



Contested Parenting Responsibilities (Custody & Visitation)

- One Parent Starts the Case on Their Own (Plaintiff)
- The Other Parent Answers (Defendant)
- Steps Both Parents Must Take to Get a Final Judgment

An Informational Guide to a North Dakota Civil Court Process

The North Dakota Legal Self Help Center provides resources to people who represent themselves in civil matters in North Dakota state 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 representation, consult a lawyer licensed to practice in North Dakota. For information about how to find a lawyer, go to ndcourts.gov/legal-self-help/finding-a-lawyer.

As a self-represented individual, 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 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 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 the process of establishing parenting responsibilities (custody and visitation) between unmarried parents when the parents don't agree. 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.

Warning! Establishing parenting responsibilities (custody & visitation) between unmarried parents can have serious long-term legal and financial consequences.

If you can, [consult a lawyer](#) as early as possible in the process and carefully consider all of your options before you represent yourself.

This informational guide gives only the basics of the process. If you decide to represent yourself, you need to do additional research to prepare.

Table of Contents

Section One: Information About Contested Parenting Responsibilities

Actions, or Cases in North Dakota	6
What is a Contested Parenting Responsibilities Action, or Case?	6
How is Paternity Established?	6
How is Maternity Established?	7
Does the ND Legal Self Help Center Have Forms for Contested Parenting Responsibilities Cases?	7
Is Help Available for Creating Legal Documents?	8
Definitions of Commonly Used Terms	8
Who are the Parties in a Parenting Responsibilities Case?	9
North Dakota Residency Requirement for Establishing Parenting Responsibilities (Custody & Visitation)?	10
What are the Laws and Rules for Parenting Responsibilities Cases?	10
What are Common Issues in a Parenting Responsibilities Case?	12
You Must Calculate Child Support	12
Lawyer Resources and Limited Legal Representation.....	13

Section Two: The Contested Parenting Responsibilities Court Process 15

An Overview of the Process 15

Step One: The Plaintiff Starts the Contested Parenting Responsibilities Case with Service of the Summons and Complaint on the Defendant16

Decide Whether North Dakota is a Real Party in Interest 16

Confidential Information in Parenting Responsibilities Documents 16

The Plaintiff Creates the Summons & Complaint 17

The Plaintiff Arranges to Serve Copies of the Summons & Complaint on the Defendant 20

If the Plaintiff Can't Find the Defendant for Service 21

If the Defendant Doesn't Answer the Summons and Complaint **In Writing** .. 21

Step Two: The Defendant Serves a Written Answer & Counterclaim to the Summons and Complaint on the Plaintiff22

If the Defendant Doesn't Answer the Summons and Complaint **In Writing** .. 22

Confidential Information in Parenting Responsibilities Documents 22

The Defendant Creates the Answer and Counterclaim 23

The Defendant Arranges to Serve Copies of the Answer & Counterclaim on the Plaintiff 26

Step Three: Required Meeting of Parents; Filing the Summons and Complaint; Filing the Answer & Counterclaim; Discovery27

Within 30 Days After Service of the Summons and Complaint, Both Parents Meet to Prepare the Joint Informational Statement 27

Within 7 Days After Required Meeting, Plaintiff Files the Summons and Complaint & Joint Informational Statement 28

Notice of Filing the Summons and Complaint 29

The Defendant Files the Answer and Counterclaim 29

Notice of Filing the Answer and Counterclaim 30

Begin the Discovery Process 30

Step Four: Steps the Parents Must Take Before the District Court Judge Can Decide Their Parenting Responsibilities Case (Case Management)	31
You May Be Referred to the Family Law Mediation Program	31
The District Court Judge Issues a Scheduling Order	32
Either Parent May Request an Interim, or Temporary, Order	32
Appointment of a Parenting Investigator, Parenting Coordinator, or Guardian Ad Litem for the Child(ren)	33
Prepare Proposed Parenting Plans	34
Parents May Settle All or Part of the Issues in the Contested Parenting Responsibilities Case Before Trial	35
Prepare for and Attend All Scheduled Hearings	35
Step Five: Pre-Trial Preparation	36
If You Need Special Assistance at the Trial	37
Library Resources	37
Rules of Evidence and Subpoenas	38
Begin Preparing a Trial Notebook	39
Identify Your Witnesses and Exhibits	39
Find Out if Your Trial Will Be Recorded	39
Prepare for and Attend the Pre-Trial Conference	40
Step Six: Trial	40
If You Need Special Assistance at the Trial	40
Arrive Early to the Trial	40
Bring the Information, Documents, Etc. You Prepared for the Trial	41
Be Prepared to Take Detailed Notes	41
Conduct of the Trial	42
Before You Leave the Trial	42
Step Seven: Final Parenting Responsibilities Judgment	43
Proposed Findings of Fact, Conclusions of Law and Order for Judgment	44
Proposed Judgment	44
Arrange to Serve Proposed Judgment Documents	44
Notice of Entry of Judgment	45

Section Three: Appendix of Contested Parenting Responsibilities

Formatting Examples and Forms45

Summons in Parenting Responsibilities Case (Appendix A).....	47
Complaint in Parenting Responsibilities Case (Formatting Example)	50
Answer and Counterclaim in Parenting Responsibilities Case (Fillable Form)	54
Confidential Information Form (Appendix H)	63
Notice of Filing Summons and Complaint (Fillable Form)	65
Notice of Filing Answer and Counterclaim (Fillable Form)	68
Joint Informational Statement (Appendix L)	71
Proposed Parenting Plan (Fillable Form).....	74
Witness and Exhibit List (Fillable Form)	95

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Section One: Information About Contested Parenting Responsibilities Actions, or Cases in North Dakota

What is a Contested Parenting Responsibilities Action, or Case?

