

Instructions for Answer to Motion for Default Parenting Responsibility Judgment

Important! Read Before Using this Packet of Forms.

ND Legal Self Help staff and court employees **can't** help you fill out the form(s). If you're unsure if these forms and instructions suit your circumstances, 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 these instructions and forms at your own risk.**

If you need legal advice or legal representation, consult a lawyer licensed to practice in North Dakota. Go to ndcourts.gov/legal-self-help/finding-a-lawyer for information about finding a lawyer to represent you.

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

- State or federal laws that apply to your case, which include,
 - [Chapter 14-09 of the North Dakota Century Code](#) governing custody, visitation, and child support;
 - [Chapter 14-12.2 of the North Dakota Century Code](#) governing enforcement and modification of child support issued by other states or countries; and
 - [Chapter 14-14.1 of the North Dakota Century Code](#) governing jurisdiction;
- 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 – specifically [Rule 55](#) – Default judgments;
 - North Dakota Rules of Court – specifically [Rule 3.2](#) – Motions;
 - North Dakota Rules of Evidence;
 - North Dakota Administrative Rules and Orders; and
 - Any local court rules.

Links to the state laws, case law, and court rules are available at ndcourts.gov.

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

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

These instructions and forms aren't a complete statement of the law. They cover the basic procedure for answering a motion for a Default Parenting Responsibility Judgment in a North Dakota State District Court. The Center isn't responsible for any consequences that may result from the forms or information provided. Use these forms and instructions at your own risk.

Parenting responsibility cases can have serious long-term legal and financial consequences. Carefully consider all of your options before you represent yourself in answering a motion for a Default Parenting Responsibility Judgment. If possible, consult a lawyer.

You May Use This Packet of Forms **Only if **All** of the Following Statements are True.**

1. You, the Defendant, were served a Motion for Default Parenting Responsibility Judgment by the other parent, the Plaintiff, or the other parent's lawyer.
2. You're still within the 14 or 17 calendar day deadline to answer the Motion for Default Parenting Responsibility Judgment.
 - See **Page 8** to calculate your deadline.
3. You're representing yourself without a lawyer.

Instructions for this packet of forms begins on Page 7.

**** Don't Ignore the Motion for Default Parenting Responsibility Judgment! ****

You have a 14 or 17 day window to respond. If you don't answer the motion in writing, the judge or judicial referee is allowed to grant a Default Parenting Responsibility Judgment without your input.

What if I Missed My 14 or 17 Day Deadline to Answer the Motion for Default Parenting Responsibility Judgment?

If You Missed the Deadline, But Haven't Received a Signed and Dated Default Parenting Responsibility Judgment from the Court:

If you've missed the 14 or 17 calendar day deadline to answer the motion, but you haven't yet received a signed and dated Default Parenting Responsibility Judgment, contact the Clerk of Court's Office. Contact information is available at ndcourts.gov/court-locations.

Give the Clerk of Court the case number from the other parent's (Plaintiff's) Notice of Motion and ask if a Default Parenting Responsibility has been entered. If a Default Parenting Responsibility Judgment **hasn't** been entered, you may ask for more time to serve and file your answer to the motion.

Forms to ask the judge or judicial referee for an extension of time are available at ndcourts.gov/legal-self-help. Scroll to the "Miscellaneous" Section and click on "Continuance and/or Extension Request."

If the judge or judicial referee grants you more time to answer the motion, you may use this form set.

If You Received a Signed and Dated Default Parenting Responsibility Judgment from the Court:

If you've received a signed and dated Default Parenting Responsibility Judgment from the District Court, **you can't use this set of forms.**

Email the North Dakota Legal Self Help Center at ndselfhelp@ndcourts.gov and ask for information on making a motion for relief from a default judgment.

The Center **doesn't** have forms or instructions available for you to use, but does have information about the process and the documents you create yourself.

What is a Motion for Default Parenting Responsibility Judgment?

Service of the Summons and Complaint for Parenting Responsibility Starts the Parenting Responsibility Case:

The parent who starts the parenting responsibility case is called the Plaintiff. The Plaintiff starts the Parenting Responsibility case by arranging for a Parenting Responsibility Summons and Complaint to be served on the other parent, called the Defendant.

