

Instructions for Declaration For Service By Publication Form

ND Legal Self Help Center Staff and Court employees can't help you fill out forms, or create documents for you. If you're unsure how to proceed, consult a lawyer.

ND Legal Self Help Forms aren't official forms. Judges and courts aren't required to accept them. There's no guarantee Center forms will be accepted. Use at your own risk.

Don't include these instruction sheets when you file the completed form.

The "District Court Civil" Section of the [ND Legal Self Help Center webpage](#) has additional information and resources about serving documents in a civil action, or civil case.

A Declaration is a written statement of fact given by an individual with first-hand knowledge of the facts. As of March 1, 2018, in general, **notarization isn't required** for a Declaration filed with a North Dakota state district court in a civil case.

A **Declaration for Service by Publication** is a required document for service by publication. See [Rule 4\(e\) of the North Dakota Rules of Civil Procedure](#) for the requirements.

Parties in a Civil Case:

Parties to a Complaint – Plaintiff and Defendant

The party who starts a civil case with a Summons and Complaint is called the Plaintiff.

The party served with a Summons and Complaint bringing civil legal case against them is called the Defendant.

Parties to a Petition – Petitioner and Respondent

The party who starts a civil case with a Summons and Petition is called the Petitioner.

The party served with a Summons and Petition requesting civil legal case against them is called the Respondent.

Create Your Complaint/Petition

Before beginning the steps for service, you, the Plaintiff/Petitioner, must create or prepare your Complaint/Petition document. Your Complaint/Petition must set forth a claim or claims in your favor against each Defendant/Respondent. The Complaint/Petition must be based on one or more situations where you're allowed to serve by publication.

Complete the Declaration for Service by Publication

The self-represented Plaintiff/Petitioner completes the Declaration for Service by Publication.

Top of Declaration for Service by Publication:

- Complete the top of the **Declaration** exactly as it appears in your Complaint or Petition.
- Fill in the case number, if known. If the case isn't filed, the case number is assigned by the clerk of court when the case is filed.

First Sentence:

- Fill in your full, legal name.

Paragraph 1:

- Put a checkmark next to either Plaintiff or Petitioner. **Don't** put a checkmark in both boxes.
 - If you're bringing a Complaint, you're the Plaintiff.
 - If you're bringing a Petition, you're the Petitioner

Paragraph 2:

- If you're the Plaintiff, put a checkmark next to Defendant. If you're the Petitioner, put a checkmark next to Respondent.
- Fill in the full, legal name of the Defendant/Respondent.

Paragraph 3:

- Put a checkmark next to either Complaint or Petition. **Don't** put a checkmark in both boxes.
- Review [Rule 4, Section e, Subsection 1 \(Rule 4\(e\)\(1\)\)](#). Service by publication is **only** allowed in the situations listed in Rule 4(e)(1).
- List all of the situations from Rule 4(e)(1) that apply to your circumstances and allow you to serve by publication.

Paragraph 4:

- Put a checkmark next to either Defendant or Respondent. Choose the same option as in Paragraph 2.
- Put a checkmark next to either Complaint or Petition. Choose the same option as in Paragraph 3.
- Write down **all** diligent efforts you made to find the Defendant/Respondent. Be specific. **Make sure you write down every attempt you made!**

Paragraph 5:

- Put a checkmark next to either Defendant or Respondent. Choose the same option as in Paragraph 2.
- List your attempts to serve the Defendant/Respondent. Be specific with details, including dates and the results. If you have documentation of the attempts, include copies of the documentation when you file the Declaration.

Paragraph 6:

- Put a checkmark next to the box(es) that fit your situation. You must select at least one statement. If a statement requires, put a checkmark next to either Defendant or Respondent. Choose the same option as in Paragraph 2. **Don't** put a checkmark in both boxes.
- If you select the 4th option, review North Dakota Century Chapters [32-17](#) and [32-19](#). You must determine which chapter fits your situation and state the facts to satisfy the requirements of the chapter.

Paragraph 7:

- Put a checkmark next to either Defendant or Respondent. Choose the same option as in Paragraph 2.
- Fill in the last, reasonably ascertainable (*discoverable*) address of the Defendant/Respondent.

Paragraph 8:

- Review carefully! You're declaring, under penalty of perjury under the laws of North Dakota, that everything you stated on this form is true and correct.

Sign and Date the Declaration:

- You, the Plaintiff/Petitioner, fill in the date you sign the Declaration. Then, fill in the city, county, state and country where you sign the Declaration.
- You, the Plaintiff/Petitioner, sign the Declaration and fill in the information below your signature.

For Next Steps, See the Information and Instructions for Service by Publication

Go to the [Information and Instructions for Service by Publication](https://ndcourts.gov/legal-self-help/service-in-a-civil-action) link at ndcourts.gov/legal-self-help/service-in-a-civil-action for your next steps in the service by publication process.