Parents who have never been married to each other may ask a North Dakota state district court to establish parenting responsibilities (custody and visitation) to their children. (When parents are married to each other, parenting responsibilities are handled as part of the divorce or legal separation case.)

Contested parenting responsibilities means that the parents can't agree on every issue, or one parent can't be found. One parent may start the parenting responsibility case on their own. The other parent answers in writing, if they want to take part in the case. If, after the case starts, the parents don't reach an agreement on all issues, the judge decides the unresolved issues at trial.

If you and the other parent **aren't** in agreement **in writing** on every absolutely every issue in the parenting responsibility case, you have a contested case.

How is Paternity Established?

The father-child relationship is established by:

- **An acknowledgment of paternity**
 - A process that happens shortly after birth that requires signatures on a form from the mother, father, and, if the mother is married, the husband. Then, the father's name is added to the birth certificate.
- **A civil action, or case to establish paternity**
 - A civil case that establishes the father of a child that may involve genetic testing. A district court judge issues an order establishing paternity so the father's name can be added to the birth certificate.
- **Adoption**
 - A civil case that terminates the parental rights of a parent, or parents, of a child and establishes another individual, or individuals, as the parent. A district court judge issues an adoption order so a new birth certificate is issued for the child. The new birth certificate lists the adoptive parent's name, or names.

If a father-child relationship isn't established, you may bring a different type of civil action, or case to establish paternity. Residential responsibility (custody) and parenting time (visitation) may be established as part of a paternity case.

Go to ndcourts.gov/legal-self-help/paternity for all of the information about paternity actions available through the North Dakota Legal Self Help Center.

How is Maternity Established?

The mother-child relationship is established by:

- **Giving birth to the child**
- **A civil action to establish maternity**
 - A civil case that establishes the mother of a child. A district court judge issues an order establishing maternity so the mother's name can be added to the birth certificate.
- **Adoption**
 - A civil action that terminates the parental rights of a parent, or parents, of a child and establishes another individual, or individuals, as the parent. A district court judge issues an adoption order so a new birth certificate is issued for the child. The new birth certificate lists the adoptive parent's name, or names.

If a mother-child relationship isn't established, you may need to bring a different type of civil action to establish maternity.

Does the North Dakota Legal Self Help Center Have Forms for Contested Parenting Responsibility Cases?

No, the North Dakota Legal Self Help Center doesn't have a packet of forms for contested parenting responsibilities cases.

If you decide to represent yourself, you create your own contested parenting responsibilities documents. **The names and descriptions of the documents you need to create are found throughout this guide.**

Formatting examples of some of the contested parenting responsibilities documents are available in the Appendix at the end of this informational guide.

General-Use template forms are available at ndcourts.gov/legal-self-help/general-use-forms.

Is Help Available for Creating Legal Documents?

If you need help creating your contested parenting responsibilities documents, consult a lawyer licensed to practice in North Dakota. Ask the lawyer about Limited Legal Representation.

Lawyers licensed to practice in North Dakota may agree to help you with part of your contested parenting responsibilities case, such as preparing legal documents, while you handle the rest of the case. You and the lawyer must agree in writing to Limited Legal Representation.

Definitions of Commonly Used Terms in a Parenting Responsibility Case

*****The following definitions are intended to be helpful, But they aren't intended to constitute legal advice Or address every possible meaning of the terms in this section.*****

Child Support – payments for the support of a child, including payments for health insurance coverage or other medical support, and payments for the support of spouses or former spouses with whom the child is living as long as the spousal support payment is owed to the spouse or former spouse under the same order as the payments for the child, if the payment is required by the order of a court or other governmental agency having authority to issue such orders, and includes past-due support.

Custody – See residential responsibility.

Decision making responsibility – The responsibility to make decisions concerning the child. The term may refer to decisions on all issues or on specific issues, but not child support issues.

Deploying or deployed parent – a uniformed service member who has been notified of orders of movement or mobilization for more than ninety days but less than eighteen months **and** the orders are designated as unaccompanied, not authorized for dependent travel, or don't permit family members to move to the deployment location.

Home state – The state in which a child lived with a parent for at least six consecutive months immediately before the commencement of a child custody proceeding. In the case of a child less than six months of age, home state means the state in which the child lived from birth with a parent. A period of temporary absence of any of the mentioned persons is part of the period.

Obligor – the person ordered by the court to pay child support.

Obligee – the person receiving child support ordered by the court.

Parental rights and responsibilities – All the rights and responsibilities a parent has concerning the parent's child.

