

Service Information After A Civil Action, or Civil Case, Has Been Started

The North Dakota Legal Self Help Center provides resources to people who represent themselves in civil matters, or civil case, in the North Dakota State District Courts. The information provided in this informational guide **isn't** intended for legal advice but only as a general guide to a civil court process.

If you decide to represent yourself, you need to do additional research to prepare.

If you're unsure how to proceed, don't know if this informational guide suits your needs, or need legal advice or legal representation, consult a lawyer licensed to practice in North Dakota. For more information about finding a lawyer, go to ndcourts.gov/legal-self-help/finding-a-lawyer.

When you represent yourself, you're expected to know and follow the law, including:

- State or federal laws that apply to your case;
- Case law, also called court opinions, that applies to your case; and
- Court rules that apply to your case, which may include:
 - North Dakota Rules of Civil Procedure;
 - North Dakota Rules of Court;
 - North Dakota Rules of Evidence;
 - North Dakota Administrative Rules and Orders;
 - Any local court rules.

Links to the laws, case law, and court rules can be found at ndcourts.gov.

A glossary with definitions of legal terms is available at ndcourts.gov/legal-self-help/glossary.

When you represent yourself, you're held to same requirements and responsibilities as a lawyer, even if you don't understand the rules or procedures.

This information isn't a complete statement of the law. This covers basic information about service after a civil action, or civil case, has started in a North Dakota state district court. The Center isn't responsible for any consequences that may result from the information provided. The information can't replace the advice of a lawyer licensed in the state of North Dakota.

Use at your own risk.

Caution!

A self-represented individual can only represent themselves in a North Dakota state district court civil action, or civil case.

If a Plaintiff/Petitioner or Defendant/Respondent **is an artificial person, such as a business, corporation or limited liability company, a non-lawyer can't** represent the artificial person in a North Dakota state district court civil case. Consult a lawyer!

Parties in a Civil Action, or Civil Case

For Civil Cases Starting with a **Summons and Complaint**:

- **Plaintiff**: The party who starts a civil case with service of a Summons and Complaint.
- **Defendant**: The party who is served with a Summons and Complaint requesting civil legal action against them.

For Civil Cases Starting with a **Summons and Petition**:

- **Petitioner**: The party who starts a civil case with service of a Summons and Petition.
- **Respondent**: The party who is served with a Summons and Petition requesting civil legal action against them.

Service is an important step in the legal process in North Dakota State District Court. Everything filed with the court after a civil case has started must be served on the other parties in the case.

[Rule 5 of the North Dakota Rules of Civil Procedure](#) gives the requirements for service of documents after a civil case has started. (Requirements for service to start a civil case found in [Rule 4 of the North Dakota Rules of Civil Procedure](#).)

Generally, each of the following documents must be served under Rule 5 on every party, unless the rules, the laws that apply to your civil case, or the court provide otherwise:

- An order;
- A pleading served after the original summons and complaint (see [Rule 7 of the North Dakota Rules of Civil Procedure](#) for types of documents that are pleadings);
- A discovery document required to be served on a party (see [Rule 5\(d\)\(3\) of the North Dakota Rules of Civil Procedure](#) for discovery documents that are filed with the court);
- A written motion, except one that may be heard ex parte;

- A written notice, appearance, demand, or offer of judgment, or any similar document, and;
- Every document filed with the clerk or submitted to the judge.

Review the [North Dakota laws](#) and [rules](#) that apply to your civil case. If a North Dakota law or rule tells the specific method of service that must be used, use that method of service.

If the party isn't represented by a lawyer, serve the party. If the party is known to be represented by a lawyer, serve the lawyer instead of the party.

*****Please note that, in general, copies of documents are served. Original documents are filed with the court.*****

**Proof of service tells the North Dakota State District Court how, when and where the parties were served and the documents that were served.
If proof of service isn't filed, the court won't act on your documents.**

Proof of service is an important step in the legal process. If proof of service isn't filed, the court **won't** act on your documents.

The proof of service for documents served after a civil case has been started tells the court when, how, and where the party or parties were served.

- A Certificate of Service gives the court proof of service when a sheriff or other law enforcement officer served the documents.
- A Declaration of Service or an Affidavit of Service gives the court proof of service when a person other than a sheriff or other law enforcement officer served the documents.

Declaration of Service forms can be found at ndcourts.gov/legal-self-help/service-in-a-civil-action. Forms aren't available for every method of service under Rule 5.

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Self-Represented parties aren't required to serve documents electronically.

[Rule 5 of the North Dakota Rules of Civil Procedure](#) requires electronic service of documents.

Self-represented parties are exempt from this requirement. (See [Rule 3.5 of the North Dakota Rules of Court.](#))

You must locate the addresses or locations of the parties for service.

