

# Motion to Modify Primary Residential Responsibility When the Parents Don't Agree

## Instructions for Witness and Exhibit List

These are the instructions for the **Witness and Exhibit List**.

**Review Your Orders!** Review your Scheduling Order and any other orders you receive to decide if you're required to file a Witness and Exhibit List. Review any orders for a filing deadline for the Witness and Exhibit List.

If this form doesn't fit your circumstances, you may use this as a template to create your own document. If you need help, contact a lawyer to assist you.

**ND Legal Self Help Center Staff and Court employees can't help you fill out forms. If you're unsure how to proceed, [consult a lawyer](#).**

**ND Legal Self Help Center forms aren't official court 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 serve or file the completed form.**

**Witness and Exhibit List Form Must be Filled Out Completely!!** Don't leave any of the paragraphs within the form unanswered.

If a section of the form doesn't apply to you, type or write "N/A" or "Not Applicable".

If a form isn't completely filled out, the clerk may not accept your form for filing, or the court may send the form back to you to complete.

**Follow and Carefully Read All Instructions!** There are boxes (☐) before each step. Check each box as you finish the step. Don't go on to the next step **until** the previous step is completed.

*(This space left intentionally blank.)*

## Complete the Witness and Exhibit List

### ☐ **Fill in the Top of the Form:**

Fill out the top part of the form (“the caption”) the same as caption of the Informational Statement.

### ☐ **Paragraph A:**

- Put a checkmark ☒ in the box to show whether you’re the Moving party or Opposing party in this Motion to Modify Primary Residential Responsibility.
- Fill in the date of the evidentiary hearing.

### ☐ **Paragraph B1 through B8: List of Witnesses.** For each number:

- List the name of the person you want to call as a witness at the evidentiary hearing.
- State their relationship to the motion to modify.
- Cross out all lines you don’t use.

### ☐ **Paragraph B9: Review.** This tells the other party and the judge or judicial referee that you reserve the right to add to the list of witnesses.

### ☐ **Paragraph C1 through C20: List of Exhibits.** For each number:

- List the title or name of the exhibit.
- If applicable, include dates and/or the last 4 digits of account numbers. **Don’t** include the full account numbers.
- Cross out all lines you don’t use.

### ☐ **Paragraph C21: Review.** This tells the other party and the judge or judicial referee that you reserve the right to add to the list of exhibits.

### ☐ **Date and Signature:** You, the parent who completed this form:

- ☐ Date the document.
- ☐ Sign the signature line and put a checkmark ☒ in the same box as Paragraph A.
- ☐ Print your name.

- ☐ Fill in the address lines. (If you have a physical address **and** a mailing address, type or write both addresses using the lines provided, and the space next to the address lines.)
- ☐ Fill in your phone number **and** email address.

### Make 2 Copies of the Witness and Exhibit List

- Make two copies: one for you, one for the other parent.

### Serve the Witness and Exhibit List

- ☐ **Serve the Witness and Exhibit List on the other parent.**
  - The person serving by mail must be at least 18 years old.
  - Put the copy in an envelope.
  - Address the envelope with the other parent's last known address.
  - If you know the other parent is currently represented by a lawyer, address the envelope with the lawyer's address, **not** the other parent's.
  - List your address as the return address on the envelope.
  - Put the correct first class postage on the envelope.
    - Postage must be prepaid.
    - **It's very important to put the correct postage on the envelope.** If you don't, the envelope may be returned to you causing you to miss the service deadline.
  - Put the envelope in the U.S. mail.
  - Service by mail is complete upon mailing.
- ☐ **The person who mailed the envelope completes the following form:**
  - Form 3: Declaration of Service by Mail.

The person who mailed the envelope **must** complete the Declaration of Service by Mail form. (If the envelope is mailed at a United States Post Office, the United States Post Office employee **doesn't** complete Declaration of Service by Mail form.)

**Service by mail is a common way to serve documents. However, there are other ways to serve your documents.** To review other service options, go to [ndcourts.gov/legal-self-help/service-in-a-civil-action](https://ndcourts.gov/legal-self-help/service-in-a-civil-action).

- Scroll to the "Service After a District Court Civil Action Has Started" section of the webpage.