Parenting plan – A written plan describing each parent's rights and responsibilities. A parenting plan must be included in the court's final judgment to establish parenting responsibilities between parents who were never married to each other.

Parenting schedule – The schedule of when the child is in the care of each parent.

Parenting time – The time when the child is to be in the care of a parent. (*Also called visitation.*)

Primary residential responsibility – A parent with more than fifty percent of the residential responsibility.

Residential responsibility – A parent's responsibility to provide a home for the child. (*Also called custody.*)

Visitation – See parenting time.

Who are the Parties in a Parenting Responsibility Case?

Plaintiff (or Petitioner) – The parent who starts the contested parenting responsibilities case by serving a summons and complaint on the other parent.

Defendant (or Respondent) – The parent who is served the summons and complaint to establish parenting responsibilities.

Real Party in Interest (*also called the Statutory Real Party in Interest*) – a person or entity who has the right bring a case, even though someone else benefits if the case is successful.

The State of North Dakota is added as a real party in interest to parenting responsibilities cases **only when:**

1. 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; **or**
2. 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 Health and Human Services; **or**
3. Child support will be established or modified **and** North Dakota or the Child Support Division of the North Dakota Department of Health and 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](#).

What is the North Dakota Residency Requirement Establishing Parenting Responsibility (Custody and Visitation)?

[Chapter 14-14.1 of the North Dakota Century Code](#) governs when a North Dakota state district court can make decisions about child custody issues and enforce child custody orders.

A North Dakota District Court can establish parenting responsibilities to a minor child when:

1. North Dakota is the home state of the child on the date the parenting responsibilities case starts with service of the summons and complaint; **or**
2. North Dakota was the home state of the child within six months before the date the parenting responsibilities action started with service of the summons and complaint, **and** the child is absent from North Dakota but a parent or person acting as a parent continues to live in North Dakota; **or**
3. North Dakota **isn't** the home state, **but** a court of the child's home state declined jurisdiction because North Dakota is the more appropriate forum, **and**:
 - The child and the child's parents, or the child and at least one parent or a person acting as a parent, have a significant connection with North Dakota other than mere physical presence; **and**
 - Substantial evidence is available in North Dakota concerning the child's care, protection, training, and personal relationships.

What are the Laws and Rules for Parenting Responsibility Cases?

Interpreting what the law means for a specific set of circumstances is a fundamental part of legal representation. North Dakota Legal Self Help Center staff can't provide legal representation of any kind under any circumstances. Legal representation can only be provided to you by a lawyer who agrees to represent you.

Chapter 14-09 of the North Dakota Century Code governs parenting rights and responsibilities, such as custody, visitation, and child support. Go to ndlegis.gov/cencode/t14c09.html

Chapter 14-12.2 of the North Dakota Century Code governs enforcement and modification of child support and spousal support orders issued by other states or countries. Go to ndlegis.gov/cencode/t14c12-2.html

Chapter 14-14.1 of the North Dakota Century Code governs when a North Dakota state district court can make decisions about child custody issues and enforce child custody orders. Go to ndlegis.gov/cencode/t14c14-1.html

Title 14 of the North Dakota Century Code includes Chapter 14-09, 14-12.2 and 14-14.1. There are many other laws related to families in Title 14. You may find them of interest. Go to ndlegis.gov/cencode/t14.html

The North Dakota Rules of Civil Procedure apply to civil matters in North Dakota district courts. The rules are available at ndcourts.gov/legal-resources/rules/ndrcivp.

The North Dakota Rules of Court apply to civil matters in North Dakota district courts. The rules are available at ndcourts.gov/legal-resources/rules/ndrct.

See particularly:

- Rule 8.2 (Interim Orders),
- Rule 8.3.1 (Case Management), and
- Rule 8.4 (Summons).

The North Dakota Rules of Evidence apply to civil matters in North Dakota district courts. The rules are available at ndcourts.gov/legal-resources/rules/ndrev.

North Dakota Case Law (Court Opinions) is useful for interpreting what the law means for your individual circumstances.

When the decision of a case is appealed from a North Dakota state district court to the North Dakota Supreme Court, the Supreme Court writes their opinion to explain how and why they interpreted the laws or rules to decide the appeal the way they did. The opinions are case law and are followed by North Dakota courts deciding later cases with similar facts and issues.

North Dakota case law related to parenting rights and responsibilities is available at <https://www.ndcourts.gov/supreme-court/opinions>. Use the “Topic” drop down menu to find topics that correspond to your legal issue.

Laws constantly change through legislation, administrative rulings and case law. To determine how a law applies to your situation, review the applicable law or laws, administrative rules and rulings, and case law. Notes of case law related to North Dakota law can be found in the print editions of the North Dakota Century Code. Print editions of the North Dakota Century Code and court rules are found in many North Dakota public and academic libraries.

Only a lawyer licensed to practice in North Dakota who agrees to represent you can give you legal advice. Legal advice includes interpreting how the laws and rules apply to your situation.

What are Common Issues in a Parenting Responsibility Case?