Following are examples of ways to find people for service:

- Last known address.
 - Contact the U.S. Post Office for information on how to determine if the Defendant/Respondent left a forwarding address.
- Friends, family, employers.
- Online search engines.
- Government entities, such as Department of Motor Vehicles or County Recorder.
- North Dakota business entity search, available at the ND Secretary of State website.
- Social Security Death Index.
- Utility companies.
- Social networking websites.
- Reverse directories.
 - A reverse directory allows someone to search by phone number to find an address. *(Your local library may have access to reverse directories.)*

In general, documents may be served by self-represented parties as follows:

1. By Leaving Documents At The Other Party's Dwelling:

If you decide to arrange to serve copies of documents by leaving them at the other party's dwelling, you must have someone at least 18 years of age **and** not a party to, nor interested in, the case:

- a. Leave the document(s) with someone of suitable age and discretion who lives at the other party's dwelling.
- b. The person who left the documents at the other party's dwelling fills out a [Declaration of Service at Dwelling](#) and signs and dates the Declaration.

- c. File the original, completed Declaration of Service with the clerk of court.
Keep a copy of the completed and signed Declaration of Service for your records.

2. **By mailing documents to the other party's last known address:**

If you decide to serve copies of documents by mailing them to the other party's last known address, the person who mails the documents must be at least 18 years of age.

- a. Mail copies of the documents to the other party by United States first-class mail. Postage must be prepaid.
- b. The person who mailed the documents must fill out a [Declaration of Service by Mail](#) and sign the Declaration, including their address, phone number, and email. ***If mailed from a United States Post Office, the Post Office employee **doesn't** complete a Declaration of Service by Mail.***
- c. File the original, completed Declaration of Service by Mail with the clerk of court.
Keep a copy of the completed and signed Declaration of Service by Mail for your records.
- d. Service is complete upon mailing.

3. **By Sending Documents By A Third-Party Commercial Carrier To The Other Party's Last Known Address:**

If you decide to serve copies of documents by sending them by a third-party commercial carrier to the other party's last known address, the person who mails the documents must be at least 18 years of age.

- a. Send copies of the documents to the other party by third-party commercial carrier to the last known address. Delivery charges must be prepaid.

A third-party commercial carrier means that the carrier must not be a party or interested in the case, and it must be the regular business of the carrier to make deliveries for profit.

- b. The person who sent the documents must provide a completed Declaration of Service by Third Party Commercial Carrier. ***The third-party commercial carrier employee **doesn't** complete a Declaration of Service.***

The North Dakota Legal Self Help Center **doesn't** have a form for you to use.

- c. File the original, completed Declaration of Service with the clerk of court.
Keep a copy of the completed and signed Declaration of Service for your records.
- d. Service is complete upon depositing the document(s) to be served with the third-party commercial carrier.

4. **By Obtaining The Other Party's Signature:**

You may ask the other party to admit to service of a copy of the documents:

- a. Ask the other party to complete an [Admission of Service](#) and fill in the date the other party was given a copy of the documents.
- b. Ask the other party to sign the Admission of Service. You or the other party must file the signed Admission of Service with the clerk of court.
Keep a copy of the signed Admission of Service for your records.
- c. If the other party **doesn't agree** to admit to service, you must arrange to serve the documents a different way.

5. **By Leaving Documents With The Clerk Of Court (Requires An Order Of The Court):**

If no address is known and you want to request a court order for service by leaving the document(s) with the clerk of court, you must:

- a. **Make a written [motion](#) to the court for permission to serve the document(s) by leaving the document(s) with the clerk of court.** You must detail the methods you used to find the address of the other party you want to serve.
- b. If the court approves your written motion, the court issues an order.
- c. The person who leaves the document(s) with the clerk of court must fill out a Declaration of Service and sign and date the Declaration of Service.
The North Dakota Legal Self Help Center **doesn't** have a form for you to use.
- d. File the completed Declaration of Service with the clerk of court.
Keep a copy of the completed and signed Declaration of Service for your records.

6. By Sending Documents By Electronic Means (Requires The Written Consent Of The Other Party Being Served):

If you decide to serve copies of documents by sending them by electronic means, you must:

- a. **Get the written consent of the other party.** The written consent must be given by the party you want to serve by electronic means.
- b. The person who serves the document(s) by electronic means must fill out a Declaration of Service and sign and date the Declaration of Service.

The North Dakota Legal Self Help Center **doesn't** have a form for you to use.

- c. File the completed Declaration of Service with the clerk of court.
Keep a copy of the completed and signed Declaration of Service for your records.
- d. Service is complete upon transmission, **unless** the serving party learns that it didn't reach the party to be served.

7. By Delivering Documents By Other Means (Requires The Written Consent Of The Other Party Being Served):

If you decide to serve copies of documents by delivering them by other means, you must:

- a. **Get the written consent of the other party.** The written consent must be given by the party you want to serve by other means. The written consent must identify the other means.
- b. The person who serves the document(s) by other means must fill out a Declaration of Service and date and sign the Declaration.

The North Dakota Legal Self Help Center **doesn't** have a form for you to use.

- c. File the completed Declaration of Service with the clerk of court.
Keep a copy of the completed and signed Declaration of Service for your records.