

SERVICE INFORMATION FOR STARTING A CIVIL ACTION

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 isn't intended for legal advice but only as a general guide to a civil court process.

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

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 www.ndcourts.gov.

A glossary with definitions of legal terms is available at www.ndcourts.gov by clicking on the "Self Help" link.

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. If you're unsure if this information suits your circumstances, consult a lawyer.

- If you'd like to learn more about finding a lawyer to represent you, go to <https://www.ndcourts.gov/legal-self-help/finding-a-lawyer>.

***This information isn't a complete statement of the law.** This covers basic information about the service to start a civil action 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 competent legal counsel licensed in the state of North Dakota.*

Use at your own risk.

CAUTION!

A self-represented individual may only represent themselves in a North Dakota state district court civil action.

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

Parties in a Civil Action

For Civil Actions Starting with a Summons and Complaint:

- Plaintiff: The party who starts a civil action 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 Actions Starting with a Summons and Petition:

- Petitioner: The party who starts a civil action 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 of a summons starts a civil action in North Dakota state district court.
A copy of the complaint/petition must be served with the summons.**

Service to start a civil action, also called service of process, requires the Plaintiff/Petitioner to arrange delivery of the summons and a copy of complaint/petition to the Defendant/Respondent.

The Plaintiff/Petitioner is required to notify the Defendant/Respondent of the claims and to give the Defendant/Respondent time to respond.

The summons and a copy of complaint/petition must be delivered in specific ways. [Rule 4 of the North Dakota Rules of Civil Procedure](#) gives the requirements for service to start a civil action.

In general, the person starting the civil action (Plaintiff/Petitioner) must arrange for service of the summons and complaint/petition in one of three ways.

1. By Personal Service.
2. By Mail.
3. By Obtaining the Other Party's Signature.

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

*****Please note that, in general, copies of documents are served. The 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 to start a civil action tells the court when, how, and where the Defendant/Respondent was served copies of the summons and complaint (or petition).

- A certificate of service gives the court proof of service when a sheriff or other officer served the summons and a copy of complaint/petition.
- An affidavit of service gives the court proof of service when a person other than a sheriff or other officer served the summons and a copy of complaint/petition.

Affidavit of Service forms can be found under the Service link on the [ND Legal Self Help Center](#) website.

You, the Plaintiff/Petitioner, 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, the summons and copy of the complaint/petition may be served in three different ways.

1. By Personal Service:

If you, the Plaintiff/Petitioner, decide to arrange to serve a copy of the summons and complaint/petition by personal service, the person who serves the documents must be at least 18 years old and not a party in the action or interested in the action.

- a. You can give a copy of the summons and complaint/petition to the sheriff for personal service on the Defendant/Respondent.

You will be charged a fee. The sheriff will provide a certificate of service.

OR

- b. You may arrange to have another person who is at least 18 years of age and not a party to or interested in the action give a copy of the summons and complaint/petition to the Defendant/Respondent.

The person must serve the documents as required by [Rule 4\(d\) of the North Dakota Rules of Civil Procedure](#).

- c. The person who served the documents must fill out an Affidavit of Service by Personal Delivery and sign and date the affidavit.
- d. File the Affidavit of Service by Personal Delivery with the clerk of court.

Keep a copy of the completed, signed and dated Affidavit of Service by Personal Delivery for your records.

2. By Mail:

If you, the Plaintiff/Petitioner, decide to arrange to serve a copy of the summons and complaint/petition by mail, the person who mails the documents must be at least 18 old.

- a. Mail a copy of the summons and the complaint/petition to the Defendant/Respondent from a United States Post Office.

Send the documents by Certified Mail, Return Receipt Requested (Restricted Delivery). The envelope should be marked "Deliver to Addressee Only."

- b. The person who mailed the documents must fill out an Affidavit of Service by Mail and sign and date the affidavit. ***The United States Post Office employee doesn't complete an Affidavit of Service by Mail.***
- c. After you receive the green card receipt that's signed to show actual delivery, file the green card receipt and the completed, signed and dated Affidavit of Service by Mail with the clerk of court.
- d. Keep a copy of the completed, signed and dated Affidavit of Service by Mail and green card receipt for your records.
- e. If you don't receive a green card receipt that's signed to show actual delivery, you must arrange to serve the documents by personal service or admission of service.

3. By Obtaining the Defendant's/Respondent's Signature:

You, the Plaintiff/Petitioner, may ask the Defendant/Respondent to admit to service of a copy of the summons the complaint/petition:

- a. Ask the Defendant/Respondent to complete an Admission of Service and fill in the date the Defendant was given a copy of the summons the complaint/petition.
- b. Ask the Defendant/Respondent to sign the Admission of Service. You or the Defendant/Respondent 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 Defendant/Respondent doesn't agree to admit to service, you must arrange to serve the documents by mail or by personal service.

If you're unable to locate the Defendant/Respondent to serve a copy of the summons and the complaint/petition by any of the three options above, you may be able to serve by publication.

Service by publication isn't available in all types of actions. See Rule 4(e) of the North Dakota Rules of Civil Procedure for the requirements for service by publication.

Service by publication information, instructions and forms are available at <https://www.ndcourts.gov/legal-self-help> in the "District Court Civil" section.