- Residential responsibility of children, also called custody
- Parenting time, also called visitation
- Decision making responsibilities
- Child support
- Medical coverage, including health insurance premiums, copays, deductibles, etc.
- Tax deductions

When parents can't agree, the judge decides based on the best interests of the children. The best interest factors are found in [§ 14-09-06.2 of the North Dakota Century Code](#).

You Must Calculate Child Support:

Warning! You **Must** calculate your child support amount as part of your case, unless a North Dakota state district court, an out of state court, or tribal court already ordered child support.

Child support is based on guidelines set by the North Dakota Department of Health and Human Services. If a parent can show a different ability to earn income than the guidelines show, the judge may order a higher or lower child support payment.

The North Dakota Department of Health and Human Services created and provides support for the Child Support Guidelines Calculator. Go to childsupport.dhs.nd.gov/partners/lawyers/child-support-guidelines/current-child-support-guidelines for the Calculator.

You may be able to apply for services with [North Dakota Child Support](#). If your application for full services is approved by North Dakota Child Support, they can help to establish an order for child support and medical support in a separate child support case.

Court personnel and staff of the ND Legal Self Help Center **can't** help you with your child support calculations.

Warning! If you plan to ask the judge to allow a parent to pay a different amount of child support than the Child Support Guidelines Calculator amount, [consult a lawyer](#) for advice. The Calculator amount is presumed to be the correct amount of child support. The parent asking for a deviation from the Calculator amount must prove they meet one of the **limited exceptions** for deviation, and the deviation is in the best interests of the child(ren). See [North Dakota Century Code Section 14-09-09.7](#) and [North Dakota Administrative Code Section 75-02-04.1-09](#).

Lawyer Resources and Limited Legal Representation

You're not required to hire a lawyer to bring a case in a North Dakota state district court to establish parenting responsibilities. If you decide to represent yourself, you must follow all of the rules, laws and procedures a lawyer is required to follow.

Go to <https://www.ndcourts.gov/legal-self-help/finding-a-lawyer> for more information to help you decide if you need a lawyer, and to help you find a lawyer.

Lawyer Resources

If you decide to find a lawyer to represent you, you may find the following options of interest.

- **Legal Services of North Dakota** is a non-profit organization, providing free legal assistance to North Dakota residents in a variety of matters based on income. Legal Services of North Dakota can also determine whether an applicant meets the income requirements for the Volunteer Lawyers program that offers low-cost legal assistance based on income. The phone number is (800) 634-5263 and the website is lsnd.org.
- **Dakota Plains Legal Services** is a non-profit legal services organization providing free legal assistance to low-income individuals, older Americans and veterans. Dakota Plains Legal Services (DPLS) has eight offices and serves communities across South Dakota and North Dakota, including nine tribal nations. DPLS is committed to increasing access to justice with quality legal assistance. Contact information is available on the DPLS website of dpls.org.
- **The State Bar Association of North Dakota** provides a lawyer referral service to match paying clients in need of legal services with lawyers. The phone number is (866) 450-9579 and the website is sband.org. The cost is \$30.00 for a 30 minute consultation with a lawyer.
- **For a list of all lawyers who are licensed to practice in North Dakota**, go to the North Dakota Supreme Court website at ndcourts.gov/Lawyers. You can narrow your search by name or location.

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Limited Legal Representation

Lawyers licensed to practice in North Dakota may provide Limited Legal Representation in civil actions. Limited Legal Representation (also called “unbundling”) is a way a lawyer can help you with part of your case while you do the rest of your case. You pay for the part of the case the lawyer handled.

For example:

- You may want a lawyer to give you an expert opinion about your options, or your legal rights and responsibilities;
- You can consult with a lawyer to prepare or review your legal documents, but attend hearings yourself;
- You can represent yourself through the whole case, and periodically consult with a lawyer who can coach you on the law, procedures and strategy;
- You can do the preparation yourself and hire a lawyer just to make the court appearance for you.

You and the lawyer must agree in writing to Limited Legal Representation.

North Dakota Free Legal Answers

This civil legal program is a partnership of the American Bar Association and the State Bar Association of North Dakota.

The purpose of the program is to provide free answers to specific civil legal question to low-moderate income North Dakotans who submit their questions online. Anonymous volunteer lawyers answer your question, but can’t represent you.

Go to nd.freelegalanswers.org or information about the program, the online application, and, if you qualify, ask your civil legal question.

This program doesn’t provide any assistance with criminal legal questions.

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Section Two: The Contested Parenting Responsibilities Court Process from Beginning to End

An Overview of the Process

Step One: Plaintiff Arranges Service of Parenting Responsibilities Summons and Complaint

Service starts the Parenting Responsibilities case.

Step Two: Defendant Serves Written Answer & Counterclaim

Defendant must answer the complaint within 21 days after service.

Step Three: Required Meeting of Parents, File Summons & Complaint, File Answer & Counterclaim, Discovery

The parents meet, filing tells the court an action has started; the discovery process begins.

Step Four: Steps Parents Must Take Before Judge Can Decide the Case (Case Management)

Scheduling Order deadlines; referral to family mediation; prepare proposed parenting plans; request an interim order; appointment of parenting investigator or guardian ad litem.

Step Five: Pre-Trial Preparation

If the parents don't reach a full agreement on all issues, the unresolved issues are decided at trial by the judge.