You, the Defendant, have 21 days after the date you were served to answer the Summons and Complaint in writing.

The Plaintiff May Ask for a Default Parenting Responsibility Judgment if You, the Defendant, Don't Answer the Summons and Complaint in Writing:

If you **don't answer** the Parenting Responsibility Summons and Complaint **in writing** within 21 days after service, the Plaintiff may ask the judge or judicial referee, in writing, to grant the Parenting Responsibility case without your involvement.

The request is called a **Motion for a Default Parenting Responsibility Judgment**. A judge or judicial referee may grant a Default Parenting Responsibility Judgment if **the Plaintiff proves the following, in writing**:

1. Proof of service of the Parenting Responsibility Summons and Complaint on you;
2. The 21 day deadline for you to answer the Default Parenting Responsibility Summons and Complaint has passed and you didn't respond **in writing**;
3. The North Dakota District Court has the authority (jurisdiction) to grant the Parenting Responsibility Judgment; and
4. The Plaintiff provided all other necessary information and proof to the District Court judge or judicial referee.

Effect of a Default Parenting Responsibility Judgment:

If the District Court judge or judicial referee grants a Default Parenting Responsibility judgment, the Judgment has the same effect as a Parenting Responsibility Judgment.

However, at a later date you, the Defendant, may make a written motion to the judge or judicial referee for relief from the Default Parenting Responsibility judgment. This is also called a motion to re-open the Default Parenting Responsibility Judgment, to vacate the Default Parenting Responsibility Judgment, or to set aside the Default Parenting Responsibility Judgment.

If you make the written motion, the judge or judicial referee decides whether to re-open the Default Parenting Responsibility Judgment, or keep the Default Parenting Responsibility Judgment in place.

(This space left intentionally blank.)

Protections for Active Military Service Members Against Default Judgments:

Under Federal law, active duty service members have protections against default judgments.

Before a North Dakota state district court judge or judicial referee may grant a Motion for Default Parenting Responsibility Judgment, the Plaintiff must prove you **aren't** on active duty with any branch of the United States military.

The Plaintiff **must** attempt to find out if you're an active duty service member and include the steps they took and the outcome in their Motion for Default Parenting Responsibility Judgment documents.

If the judge or judicial referee can't tell whether you're in active military service from the forms the Plaintiff files, before granting a Default Parenting Responsibility Judgment, the judge or judicial referee may require the Plaintiff to file a bond. The judge or judicial referee decides the dollar amount of the bond. If the judge or judicial referee finds out later that you're in active military service, the bond is used to compensate you against loss or damage resulting from the Default Parenting Responsibility Judgment.

Parties in an Answer to Motion for Default Parenting Responsibility Judgment

Plaintiff: The parent listed as the Plaintiff in the case to establish parenting responsibility. Also, the parent who started the parenting Responsibility case with service of the Summons and Complaint on the other parent.

Defendant: You, the parent listed as the Defendant in the case to establish parenting responsibility who was served the Summons and Complaint to establish parenting responsibility.

Moving Party: The Plaintiff bringing the Motion for Default Parenting Responsibility Judgment.

Opposing Party: You, the Defendant in the Motion for Default Parenting Responsibility Judgment. (Also called the Non-moving party.)

Real Party in Interest – (Also known as the Statutory Real Party in Interest.) The State of North Dakota is added as a real party in interest to parenting responsibility cases **only** when:

- Child support will be established or modified, and a minor child receives assistance through programs administered by the North Dakota Department of Health and Human Services, such as temporary assistance to needy families, Medicaid, and foster care;

- Child support will be established or modified, and an application was made and accepted for services provided by the Child Support Division of the North Dakota Department of Human Services; **or**
- Child support or spousal support will be established or modified and North Dakota or the Child Support Division of the North Dakota Department of Human Services is required to be involved in proceedings related to support orders of other states or countries under the Uniform Interstate Family Support Act.
- This is an example of the parties listed in the caption:

John Doe,)	
)	
Plaintiff,)	
vs.)	Case No. 00-2025-DM-00001
)	
Jane Doe,)	
)	
Defendant,)	
and)	
)	
State of North Dakota,)	
Real Party in Interest.))	

