included in Dad's income. So Dad's income includes his SSDI check and any SSDI the children receive. If the children's checks go to Mom's household there's a reduction dollar for dollar from the child support amount to be ordered. You put the income on line A.4 of the Affidavit Verifying Income. When you complete the child support worksheet, you include a reduction of support to be ordered in the amount of the children's benefits. You can explain this in the section for "Comments" at the bottom.</p>
Child Support, Income of Child	<p>16. My child gets SSI benefits because she is disabled. Does that affect child support?</p> <p>If your child receives a disability benefit, that is not counted as income to either parent. A child's benefit is counted as income to a parent only if the benefit is received because of that parent's disability. When child support is ordered, you should report the change to the Social Security Office, and it will have some effect on the SSI amount. If you do not report it, Social Security may find that your child has been overpaid and may recover the overpayment from future benefits.</p>
Child Support, Parent's Income	<p>17. My ex-wife receives child support for her other kids. Does that count as income.</p> <p>No. The income your ex-wife receives as child support does not count as her income. If you have questions about how income is defined by the Child Support Guidelines, read Sections 6 and 7 of the Child Support Guidelines.</p>
Child Support, Public Benefits	<p>18. A Health & Welfare worker told me that I can count other benefits like Section 8 in the other parents income, how does that work?</p> <p>The Child Support Guidelines state: "Benefits received from public assistance programs for the parent shall be included except in cases of extraordinary hardship." SSI or Temporary Assistance cash benefits are for the parent. Some benefits, like housing, Foodstamps and child care, are for the parent and the children. The Health and Welfare worker may be able to tell you what amount is a benefit for the parent.</p>
Child Support, Worksheets	<p>19. Which child support worksheet do we use?</p> <p>If your children are in the homes of each of you for at least 92 days out of the year; you use the Shared, Split, Mixed Custody child support Worksheet. You also use the Shared, Split, Mixed Custody Worksheet if you have more than one child and they are primarily living with different parents, some with Mom and some with Dad.</p>
EIC	<p>20. My divorce Decree says my ex-husband gets to claim the children as dependents. Does that mean I cannot get the Earned Income Tax Credit?</p> <p>According to the IRS: To claim the credit using a child, the child must be your "qualifying child" by meeting all relationship, age and residency tests.</p> <p>The residency test: The qualifying child must have lived with you for more than half of the tax year.</p> <p>The relationship test: The qualifying child can be a son, daughter, adopted</p>

	<p>child, grandchild, stepchild or foster child. A qualifying child also can be a sister, brother, stepsister and stepbrother or any of their descendents if you care for them as you would your own child.</p> <p>The age test: The qualifying child must have been, at the end of 2003, under age 19, a full-time student under age 24 or any age if permanently and totally disabled.</p> <p>You can use the filing status of single, head of household, qualifying widow(er) or married filing jointly. You cannot use the filing status of married filing separately. If you have a computer with internet connection you can use http://www.efile.com to figure any Earned Income Tax Credit for free. If you use that site you will have to print off and mail in the forms.</p>
Additional Child	<p>21. We already have a court order of custody and visitation, but now we have another child. Do we file a new case, or use the forms for modifying our old order?</p> <p>Our instructions tell you to file for a modification in the same case as your old order. This way all of the children will be under one order.</p>
Legal Separation	<p>22. My husband and I are separated. We do not want a divorce, but I want an order for visitation and child support. What forms can I use?</p> <p>We do not have standard forms for a legal separation. If you wanted to study the court rules and our standard forms for divorce, you might be able to change those forms to work for you. If not, we recommend you hire a lawyer to prepare the documents.</p>
Emancipation	<p>23. How do I get a court order of emancipation for a minor?</p> <p>Idaho law does not provide for the emancipation of minors except through marriage.</p>