Step Six: Trial

Step Seven: Final Decision/Judgment

The case isn't over until a final Judgment is issued by the judge.

Step One: The Plaintiff Starts the Contested Parenting Responsibilities Case with Service of the Summons and Complaint on the Defendant

Service of a copy of the summons and complaint on the other parent starts a parenting responsibilities case in North Dakota.

Once the summons and complaint are served on the Defendant, both parents must obey the restraining provisions in the summons.

Decide whether North Dakota is a Real Party in Interest:

A real party in interest is a person or entity who has the right bring a case, even though someone else benefits if the case is successful.

Review [Section 14-09-09.26 of the North Dakota Century Code](#) to decide if the State of North Dakota must be listed on your court documents as a Real Party in Interest.

If you decide the State of North Dakota is a Real Party in Interest in your case, list “State of North Dakota” in the caption of **all** of the documents you create. See the complaint in the examples of documents available at the end of this Informational Guide.

Confidential Information in Parenting Responsibilities Documents:

Court records are generally available to the public, and anyone can request to look in almost any court file.

However, certain information is protected and required to remain confidential, even if the protected information is part of a public court record.

You need to refer to protected, or confidential, information when you create and prepare the documents for your parenting responsibilities case. Each parent is responsible for making sure confidential information doesn’t appear in the documents you each create and prepare.

Confidential information includes:

- Full names of minor children
- Full birthdates
- Social security numbers
- Taxpayer identification numbers
- Financial-account numbers

Documents filed in a parenting responsibilities case with references to confidential information must include only:

- The minor child's initials
- The year of birth
- The last four (4) digits of the social security number and taxpayer identification number
- The last four (4) digits of the financial-account number

Each parent must prepare and file a separate confidential information form containing the full confidential information that isn't allowed in the parenting responsibilities documents.

The confidential information form is part of the court record that isn't seen by the public.

Plaintiff Creates the Summons, Complaint, and Confidential Information Documents:

Summons

- The Summons is a legal document that notifies the Defendant that the Plaintiff is starting the parenting responsibilities case and the Defendant must file a written answer in order to participate in the case.
- When a Plaintiff represents themselves in a parenting responsibilities case, **the summons isn't valid unless it's signed and dated by a North Dakota clerk of court.** (Review [Rule 8.4](#) of the North Dakota Rules of Court.)
- **A parenting responsibilities summons form is available:**
 - In the Appendix at the end of this informational guide.
 - At ndcourts.gov/legal-self-help/starting-a-civil-action.

Complaint

- The Complaint is a legal document that gives the judge and the Defendant information about the Plaintiff, Defendant, and their children. The Complaint also tells the judge and the Defendant what the Plaintiff is asking for in the case.
- The Complaint and the Summons must be separate documents.
- **At minimum, the parenting responsibilities complaint must include the following:**
 - Identifying information for the Plaintiff and Defendant.
 - How the Plaintiff, Defendant and the children meet the residency requirements for bringing a parenting responsibility case to a North Dakota state district court.
 - How this action is the only current case or proceeding related to parenting rights and responsibilities.
 - Whether the Plaintiff or Defendant are currently in the Armed Forces and if so, whether currently deployed or deploying.
 - Identifying information for each of the children.

- How the father-child relationship is established for each of the children.
- How the mother-child relationship is established for each of the children.
- Whether the Plaintiff or Defendant is currently pregnant.
- Statements of how the court has jurisdiction over custody decisions for the minor children.
 - If the information is included in a separate declaration or affidavit (see “Declaration of Custody Jurisdiction” below), refer to the declaration or affidavit.
 - If the required information from [§ 14-14.1-20](#) of the North Dakota Century Code is included in the complaint, the complaint **must** be verified. (See the [Verification form](#) at ndcourts.gov/legal-self-help/starting-a-civil-action.)
- Statements related to child support.
- Requests for relief, also called demands for relief.
 - Tells the judge what the Plaintiff wants the judge to order.
- A formatting example of a parenting responsibilities complaint is available in the Appendix at the end of this informational guide.
- General Use template forms are available at ndcourts.gov/legal-self-help/starting-a-civil-action.
 - [How to Write a Complaint](#)
 - [Caption and Signature form](#)

Declaration of Custody Jurisdiction, or Affidavit of Custody Jurisdiction

Instead of creating a separate declaration or affidavit, you may add the required custody jurisdiction information to your parenting responsibilities complaint. If you decide to add the custody jurisdiction information to your parenting responsibilities complaint, your complaint must be verified. See the [Verification](#) form at ndcourts.gov/legal-self-help/starting-a-civil-action.

The complaint formatting example in the Appendix at the end of this informational guide includes the required custody jurisdiction information. This guide **doesn’t** have a formatting example of a separate declaration or affidavit of custody jurisdiction.

- The Declaration of Custody Jurisdiction, or Affidavit of Custody Jurisdiction, is the Plaintiff’s written statement of fact required by [§ 14-14.1-20](#) of the North Dakota Century Code.
 - A declaration isn’t required to be notarized, but must include a specific statement directly above the date and signature.
 - An affidavit is dated and signed in the presence of a notarial officer.