Only required if you meet one of the 3 situations listed on Pages 5-6.

Forms Suitable for Uncomplicated Parenting Responsibility Cases Only

This packet of forms is only for Parenting Responsibility cases involving common and uncomplicated circumstances.

If this packet of forms doesn't work for you, **Stop! You can't use this packet of forms.**

Go to ndcourts.gov/legal-self-help/establishing-custody-and-visitation for all other Parenting Responsibility forms and resources available through the ND Legal Self Help Center, or retain a lawyer to create the documents for you.

(This space left intentionally blank.)

Forms to Answer the Motion for Default Parenting Responsibility

The following forms are required:

Each individual form has instructions attached.

- OP1: Answer Brief in Opposition to Motion for Default Parenting Responsibility Judgment;
- OP2: Declaration in Opposition to Motion for Default Parenting Responsibility Judgment;
- OP3a: Answer and Counterclaim;
 - If you already served an answer or answer and counterclaim to the summons and complaint, you don't fill out, copy, or serve this form.
- OP4a: Confidential Information Form; and
- OP5a: Declaration of Service by Mail.

All Forms Must be Filled out Completely!!

Don't leave any of the paragraphs within the forms unanswered.

If a section of the form doesn't apply to you, type or write "N/A" or "Not Applicable." Type or write \$0.00 if a dollar amount doesn't apply to you.

If a form isn't completely filled out, the clerk may not accept your forms for filing, or the court may send your forms back to you to complete. It could also mean the judge or judicial referee requires you to attend a hearing to explain why you left blanks in the forms.

Follow and Carefully Read All Instructions! In the instructions for each form there are checkboxes () before each step. Check each box as you finish the step. Don't go to the next step **until** the previous step is completed.

(This space left intentionally blank.)

Step One

Calculate Your Deadline to Answer; Review All Forms and Instructions; Gather Information and Make Decisions

Calculate your deadline to answer the motion for Default Parenting Responsibility Judgment:

You must answer the motion within 14 or 17 days after you were served the Plaintiff's motion for default parenting responsibility judgment documents.

The number of days in your deadline depends on how you were served.

If you were served the motion documents by personal delivery or at your office, you have 14 days after the date you were served to serve and file your written answer to the motion.

- The date of service is the date the motion was personally delivered or left at your office.

If you were served the motion documents by mail or third-party commercial carrier, you have 17 days after the date you were served to serve and file your written answer to the motion.

- The date of service is the date the motion documents were mailed. See the postmark on the envelope.

Your deadline is calculated in **calendar days**. This means you count weekdays, Saturdays, Sundays, and North Dakota state holidays.

1. On a calendar, find the date you were served.
2. Starting with the day **after** you were served, count forward 14 or 17 **calendar days**.
3. If the 14th or 17th day lands on a Saturday, Sunday, or North Dakota state holiday, move ahead to the next day that **isn't** a Saturday, Sunday, or North Dakota state holiday

Review **All** of the forms and instructions in this packet of forms:

Read these instructions **carefully**. Review **All** of the individual forms and their instructions **carefully**. Decide if the forms apply to your situation. If you don't know if you should use this packet of forms, [consult a lawyer](#) licensed to practice law in North Dakota.

❑ Gather Information and Make Decisions:

You must gather information to help you make decisions related to answering a motion for Default Parenting Responsibility Judgment.

Research default judgment requirements in [Rule 55 of the North Dakota Rules of Civil Procedure](#).

Research answer to motion requirements in [Rule 3.2 of the North Dakota Rules of Court](#).

Research North Dakota Supreme Court opinions, also called case law, related to default judgment requirements at ndcourts.gov/supreme-court/opinions.