Annulment	<p>24. I've only been married 5 weeks, can I get an annulment?</p> <p>We have a brochure that explains annulment proceedings in Idaho. It states that there are six grounds for an annulment in Idaho. They have to do with a legal inability to enter into a valid marriage contract. The grounds are: 1) you were under 18, did not have a parent's or guardian's consent and you haven't lived together since you turned 18; 2) the former wife or husband of one of you is still living and the prior marriage was not legally ended; 3) either of you is of unsound mind and you don't live together after coming to reason; 4) the consent of either spouse was obtained by fraud and you did not live together after the fraud was discovered; 5) consent was obtained by force and you do not continue to live as man and wife; 6) either of you were physically incapable of entering into the married state, the incapacity continues and appears incurable.</p> <p>If you think your situation matches one of the grounds, it is a good idea to talk to a lawyer to make sure you understand if the law applies to you. We do not have standard forms for filing for annulment, but after talking to a lawyer, some people learn how to change the Divorce forms if they are seeking an annulment.</p> <p>If those six grounds do not apply to your case, we have forms and instructions that allow you to ask for a Decree of Divorce, if you want to take that step.</p>
Annulment, Forms	<p>25. A lawyer told me I can get an annulment and you can help me with the paperwork.</p> <p>Our program does not have any standard forms for annulment. We do have standard forms for divorce that you could use as an example of how court documents must be prepared. Some of the standard forms for divorce can be used if you file for an annulment, but you have to change the Complaint and the Decree.</p>

	<p>The filing fee for an annulment is currently fee category F. 2 and the fee is \$83.00. You start the procedure by filing a Complaint and having a Summons issued. We do have a standard form for the Summons that you can use. The Summons notifies your spouse that you've filed a case. After you file your Complaint, you must have your spouse served with a copy of the Complaint and the Summons. Your spouse will then have 20 days to file a written response with the court if s/he disagrees. If your spouse doesn't file a written response, you can take default against him/her and obtain a judgment after a court hearing. We have standard forms for service and for default, and standard instructions that outline those procedures.</p>
<p>Amended Pleadings, Complaint</p>	<p>26. I made a mistake when I filed my Complaint. I want to change what I am asking for. How can I do that?</p> <p>If the other party has not yet filed a response, you prepare a new document with the changes you want. You have to make it clear that this is a different version of the first document. You do this by writing "AMENDED" in front of the document title on the first page and at the bottom left of each page (for example, "Amended Complaint").</p> <p>If you are amending a Complaint or Petition, you also have to prepare a new Summons. You do this by changing the title of the form to "ANOTHER SUMMONS."</p> <p>You must have amended documents served on the other party in the same way you served the first ones. After serving amended documents, you have to give the party the full amount of time to respond. For example, if you serve your spouse with an Amended Complaint for Divorce and Another Summons, your spouse has 20 days to respond to the court.</p> <p>If your spouse has already filed a response to your first Complaint, it is more complicated to try to change your documents. In that case, read the court rule IRCP 15(a) to decide what to do, or talk to a lawyer.</p>
<p>Amend Pleading, Decree</p>	<p>27. We noticed a mistake in our Divorce Decree. How can we fix it?</p> <p>To correct a mistake in a Decree you prepare and file both a Motion to Correct the Decree and an Amended Decree that is correct. If you and your spouse are in agreement, you can file a Stipulation to Correct the Decree and an Amended Decree that is correct.</p> <p>Courts Rules IRCP 59(e) through 60(b) talk about correcting errors in judgments or orders, if you have questions.</p>
<p>Filing An Answer in Collection Lawsuit</p>	<p>28. I know that I owe this money, but I can't pay it. The summons I received says I have to file an appropriate written response with the court within 20 days. What does that mean?</p> <p>In a civil case, a defendant may file an "Answer" or an "Answer and Counterclaim." People usually file these documents when they disagree that they owe the money, or disagree with the amount. If you agree with everything in the Complaint, you do not have to file anything, but the other party will get a judgment against you by default. If you file a response, you will have to pay the \$52 filing fee, unless a judge waives your filing fee. Also, if you file a response and disagree, and the case goes to hearing or trial, you may increase the attorney fees that you owe if the judge decides for the plaintiff, the person who sued you.</p> <p>If you think you have a defense in a collection lawsuit, it is a very good idea to talk to a lawyer about your Answer and how to present your case. You can get a consultation with a lawyer for \$35 through the Idaho Bar Lawyer Referral Service at 1-208-334-4500.</p>

