

Finding Aid to the Cass County, N.D. Divorce Case Files

North Dakota. District Court (Cass County)

Cass County, N.D. Divorce Case Files, 1878-1942

64 linear ft.

Collection number: Mss 289

[History](#)

[Scope and Content](#)

[Box and Folder List](#)

OVERVIEW

Links: Online database to [Cass County Civil & Divorce Cases](#)
Finding aid to the [Cass County Civil Case Files](#)

Access: The collection is open under the rules and regulations of the Institute.

Provenance: Donated by the Cass County Clerk of Court, 2001 (Acc. 2618).

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Citation: [Identification of item]. North Dakota. District Court (Cass County) divorce case files, MS 289, Institute for Regional Studies, North Dakota State University, Fargo.

HISTORY

Although Dakota Territory was organized in 1861, it was not until the 1863-1864 session of the territorial legislature that the first law was passed regarding divorce. This law required the plaintiff to have resided in the territory for one year before initiating divorce proceedings. Grounds for divorce included adultery, impotency, conviction of a felony, cruelty, habitual drunkenness, and if “the parties could not live in peace and happiness together.” In 1866 a new civil code was passed by the legislature and was a radical

departure from the earlier law. The only ground for divorce was adultery but there was no residency requirement, although the plaintiff had to be a resident of the territory. Another interesting provision was that the 'innocent' party could marry again, while the guilty party could not until the death of the 'innocent' party.

The new law proved too restrictive and in the 1867-1868 legislative session an entirely new law was passed, modeled on the 1866 civil code with no residency requirement. The grounds for divorce were the same as the 1864 law. This remained in effect until 1871 when a change in the habitual drunkenness clause was made to define it as five years of drunkenness. In 1877 a codification of territorial law was ordered which included the addition of a ninety-day residency requirement before proceedings could be initiated. The same law was basically used by North Dakota when it gained statehood in 1889, including the ninety-day residence. The 1899 North Dakota legislature changed the residency requirement to one year, which ended the era of people from other states coming to North Dakota to obtain a relatively quick divorce.

Because of the lenient residency requirement many individuals from others states, particularly eastern states, and even from foreign countries had traveled to Fargo to take up residency in order to obtain a divorce.

SCOPE AND CONTENT

The individual divorce case files for North Dakota District Court in Cass County, N.D. are part of the Civil Case files. It was only after the transfer of the civil case files to the Institute for Regional Studies in 2001 that the divorce files were pulled and established as a separate records series. This was done to aid in the retrieval and use of these records. Neither the original book indexes nor the case file wrappings indicate the type of civil case. Inspection of the each case file's contents had to be done to determine which was indeed a divorce proceeding. All cases in which divorce proceedings were initiated have been pulled, whether or not the case ended in a decree of divorce. Annulments and other legal actions between a married couple were not pulled and remain part of the general civil case files.

The original numerical filing system was retained, which consists of the PH number followed by the actual case number. PH is the abbreviation for 'pigeon hole' which was the number assigned to the drawer compartments in the clerk of court office in which the case was filed. The case number is a sequential number. The PH-Case File numbers generally are in chronological sequence. But, some cases were filed under a much higher PH number likely because of drawer compartment space consideration, and thus they are out of chronological sequence. The container listing section of this finding aid only lists the PH number.

The [Divorce Case Files Series](#), over 3300 individual case files, span from the beginning of the administering of divorce proceedings in Cass County in 1878 through 1942. Individual files vary as to the type and number of documents and the information included. A typical file includes legal documents filed with the court, testimony, depositions, final decree and occasionally evidence such as photographs, letters and artifacts.

Researchers who may know what happened to the litigants after the divorce proceedings are encouraged to submit documents related to their later lives. This information is being filed in the individual case file as well as in a general file in box one. This information is being gathered to aid future historians and researchers that use the collection.

A database to the litigants and attorneys has been developed to aid the researcher in using these records. The database was developed by the Institute staff, using the original index ledgers and verified against the actual files. The database includes the names of the plaintiff, defendant, attorneys; inclusive years of the divorce proceedings and any supplemental information such as residence of defendant, grounds for divorce, etc. The original book indexes are maintained at the Institute. For divorce records after 1942, contact the Cass County Clerk of Court office, 211 9th Street South, Fargo, ND 58103.

BOX AND FOLDER LIST

Box PH (Case File) Numbers

- | | |
|-----|--|
| 1/1 | Finding aid, and historical information |
| 1/2 | Supplemental information on specific divorce cases |

Divorce Case Files Series (PH numbers)

- | | |
|----|---------|
| 1 | 1-40 |
| 2 | 41-59 |
| 3 | 60-72 |
| 4 | 74-91 |
| 5 | 92-102 |
| 6 | 103-111 |
| 7 | 114-120 |
| 8 | 121-125 |
| 9 | 126-132 |
| 10 | 133-152 |
| 11 | 153-159 |
| 12 | 160-178 |
| 13 | 179-192 |
| 14 | 193-206 |
| 15 | 208-232 |
| 16 | 233-248 |
| 17 | 249-272 |
| 18 | 273-289 |
| 19 | 291-307 |
| 20 | 308-325 |

21	327-352
22	353-380
23	381-398
24	399-411
25	412-428
25a	429-439
26	440-448
27	449-461
28	462-477
29	478-497
30	500-526
31	527-548
32	549-562
33	563-580
34	581-595
35	596-605
36	606-613
37	614-631
38	633-644
39	645-661
40	662-673
41	674-687
42	688-698
43	699-708
44	709-716
45	715-727
46	729-739
47	740-747
48	748-763
49	764-771
50	772-787
51	788-799
52	800-815
53	816-828
54	829-838
55	839-845
56	846-851
57	852-862
58	863-899
59	900-936
60	937-961
61	962-977
62	979-995
63	996-1018

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1019-1023

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