Gather the following information:

- Your copy of the Summons and Complaint for the Parenting Responsibility case.
 - If you don't have a copy, contact the [Clerk of Court](#) in the North Dakota county where the Parenting Responsibility action is filed.
- Proof of service of the Summons and Complaint on you.
 - If you don't have a copy, contact the [Clerk of Court](#) in the North Dakota county where the Parenting Responsibility case is filed.
 - If served by a sheriff or other law enforcement officer, proof of service is a Certificate of Service.
 - If served by an individual other than a sheriff or other law enforcement officer, proof of service is a Declaration of Service or Affidavit of Service.
- If you served a written answer, or a written answer and counterclaim, to the Summons and Complaint for the Parenting Responsibility case on the Plaintiff or the Plaintiff's lawyer:
 - Your copy of your written answer, or written answer and counterclaim; and
 - Your copy of proof of service of your written answer, or written answer and counterclaim, on the Plaintiff or the Plaintiff's lawyer.
 - If served by first-class mail, proof of service is a Declaration of Service or Affidavit of Service.
 - If served by a sheriff or other law enforcement officer, proof of service is a Certificate of Service.
 - If served by an individual other than a sheriff or other law enforcement officer, proof of service is a Declaration of Service or Affidavit of Service.
- Other supporting documents you plan to refer to in your answer to motion forms.
 - Any supporting documents to which you refer in your answer to motion forms **must be served** on the Plaintiff and filed with the Court.

Step Two

You, the Defendant, Complete the Forms in the Answer to Motion for Default Parenting Responsibility Judgment Packet of Forms

You, the Defendant (also called the Opposing Party) are **required to complete all** Answer to Motion for Default Parenting Responsibility Judgment forms.

Instruction sheets are attached to each Answer to Motion for Default Parenting Responsibility Judgment form mentioned below. The forms are described on **Pages 10 and 11:**

Default Parenting Responsibility Forms:	
Form Title	Description
Form OP1: Answer Brief in Opposition to Motion for Default Parenting Responsibility Judgment	A required written explanation (answer brief) where you, the Defendant, make your written legal argument about how and why the Plaintiff doesn't meet the requirements for a default parenting responsibility judgment. Your answer brief takes the specific rules that support your response and explains how they apply to the facts of your parenting responsibility case.
Form OP2: Declaration in Opposition to Motion for Default Parenting Responsibility Judgment	Your, the Defendant's, written statement of your facts that support what you wrote in your Answer Brief. You sign under penalty of perjury that the information you include in your Declaration is true and correct.
Form OP3: Answer and Counterclaim Don't fill out this form if you already served an answer, or an answer and counterclaim.	If you didn't serve an answer, or answer and counterclaim , this is your proposed answer and counterclaim to the Plaintiff's summons and complaint. If the judge or judicial referee denies the Plaintiff's motion for default parenting responsibility judgment, the judge or judicial referee decides whether to accept your proposed answer and counterclaim.
Form OP4a: Confidential Information Form	Lists the full protected, or confidential, information that isn't allowed to appear in other documents filed with the court. This form is a part of the court record that isn't seen by the public.

Default Parenting Responsibility Forms:

Form Title	Description
Form OP5: Declaration of Service by Mail	<p>Proof that copies of your completed Answer to Motion for Default Parenting Responsibility Judgment forms, and any other supporting documents, were served on the Plaintiff, or Plaintiff's lawyer by first-class mail. Lists the address of the Plaintiff, or their lawyer, and all documents served.</p> <p>Signed by the person who serves the Plaintiff, or Plaintiff's lawyer (mails the documents).</p>

Step Three

You, the Defendant, Make Copies of Your Completed Forms

Make copies of your completed Answer to Motion for Default Parenting Responsibility Judgment forms. The originals are filed with the court.

- Make one copy for your records.
- Make one copy to be served on the Plaintiff, or the Plaintiff's lawyer.
- If there is a "Real Party in Interest", make a copy to be served on them.

Copy the following forms:

- OP1: Answer Brief in Opposition to Motion for Default Parenting Responsibility Judgment;
- OP2: Declaration in Opposition to Motion for Default Parenting Responsibility Judgment;
- OP3a: Answer and Counterclaim (*With Children*);
 - If you already served an answer or answer and counterclaim to the summons and complaint, you don't fill out or copy this form.
- OP4a: Confidential Information Form.

Other documents you may need to copy:

- Any other exhibits or attachments you reference in your completed forms.