Name Change of Minor	<p>29. I want to get my baby's name changed to the father's last name. How can I do that?</p> <p>In Idaho, there is a name change procedure and court forms for seeking a Name Change Order. These forms and procedures work for adults or for minors. Sometimes, before the child is a year old, the Bureau of Vital Statistics can change the name on the baby's birth certificate. This may be possible if you are adding or correcting the father's name, or if you are correcting an error in the baby's name. There are different affidavits (sworn statements) that allow parents to change the birth certificate, depending upon the circumstances. Some of the forms available to change the birth certificate are: Paternity Affidavit, Subsequent Marriage Affidavit, and Correction Affidavit. You can contact the Department of Health and Welfare Vital Statistics telephone recording at 208 334-5988 for more Information.</p> <p>A third way to change your baby's name is for you to file a custody case. I have two different sets of standard forms for custody cases; one set for when both parents agree and one for when only one parent is asking for the custody order.</p>
Appeal	<p>30. How do I file an appeal of a civil case?</p> <p>We don't have a handout that deals with appeals. The Supreme Court has a publication that has links to the Idaho Appellate Rules. Those are the rules about appeals. If you have trouble understanding the rules, you should consult an attorney.</p>
H&W Seeking Reimbursement	<p>31. I received court papers saying that the State of Idaho is trying to get \$10,000 from me to pay for my baby's birth. What can I do?</p> <p>If you disagree with owing the money, you can file an Answer in the case. We have a standard form for an Answer in a Family Law Case.</p>
UCCJEA Modification	<p>32. I need to change my Arizona Divorce Decree because the kids are living with me. How do I do that?</p> <p>If any parent or any child still lives in Arizona, or if you and the other parent are in agreement, you can file documents in Arizona to modify your parenting schedule and child support. If no parent or child still lives in Arizona, you can ask the Arizona court to give up or relinquish jurisdiction, and the Idaho court to accept jurisdiction and then file a motion to modify your custody and support order in Idaho. We have standard forms for modifications, but not for obtaining jurisdiction in Idaho.</p> <p>If you need to take an action in a court in another state, you may find forms and self-help resources on the Internet.</p>
Power of Attorney	<p>33. Can you tell me where I can find a Durable Power of Attorney form? Our attorney said we need one so we won't have to do a guardianship if something happens to one of us.</p> <p>If you are low-income, you may be able to work with an attorney from Idaho Legal Aid Services or an Idaho Volunteer Lawyer to get a Durable Power of Attorney. The closest Idaho Legal Services office is 310 N. 5th, Boise, 345-0106; 708 Main, Caldwell, 452-2591; 633 Main, Lewiston, 743-1556; 410 Sherman, Coeur d'Alene, 667-9559; 475 Polk, Twin Falls, 734-7024; 150 S Arthur, Pocatello, 233-0079; 482 Constitution Way, Idaho Falls, 524-3660. You can contact the Idaho Volunteer Lawyers Program at (208) 334-4500.</p> <p>There are different kinds of powers of attorney. You can find information about</p>

	<p>different powers of attorney at nolo.com . Some community organizations such as banks and hospitals provide forms for power of attorney.</p>
<p>Landlord Repairs</p>	<p>34. My landlord says he won't repair the front steps, doesn't he have to do that?</p> <p>We can't answer that question. We have a pamphlet from the Idaho Attorney General's Office that explains landlord-tenant law. Idaho law does require your landlord to provide reasonable water-proofing and weather protection; install approved smoke detectors and provide premises that are not hazardous to the health and safety of a tenant. A landlord who provides electrical, plumbing, heating, ventilations, cooling or sanitary facilities must maintain them in good working order. You must first contact the landlord to request any repair. We recommend that you keep a copy of the letter you write asking for the repair. You can deliver the letter personally, leave it with an employee at your landlord's office, or send the letter certified mail. If you deliver the letter you can have the landlord sign to indicate he received it, or take a witness along with you so you can prove your landlord received the letter. You have to give your landlord three days to make the repairs. If the repairs aren't made, you can sue for the repairs. We have standard forms for a demand letter to the landlord, the proof of service and the lawsuit for repairs. If the repairs cannot be completed in three days, and you and your landlord agree to more time, we recommend that you write out and sign the agreement, and each keep a copy. If you are not sure whether the repairs you want are required by Idaho law, or if you should agree to more time for the repairs you should get a consultation with an attorney before deciding what to do.</p>