☐ **Prepare the Declaration of Service by Mail**

- ☐ **Fill in the Top Part of the Form:** Fill out the top part of the form (“the caption”) the same as caption of the Informational Statement.
- ☐ **Paragraph 1:** Fill in your name.
- ☐ **Paragraph 2:** The Witness and Exhibit List must be listed as the document served.
- ☐ **Paragraph 3:** Review.
- ☐ **Paragraph 4:** Fill in the date you served the documents by mail.
- ☐ **Paragraph 5:** List the name of the person served (the other parent or their attorney) and the mailing address.
- ☐ **Paragraph 6:** Review carefully.
- ☐ **Date and Signature:**
  - ☐ Fill in the date, city, county, state, and country where you signed this document.
  - ☐ Sign the signature line.
  - ☐ Type or print your name.
  - ☐ Fill in the address lines. *(If you have a physical address **and** a mailing address, type or write both addresses using the lines provided, and the space next to the address lines.)*
  - ☐ Fill in your phone number.
  - ☐ Fill in your email address.

**File the Witness and Exhibit List**

- ☐ Once service has been completed, file the following documents with the Clerk of Court:
  - Witness and Exhibit List;
  - Declaration of Service by Mail.

State of North Dakota

In District Court

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

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

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

)  
)  
)  
)  
)  
)

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

**Witness and Exhibit List**

*(If the judge or judicial referee orders an evidentiary hearing, you may be required to prepare, serve, and file a list of witnesses and exhibits you plan to try to introduce as evidence at the hearing. (Review the [Evidence](#) research guide and the information on the [Subpoenas](#) webpage.)*

*Make sure your list is as complete as possible. The judge or judicial referee may not allow you to introduce witnesses or exhibits during the evidentiary hearing that you don't include here.*

*If you have questions about the witnesses or exhibits you should include, [retain a lawyer](#) for legal advice. Ask the lawyer if they offer limited legal representation.)*

**A.** I am the (choose one) ☐ Moving party/ ☐ Opposing party in this motion to modify primary residential responsibility. The evidentiary hearing is scheduled on \_\_\_\_\_.

**B. My List of Witnesses:** This is the list of people I want to call as witnesses at the evidentiary hearing to tell the judge or judicial referee what they know about my case (*for each witness, list their name and relationship to the motion. Cross out all lines you don't use*).

1. \_\_\_\_\_
2. \_\_\_\_\_
3. \_\_\_\_\_
4. \_\_\_\_\_
5. \_\_\_\_\_
6. \_\_\_\_\_
7. \_\_\_\_\_
8. \_\_\_\_\_

9. I reserve the right to add to the list of witnesses if I learn about a witness that I did not know about when I filed this Witness and Exhibit List.

**C. My List of Exhibits:** This is the list of documents I want the judge or judicial referee to consider at the evidentiary hearing *(for each exhibit, list the title or name. If applicable, include dates and/or the last 4 digits of account numbers. Cross out all lines you don't use).*

1. \_\_\_\_\_
2. \_\_\_\_\_
3. \_\_\_\_\_
4. \_\_\_\_\_
5. \_\_\_\_\_
6. \_\_\_\_\_
7. \_\_\_\_\_
8. \_\_\_\_\_
9. \_\_\_\_\_
10. \_\_\_\_\_
11. \_\_\_\_\_
12. \_\_\_\_\_
13. \_\_\_\_\_
14. \_\_\_\_\_
15. \_\_\_\_\_
16. \_\_\_\_\_
17. \_\_\_\_\_
18. \_\_\_\_\_
19. \_\_\_\_\_
20. \_\_\_\_\_

21. I reserve the right to add to the list of exhibits if I learn about the existence of an exhibit after I file this list of Witness and Exhibit Lit.

\_\_\_\_\_  
(Date)

\_\_\_\_\_, ☐ Moving party / ☐ Opposing party  
(Signature)

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

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

\_\_\_\_\_  
(Telephone Number/Email)

State of North Dakota

In District Court

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

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

\_\_\_\_\_) )

Plaintiff, )

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

vs )

**Declaration of Service by Mail**

\_\_\_\_\_) )

Defendant. )

**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:**

- Witness and Exhibit List

**3. Service by Mail:**

As required by Rule 5(b)(3) 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*