Step Four

You, the Defendant, Arrange to Serve Copies of Your Completed Forms on the Plaintiff

Review the instructions for Form OP5 carefully!

- Serve the forms listed in Step Three on the Plaintiff, or the Plaintiff's lawyer.

Remember: Don't serve the Confidential Information Form (Form OP4)

- If there is a "Real Party in Interest", serve the forms on them as well.

- Make copies of the completed, dated, and signed Declaration of Service by Mail form (Form OP5)

- This is your proof of service that you must file in Step Five.

Step Five

You, the Plaintiff, File the Originals of Your Completed Forms with the Clerk of Court

- Take or mail the completed originals of each of the forms listed in Step Three and your completed Declaration of Service by Mail form to the Clerk of Court in the North Dakota county listed where the Summons and Complaint is filed.

You may be required to pay the **\$100.00 filing fee** for an answer to a summons and complaint. If you're required to pay, you may ask the court to waive the \$100.00 filing fee.

Forms to request the court waive the filing fee are available at ndcourts.gov/legal-self-help/feewaiver. Fee waivers are based on inability to pay. The completed fee waiver request forms are filed at the same time as the Summons and Complaint.

(This space left intentionally blank.)

Step Six

Wait 10 Days to See if the Plaintiff (Moving Party) Replies to Your Answer to Motion for Default Parenting Responsibility Judgment

If the Plaintiff chooses, they may reply to your Answer to Motion for Default Parenting Responsibility Judgment within 10 days after service of your answer to motion.

The Plaintiff has 10 calendar days after the date they were served your answer to motion to serve and file a reply brief.

- The date of service is the date the answer to motion documents were mailed.

The Plaintiff's 10 day deadline is calculated in **calendar days.** This means you count weekdays, Saturdays, Sundays, and North Dakota state holidays.

1. On your calendar, go to the date the Plaintiff was served.
2. Starting with the day **after** the date the Plaintiff was served, count ahead 10 calendar days.
3. If the 10th calendar day lands on a Saturday, Sunday, or North Dakota state holiday, move ahead to the next calendar day that isn't a Saturday, Sunday, or North Dakota state holiday.

If the Plaintiff serves and files a reply brief, the judge or judicial referee considers it, along with the Plaintiff's motion documents and your answer to motion documents, when making a decision in Step Seven.

If the Plaintiff **doesn't** serve and file a reply brief, the judge or judicial referee considers only the Plaintiff's motion documents and your answer to motion documents when making a decision in Step Seven.

(This space left intentionally blank.)

Step Seven

The Judge or Judicial Referee Decides Whether to Grant the Plaintiff a Default Parenting Responsibility Judgment

After the deadline passes for motion documents to be served and filed, the judge or judicial referee reviews the motion documents filed by the you and the Plaintiff.

If the Judge or Judicial Referee **doesn't** Grant the Plaintiff's Motion for Default Parenting Responsibility Judgment:

If the judge or judicial referee **doesn't grant** the Plaintiff's Motion for Default Parenting Responsibility Judgment, the Parenting Responsibility case moves forward as a contested matter.

Go to [Steps You Must Take Before the Court Can Grant Parenting Responsibility \(Case Management\)](#) for the next steps in a contested Parenting Responsibility action.

If the Judge or Judicial Referee **Grants** the Plaintiff's Motion for Default Parenting Responsibility Judgment:

If the judge or judicial referee grants the Plaintiff's Motion for Default Parenting Responsibility Judgment, the judge or judicial referee signs a Findings of Fact, Conclusions of Law and Order for Default Parenting Responsibility Judgment.

After the judge or judicial referee signs the Findings of Fact, Conclusions of Law and Order for Default Parenting Responsibility Judgment, the clerk of court signs the Default Parenting Responsibility Judgment. The Default Parenting Responsibility Judgment is an exact duplicate of the Conclusion of Law section of the Findings of Fact, Conclusions of Law and Order for Default Parenting Responsibility Judgment document signed by the judge or judicial referee.

The Parenting Responsibility case **Isn't Final until the signed Default Parenting Responsibility Judgment is filed.**

You receive a copy of the signed Default Parenting Responsibility Judgment.