- The Declaration or Affidavit must include the following custody jurisdiction information:
 - Each child's current address or whereabouts;
 - The places where each child has lived during the last five years;
 - The names and current addresses of the persons with whom each child lived during the last five years;
 - Whether the Plaintiff has participated, as a party or witness or in any other capacity, in any other case or proceeding concerning the custody of or visitation with each child. If yes, identify the following:
 - The court;
 - The case number; and
 - The date of the child custody determination, if any.
 - Whether the Plaintiff knows of any case or proceeding that could affect the parenting responsibilities case, including, but not limited to, the following:
 - Proceedings for enforcement;
 - Proceedings relating to domestic violence;
 - Proceedings relating to protective orders;
 - Proceedings relating to termination of parental rights; and
 - Proceedings relating to adoptions.
 If yes, identify the following:
 - The court;
 - The case number; and
 - The nature of the proceeding.
 - Whether the Plaintiff knows the names and addresses of any person who isn't a party to the parenting responsibilities case who:
 - Has physical custody of the child;
 - Claims rights of legal custody or physical custody of the child; or
 - Claims rights of visitation with the child.
 If yes, list the following:
 - The names and addresses of those persons.
- General Use template forms are available at ndcourts.gov/legal-self-help/starting-a-civil-action.
 - [Declaration form](#)
 - [Affidavit form](#)

Confidential Information Form

- The Confidential Information Form lists the full confidential information that isn't allowed to appear in documents filed with the district court. This form isn't a part of the public court record. (Review [Rule 3.4](#) of the North Dakota Rules of Court.)
- A Confidential Information Form is available:
 - In the Appendix at the end of this informational guide.
 - At ndcourts.gov/legal-self-help/starting-a-civil-action.

Plaintiff Makes Two (2) Copies of the Following:

- Completed Summons;
- Completed Complaint; and
- Completed Declaration of Custody Jurisdiction, or Affidavit of Custody Jurisdiction (if the Plaintiff created a separate declaration/affidavit).

Keep one copy of each for your records. The other copy of each document is for service on the Defendant.

Plaintiff Makes One (1) Copy of the Following:

- Completed Confidential Information Form.

Keep the copy for your records. A copy of the completed Confidential Information form **isn't** served on the Defendant. You file the Confidential Information form with the Clerk of District Court in Step Three.

Plaintiff Arranges for Service of Copies of the Following on the Defendant:

- Summons
- Complaint
- Declaration of Custody Jurisdiction, or Affidavit of Custody Jurisdiction
 - You don't need a separate declaration/affidavit if you included the required custody jurisdiction information in your complaint.

In North Dakota, a parenting responsibilities case starts when a copy of the summons and complaint are served on the Defendant. The court doesn't serve the documents for you.

Filing with the Clerk of District Court **doesn't** start a parenting responsibilities case. In fact, Clerks of District Court **can't** accept the summons and complaint for filing without proof they were already served on the Defendant.

There are very specific ways the summons and complaint must be served. If you don't arrange for service correctly, your parenting responsibility case may not move forward.

Go to service to start a case at ndcourts.gov/legal-self-help/service-in-a-civil-action.

- See the information, instructions and forms in the "Service to Start a District Court Civil Action" section of the webpage.

A completed, dated, and signed certificate of service, declaration of service, or affidavit of service document is your proof of service. Make a copy of the completed service document for your records.

You file the original, completed affidavit of service document with the Clerk of District Court in Step Three.

If the Plaintiff is Unable to Locate the Defendant for Service:

If you made diligent efforts to locate the Defendant for service of the summons and complaint, but you can't find the Defendant, service by publication in a newspaper may be available.

Go to service to start a case at ndcourts.gov/legal-self-help/service-in-a-civil-action.

- See the information, instructions and forms for service by publication in the "Service to Start a Civil Action" section of the webpage.

If the Defendant is served by publication, service by publication is complete fifteen (15) days after the first publication of the summons in the newspaper.

If the Defendant Doesn't Answer the Summons and Complaint In Writing:

If the Defendant doesn't serve a **written** answer to the summons and complaint on the Plaintiff within the required deadline, the Plaintiff may request a default judgment in their parenting responsibilities case.

If the Plaintiff can prove to the judge that the Defendant was served correctly and didn't answer within the deadline, the Plaintiff may ask for a default judgment. The request is made in a written motion to the court.

Informational guides for making a motion for a default judgment in a parenting responsibilities case, and answering a motion for a default judgment in a parenting responsibilities case are available at ndcourts.gov/legal-self-help/establishing-custody-and-visitation.

Step Two: The Defendant Serves a Written Answer & Counterclaim to the Summons and Complaint on the Plaintiff

If the Defendant Doesn't Answer the Summons and Complaint **In Writing:**

In North Dakota, a parenting responsibilities case starts when a copy of the summons and complaint are served on the Defendant.

Warning! Don't Ignore the Summons and Complaint!

You, the Defendant, have twenty-one (21) days to answer in writing. Your deadline starts on the day after you were served. If you wait until the summons and complaint are filed, you'll miss your deadline to answer.

