

State of North Dakota

In District Court

County of \_\_\_\_\_

\_\_\_\_\_ Judicial District

\_\_\_\_\_  
Plaintiff,  
vs  
\_\_\_\_\_  
Defendant.

)  
)  
)  
)  
)  
)

Case No. \_\_\_\_\_

**Declaration in Support of Answer Brief  
to Motion to Modify Primary  
Residential Responsibility  
(No Written Agreement)**

*As you complete this Declaration, when you refer to facts from other supporting declarations, affidavits, or documents, include the title of the declaration, affidavit, or document in parentheses ( ) following the reference. If the paragraphs of a declaration, affidavit, or document are numbered, include the paragraph number, as well.*

I, (name) \_\_\_\_\_, state as

follows:

1. I am the (choose one) ☐ Plaintiff/☐ Defendant in the above-captioned civil case, which was an action for (choose the same checkbox as Paragraph 2 of your Answer Brief to Motion to Modify Primary Residential Responsibility):

- ☐ divorce.
- ☐ legal separation.
- ☐ establishing parenting rights and responsibilities.
- ☐ establishing paternity.
- ☐ other \_\_\_\_\_.

2. The Moving Party's motion to modify primary residential responsibility applies to the following child(ren) for whom primary residential responsibility was awarded in the above-captioned case (list each child's initials and year of birth; this must match Paragraph 3 of your Answer Brief to Motion): \_\_\_\_\_

\_\_\_\_\_.

3. The current judgment in this case was entered (*same date as Paragraph 4 of your Answer Brief to Motion*) \_\_\_\_\_, and awards primary residential

responsibility to (*choose same checkbox as Paragraph 4 of your Answer Brief to Motion*)

☐ Plaintiff/☐ Defendant.

4. (*Choose and complete the same checkbox as Paragraph 7 of your Answer Brief to Motion*):

☐ It has been two years or more since the current (*choose one – if an amended judgment, fill in the number; i.e. First, Second*) ☐ Judgment/☐ \_\_\_\_\_ Amended Judgment was entered.

☐ It **has not** been two years or more since the current (*choose one – if an amended judgment, fill in the number; i.e. First, Second*) ☐ Judgment/☐ \_\_\_\_\_ Amended Judgment was entered, and paragraph \_\_\_\_\_ (*choose one*) ☐ allows/☐ does not allow modification **before** two years when (*state the specific event/circumstances listed in your judgment*):

The description of the event or circumstances that (*choose one*) ☐ have occurred/☐ have not occurred is as follows (*describe*):

5. (Select the same checkbox(es) as Paragraph 12 of your Answer Brief to Motion):

☐ There have not been a significant or material change in circumstances that justifies modification of primary residential responsibility since the current judgment was entered, based on the following facts.

☐ The change in circumstances the (choose one) ☐ Plaintiff/☐ Defendant included in their motion were known at the time the current judgment was entered, based on the following facts.

*(Describe the specific facts that support this Paragraph and Paragraph 12 of your Answer Brief to Motion. Number each paragraph of your facts as 5(a), 5(b), 5(c), and so on.)*

**6.**        *(Choose the same checkbox as Paragraph 13 of your Answer Brief to Motion):*

☐ There were no changed circumstances that had an adverse effect on the child(ren) or caused a general decline in the child(ren)'s condition, based on the following facts.

☐ The change in circumstances did not have an adverse effect on the child(ren) or cause a general decline in the child(ren)'s condition, based on the following facts.

*(Describe the specific facts that support this Paragraph and Paragraph 13 of your Answer Brief to Motion. Number each paragraph of your facts as 6(a), 6(b), 6(c), and so on.)*

7. My factual support for the best interest factors listed in North Dakota Century Code Section 14-09-06.2 follow in Paragraphs 8 through 20.

8. **Best Interest Factor N.D.C.C. § 14-09-06.2(1)(a)** – The love, affection, and other emotional ties existing between the parents and child(ren) and the ability of each parent to provide the child(ren) with nurture, love, affection, and guidance (*choose the same checkbox as Paragraph 15 of your Answer Brief to Motion*):

- ☐ Favors Plaintiff.
- ☐ Favors Defendant.
- ☐ Does not favor Plaintiff or Defendant.
- ☐ Does not apply.
- ☐ Other (*briefly state*) \_\_\_\_\_.

based on the following facts (*describe the specific facts that support this Paragraph. Number each paragraph of your facts as 8(a), 8(b), 8(c), and so on*):