****Disclaimer: The North Dakota Legal Self Help Center provides resources to people who represent themselves in civil matters in the North Dakota state courts. The information provided by the Center isn't intended for legal advice but only a general guide to the civil court process. The Center can't guarantee that all judges and courts will accept forms available through the Legal Self Help Center. The Center isn't responsible for any consequences that may result from the information provided. The information can't replace the advice of competent legal counsel licensed in the state. Use at your own risk.****

State Of North Dakota

In District Court

County Of _____

_____ Judicial District

Plaintiff/Petitioner,)

vs)

Defendant/Respondent.)

—)

Case No. _____

**Declaration For Service
By Publication**

I, (*Plaintiff's/Petitioner's name*) _____,

the undersigned, state as follows:

1. I am the (*choose one*) Plaintiff / Petitioner in the above entitled action.
2. I make this Declaration for Service by Publication in support of service of process by publication on the (*choose one*) Defendant/ Respondent, (*name*) _____, as required by Rule 4(e) of the North Dakota Rules of Civil Procedure.
3. Under Rule 4(e)(1), service by publication is permitted because the (*choose one*) Complaint/ Petition in the above entitled action is based on the following situation(s) (*list all of the situations from Rule 4(e)(1) that apply to your circumstances and allow you to serve by publication*):

4. I made the following diligent efforts to locate the (*choose the same as Paragraph 2*)

Defendant/ Respondent in order to serve the Summons and (*choose the same as Paragraph 3*) Complaint/ Petition in the above entitled action (*list your specific efforts to locate the Defendant/Respondent*):

5. I made the following attempts to serve the (*choose the same as Paragraph 2*)

Defendant/ Respondent (*list your specific attempts to serve the Defendant/Respondent*):

6. I state that *(select and complete all that apply)*:

After diligent inquiry personal service of the Summons cannot be made on the
(choose the same as Paragraph 2) Defendant/ Respondent in this state to the
best knowledge, information, and belief of the affiant;

or

The *(choose the same as Paragraph 2)* Defendant/ Respondent is a domestic
corporation that has forfeited its charter or right to do business in this state or has
failed to file its annual report as required by law;

or

The *(choose the same as Paragraph 2)* Defendant / Respondent is a domestic or
foreign corporation and has no officer, director, superintendent, managing agent,
business agent, or other agent authorized by appointment or by law on whom service
of process can be made on its behalf in this state;

or

All persons having or claiming an estate or interest in, or lien or encumbrance on, the
real property described in the complaint, whether as heirs, devisees, legatees, or
personal representative of a deceased person, or under any other title or interest,
and not in possession, nor appearing of record in the office of the register of deeds,
the clerk of the district court, or the county auditor of the county in which the real
property is situated, to have such claim, title or interest in the property, are
proceeded against as unknown persons defendant under N.D.C.C. Chs. 32-17 or 32-
19, and state the following facts to satisfy the requirements of those Chapters

(review North Dakota Century Chapters 32-17 and 32-19 and state your facts that satisfy the requirements of the Chapters):

7. The last, reasonably ascertainable address of the (choose the same as Paragraph 2)

Defendant/ Respondent is: _____
_____.

8. I declare, under penalty of perjury under the law of North Dakota, that everything I stated in this Declaration for Service by Publication is true and correct.

Signed on _____, in _____
(city), _____ County, _____ (state), _____ (country).

(Plaintiff/Petitioner Signature)

(Printed Name)

(Address) (City, State, Zip Code)

Telephone Number: _____

Email Address: _____

State Of North Dakota

In District Court

County Of _____

_____ Judicial District

Plaintiff/Petitioner,)

Case No. _____

Vs)

Declaration Of Service By Mail

Defendant/Respondent.)

The person serving court documents by mail states:

1. My name is _____ (name of person who mailed document(s) in Paragraph 2) and I am at least 18 years of age.

2. **List of Court Documents Served** (checkmark next to the Complaint if you are the Plaintiff or next to the Petition if you are the Petitioner. Don't checkmark both.):

- Summons
- Complaint
- Petition
- Declaration for Service by Publication

3. Service by Mail:

As required by Rule 4(e)(4) of the North Dakota Rules of Civil Procedure, I served a true and correct copy of each of the court document(s) listed in Paragraph 2 by mailing them, enclosed in an envelope, by First-Class mail, postage prepaid, and by depositing them in the United States Mail, directed to the person listed in Paragraph 5.

4. Date of Service by Mail:

Date Court Documents Were Served by Mail: _____

5. Person Served by Mail:

Name of Person Served: _____

Mailing Address: _____

City, State, Zip Code: _____

6. I declare, under penalty of perjury under the law of North Dakota, that everything I stated in this Declaration of Service by Mail is true and correct.

Signed on _____ (date) in _____ (city),
_____ County, _____ (state), _____ (country).

Signature of Person Who Mailed Documents

Printed Name of Person Who Mailed Documents

Address

City, State, Zip Code

Telephone Number

Email Address