If you don't answer in writing within the deadline, the judge is allowed to grant the Plaintiff a [default parenting responsibilities judgment](#) without your input.

If you have any doubts about whether it's proper for the Plaintiff to serve you a summons and complaint to start a parenting responsibilities case, [consult a lawyer](#) immediately.

The summons and complaint won't have a case number. A case number can't be assigned until the summons, complaint, and proof of service on the Defendant are filed with the Clerk of District Court.

If the Defendant doesn't serve a **written answer to the summons and complaint within the deadline,** the Plaintiff may request a default judgment in their parenting responsibilities case.

If the Plaintiff can prove to the judge that the Defendant was served correctly and didn't answer within the deadline, the Plaintiff may ask for a default judgment. The request is made in a written motion to the court.

If the Plaintiff makes a motion for a default judgment, information about answering a motion for a default judgment in a parenting responsibilities case is available at ndcourts.gov/legal-self-help/establishing-custody-and-visitation/default-parenting-answer.

Confidential Information in Parenting Responsibilities Documents:

Court records are generally available to the public, and anyone can request to look in almost any court file.

However, certain information is protected and required to remain confidential, even if the protected information is part of a public court record.

You need to refer to protected, or confidential, information when you create and prepare the documents for your parenting responsibilities case. Each parent is responsible for making sure confidential information doesn't appear in the documents you each create and prepare.

Confidential information includes:

- Full names of minor children
- Full birthdates
- Social security numbers
- Taxpayer identification numbers
- Financial-account numbers

Documents filed in a parenting responsibilities case with references to confidential information must include only:

- The minor child's initials
- The year of birth
- The last four (4) digits of the social security number and taxpayer identification number
- The last four (4) digits of the financial-account number

Each parent must prepare and file a separate confidential information form containing the full confidential information that isn't allowed in the parenting responsibilities documents.

The confidential information form is part of the court record that isn't seen by the public.

Defendant Creates the Answer & Counterclaim and Confidential Information Form:

Answer and Counterclaim

- The Answer and Counterclaim is the required legal document the Defendant must serve on the Plaintiff in response to the Plaintiff's Summons and Complaint, and the Defendant's requests to the judge related to the case.
- The Answer part of the document is:
 - The Defendant's paragraph by paragraph response to the Plaintiff's Complaint.
 - The Answer must state defenses in short, plain statements.
 - The Defendant may not have any defenses.
- The Counterclaim part of the document:
 - The Defendant's written demand or request to the judge for judgment granting the relief the Defendant is seeking. A counterclaim allows the Defendant to bring their own claims related to the parenting responsibilities case.
 - See the requirements for the Plaintiff's Complaint on Page 17.
- **An Answer and Counterclaim form for a parenting responsibilities case is available:**
 - In the Appendix at the end of this informational guide.

- The answer in a parenting responsibilities case must include required information about how the district court has jurisdiction over custody decisions for the minor children.
 - The information can be included in the answer and counterclaim, or in a separate declaration or affidavit document.
 - The Answer and Counterclaim form in the Appendix includes the required information.
 - If you choose to include the required information in a separate declaration or affidavit, see “Declaration of Custody Jurisdiction” below.

Declaration of Custody Jurisdiction, or Affidavit of Custody Jurisdiction

Instead of creating a separate declaration or affidavit, you may add the required custody jurisdiction information to your parenting responsibilities answer and counterclaim. If you decide to add the custody jurisdiction information to your answer and counterclaim, it must be verified. See the [Verification](#) form at ndcourts.gov/legal-self-help/starting-a-civil-action.

The Answer and Counterclaim form in the Appendix at the end of this informational guide includes the required custody jurisdiction information, and the form is verified.

This guide **doesn’t** have a formatting example of a separate declaration or affidavit of custody jurisdiction.

- The Declaration of Custody Jurisdiction, or Affidavit of Custody Jurisdiction, is the Defendant’s written statement of fact required by [§ 14-14.1-20](#) of the North Dakota Century Code.
 - A declaration isn’t required to be notarized, but must include a specific statement directly above the date and signature.
 - An affidavit is dated and signed in the presence of a notarial officer.
- The Declaration or Affidavit must include the following custody jurisdiction information:
 - Each child's current address or whereabouts;
 - The places where each child has lived during the last five years;
 - The names and current addresses of the persons with whom each child lived during the last five years;
 - Whether the Defendant has participated, as a party or witness or in any other capacity, in any other case or proceeding concerning the custody of or visitation with each child. If yes, identify the following:
 - The court;
 - The case number; and
 - The date of the child custody determination, if any.

- Whether the Defendant knows of any case or proceeding that could affect the parenting responsibilities case, including, but not limited to, the following:

- Proceedings for enforcement;
- Proceedings relating to domestic violence;
- Proceedings relating to protective orders;
- Proceedings relating to termination of parental rights; and
- Proceedings relating to adoptions.

If yes, identify the following:

- The court;
- The case number; and
- The nature of the proceeding.

- Whether the Defendant knows the names and addresses of any person who isn't a party to the parenting responsibilities case who:

- Has physical custody of the child;
- Claims rights of legal custody or physical custody of the child; or
- Claims rights of visitation with the child.