**9. Best Interest Factor N.D.C.C. § 14-09-06.2(1)(b)** – The ability of each parent to assure that the child(ren) receives adequate food, clothing, shelter, medical care, and a safe environment (*choose the same checkbox as Paragraph 16 of your Answer Brief to Motion*):

- ☐ Favors Plaintiff.
- ☐ Favors Defendant.
- ☐ Does not favor Plaintiff or Defendant.
- ☐ Does not apply.
- ☐ Other (*briefly state*) \_\_\_\_\_.

based on the following facts (*describe the specific facts that support this Paragraph. Number each paragraph of your facts as 8(a), 8(b), 8(c), and so on*):

**10. Best Interest Factor N.D.C.C. § 14-09-06.2(1)(c)** – The child(ren)'s developmental needs and the ability of each parent to meet those needs, both in the present and in the future

*(choose the same checkbox as Paragraph 17 of your Answer Brief to Motion):*

- ☐ Favors Plaintiff,
- ☐ Favors Defendant,
- ☐ Does not favor Plaintiff or Defendant,
- ☐ Does not apply,
- ☐ Other (*briefly state*) \_\_\_\_\_,

based on the following facts (*describe the specific facts that support this Paragraph. Number each paragraph of your facts as 10(a), 10(b), 10(c), and so on*):

**11. Best Interest Factor N.D.C.C. § 14-09-06.2(1)(d)** – The sufficiency and stability of each parent's home environment, the impact of extended family, the length of time the child(ren) has/have lived in each parent's home, and the desirability of maintaining continuity in the child(ren)'s home and community (*choose the same checkbox as Paragraph 18 of your Answer Brief to Motion*):

- ☐ Favors Plaintiff,
- ☐ Favors Defendant,
- ☐ Does not favor Plaintiff or Defendant,
- ☐ Does not apply,
- ☐ Other (*briefly state*) \_\_\_\_\_,

based on the following facts (*describe the specific facts that support this Paragraph. Number each paragraph of your facts as 11(a), 11(b), 11(c), and so on*):



**12. Best Interest Factor N.D.C.C. § 14-09-06.2(1)(e)** – The willingness and ability of each parent to facilitate and encourage a close and continuing relationship between the other parent and the child(ren) (*choose the same checkbox as Paragraph 19 of your Answer Brief to Motion*):

- ☐ Favors Plaintiff,
- ☐ Favors Defendant,
- ☐ Does not favor Plaintiff or Defendant,
- ☐ Does not apply,
- ☐ Other (*briefly state*) \_\_\_\_\_,

based on the following facts (*describe the specific facts that support this Paragraph. Number each paragraph of your facts as 12(a), 12(b), 12(c), and so on*):

**13. Best Interest Factor N.D.C.C. § 14-09-06.2(1)(f)** – The moral fitness of the parents, as that fitness impacts the child(ren) (*choose the same checkbox as Paragraph 20 of your Answer Brief to Motion*):

- ☐ Favors Plaintiff,
- ☐ Favors Defendant,
- ☐ Does not favor Plaintiff or Defendant,
- ☐ Does not apply,
- ☐ Other (*briefly state*) \_\_\_\_\_,

based on the following facts (*describe the specific facts that support this Paragraph. Number each paragraph of your facts as 13(a), 13(b), 13(c), and so on*):

**14. Best Interest Factor N.D.C.C. § 14-09-06.2(1)(g)** – The mental and physical health of the parents, as that health impacts the child(ren)) (*choose the same checkbox as Paragraph 21 of your Answer Brief to Motion*):

- ☐ Favors Plaintiff,
- ☐ Favors Defendant,
- ☐ Does not favor Plaintiff or Defendant,
- ☐ Does not apply,
- ☐ Other (*briefly state*) \_\_\_\_\_,

based on the following facts (*describe the specific facts that support this Paragraph. Number each paragraph of your facts as 14(a), 14(b), 14(c), and so on*):

**15. Best Interest Factor N.D.C.C. § 14-09-06.2(1)(h)** – The home, school, and community records of the child(ren) and the potential effect of any change) (*choose the same checkbox as Paragraph 22 of your Answer Brief to Motion*):

- ☐ Favors Plaintiff,
- ☐ Favors Defendant,
- ☐ Does not favor Plaintiff or Defendant,
- ☐ Does not apply,
- ☐ Other (*briefly state*) \_\_\_\_\_,

based on the following facts (*describe the specific facts that support this Paragraph. Number each paragraph of your facts as 15(a), 15(b), 15(c), and so on*):

**16. Best Interest Factor N.D.C.C. § 14-09-06.2(1)(i)** – the child(ren) is/are of sufficient maturity to make a sound judgment related to their preferences) *(select the same checkboxes as Paragraph 23 of your Answer Brief to Motion)*:

☐ The following child(ren) **is/are sufficiently mature** to make a sound judgment about their preferences related to modifying primary residential responsibility *(list the initials of the child(ren))*: \_\_\_\_\_. Each child's preference is *(for each child, list their initials and their preference)*:

☐ The following child(ren) **is not/are not sufficiently mature** to make a sound judgment about their preferences related to modifying primary residential responsibility *(list the initials of the child(ren))*: \_\_\_\_\_.

based on the following facts *(describe the specific facts that support this Paragraph. Number each paragraph of your facts as 16(a), 16(b), 16(c), and so on)*:

**17. Best Interest Factor N.D.C.C. § 14-09-06.2(1)(j)** – Evidence of domestic violence, as defined by N.D.C.C. § 14-07.1-01 (*choose the same checkbox as Paragraph 24 of your Answer Brief to Motion*):

- ☐ The (*choose one*) ☐ Plaintiff/☐ Defendant committed domestic violence, which involved at least one incident of domestic violence resulting in serious bodily injury or involved the use of a dangerous weapon; or there is a pattern of domestic violence committed by (*choose one*) ☐ Plaintiff/☐ Defendant within a reasonable time of this motion to modify.
- ☐ Domestic violence has not occurred and is not at issue in this motion to modify.
- ☐ Other (*briefly state*) \_\_\_\_\_.

based on the following facts (*describe the specific facts that support this Paragraph. Number each paragraph of your facts as 17(a), 17(b), 17(c), and so on*):

**18. Best Interest Factor N.D.C.C. § 14-09-06.2(1)(k)** – The interaction and interrelationship, or the potential for interaction and interrelationship, of the child(ren) with any person who resides in, is present, or frequents the household of a parent and who may significantly affect the child(ren)'s best interests, either positively or negatively (*choose the same checkbox as Paragraph 25 of your Answer Brief to Motion*):

- ☐ Favors Plaintiff,
- ☐ Favors Defendant,
- ☐ Does not favor Plaintiff or Defendant,
- ☐ Does not apply,
- ☐ Other (*briefly state*) \_\_\_\_\_,

based on the following facts (*describe the specific facts that support this Paragraph. Number each paragraph of your facts as 18(a), 18(b), 18(c), and so on*):

**19. Best Interest Factor N.D.C.C. § 14-09-06.2(1)(I)** – The making of false allegations not made in good faith, by one parent against the other, of harm to a child (*choose the same checkbox as Paragraph 26 of your Answer Brief to Motion*):

- ☐ Favors Plaintiff,
- ☐ Favors Defendant,
- ☐ Does not favor Plaintiff or Defendant,
- ☐ Does not apply,
- ☐ Other (*briefly state*) \_\_\_\_\_,

based on the following facts (*describe the specific facts that support this Paragraph. Number each paragraph of your facts as 19(a), 19(b), 19(c), and so on*):



**20. Best Interest Factor N.D.C.C. § 14-09-06.2(1)(m)** – Any other factors relevant to the best interests and welfare of the child(ren) and this motion to modify primary residential responsibility (*choose and complete the same checkbox as Paragraph 27 of your Answer Brief to Motion*):

☐ There are **no other factors** relevant to the best interests and welfare of the child(ren).

☐ There are other factors not already addressed that are relevant to the best interests and welfare of the child(ren). The other factors are (*briefly state the other factor(s)*):

based on the following facts (*describe the specific facts that support this Paragraph. Number each paragraph of your facts as 20(a), 20(b), 20(c), and so on*):

**21.** I state, under penalty of perjury, that the information contained in this Declaration is true and correct.

Signed on \_\_\_\_\_ (*date*) in \_\_\_\_\_ (*city*),  
\_\_\_\_\_ (*county*), \_\_\_\_\_ (*state*), \_\_\_\_\_ (*country*).

\_\_\_\_\_  
(*Opposing Party Signature*)

\_\_\_\_\_  
(*Printed Name*)

\_\_\_\_\_  
(*Address*) \_\_\_\_\_ (*City, State, Zip Code*)

\_\_\_\_\_  
(*Telephone Number*) \_\_\_\_\_ (*Email Address*)