If yes, list the following:

- The names and addresses of those persons.

- General Use template forms are available at ndcourts.gov/legal-self-help/starting-a-civil-action.
 - [Declaration form](#)
 - [Affidavit form](#)

Confidential Information Form

- The Confidential Information Form lists the full confidential information that isn't allowed to appear in documents filed with the district court. This form isn't a part of the public court record. (Review [Rule 3.4](#) of the North Dakota Rules of Court.)
- A Confidential Information Form is available:
 - In the Appendix at the end of this informational guide.

The Defendant Makes Two (2) Copies of the Following:

- Completed Answer and Counterclaim; and
- Completed Declaration of Custody Jurisdiction, or Affidavit of Custody Jurisdiction (if the Defendant created a separate declaration/affidavit).

Keep one copy of each for your records. The other copy of each document is for service on the Plaintiff.

The Defendant Makes One (1) Copy of the Following:

- Completed Confidential Information Form.

Keep the copy for your records. A copy of the completed Confidential Information form **isn't** served on the Plaintiff. You file the Confidential Information form with the Clerk of District Court later in Step Three.

The Defendant Arranges for Service of Copies of the Following on the Plaintiff:

- Answer and Counterclaim
- Declaration of Custody Jurisdiction, or Affidavit of Custody Jurisdiction
 - You don't need a separate declaration/affidavit if you included the required custody jurisdiction information in your answer and counterclaim.

Service is providing copies of your completed Answer and Counterclaim documents to the Plaintiff. (If the Plaintiff is represented by a lawyer, serve the copies on their lawyer.)

There are specific ways an answer and counterclaim must be served. If you don't arrange for service correctly, you may not be allowed to participate in the parenting responsibility case.

Go to service to answer a case at ndcourts.gov/legal-self-help/service-in-a-civil-action.

- See the information, instructions and forms in the "Service After a District Court Civil Action Has Started" section of the webpage.
 - **Service by mail is a common way to serve a written answer.** However, there are other ways to serve your document. Review the other options in the information, instructions and forms.

A completed, dated, and signed certificate of service, declaration of service, or affidavit of service document is your proof of service.

Make a copy of the completed service document for your records.

You file the original, completed affidavit of service document with the Clerk of District Court in Step Three.

The Clerk of District Court won't file your Answer and Counterclaim until you file proof of service with the court.

Step Three: Required Meeting of Parents; Filing the Summons and Complaint; Filing the Answer & Counterclaim; Discovery

A Parenting Responsibility Case Includes Many Steps with Deadlines and Paperwork!

After a parenting responsibility case starts with service of the summons and complaint, **parents are responsible for meeting a lot of deadlines and completing a lot of paperwork.**

Step Three includes information on the following required deadlines and paperwork:

- **Required Meeting of the Parents** (due 30 days after service of summons and complaint, see [Rule 8.3.1 of the North Dakota Rules of Court](#))
 - **Joint Informational Statement** (filed within 7 days after the required meeting)
- **Plaintiff Files Summons, Complaint, and Proof of Service** (filed within 7 days after the required meeting of the parents, see [Rule 8.3.1 of the North Dakota Rules of Court](#))
- **Defendant Files Answer and Counterclaim, and Proof of Service** (filed within a reasonable time after service of notice of filing the summons and complaint, see [Rule 5 of the North Dakota Rules of Civil Procedure](#))
- **Discovery** (evidence gathering that begins after service of the summons and complaint)

Within 30 Days After Service of the Summons and Complaint, Both Parents Meet to Prepare the Joint Informational Statement:

[Rule 8.3.1 of the North Dakota Rules of Court](#) requires both parents to meet within 30 days after service of the summons and complaint.

The purpose of the required meeting is to exchange information and evidence necessary to determine child support, determine additional information necessary to finish the case, and whether alternative dispute resolution methods are appropriate.

At minimum, the parents must come to the meeting prepared to:

- Exchange current paystubs, employment and income information and tax returns.
- Decide what additional information is necessary in order to complete the parenting responsibilities case.
- Decide whether alternative dispute resolution methods, such as mediation, are appropriate.

The parents may meet in person or by electronic means. If either parent is represented, the lawyer is included in the meeting.

If the parents are unable to complete the joint informational statement together, Rule 8.3.1 doesn't say what to do.

If you decide to prepare, serve and file the joint informational statement on your own, the form included in Appendix at the end of this informational guide includes space for you to explain why. The judge decides whether your Rule 8.3.1 informational statement meets the requirements of the Rule.

Joint Informational Statement

- The Joint Informational Statement contains scheduling decisions resulting from the required meeting of the parents. The judge considers the information on the Joint Informational Statement when creating their scheduling order. (See Step Four for more information about the scheduling order.)
- **A Joint Informational Statement form is available:**
 - In the Appendix at the end of this informational guide.
 - In [Appendix L](#) of the North Dakota Rules of Court at ndcourts.gov/legal-resources/rules/ndrct.

Within 7 Days After the Required Meeting, Plaintiff Files the Summons and Complaint and Joint Informational Statement:

The deadline to file the Summons and Complaint is 7 days after the required meeting.

In order for the Clerk of District Court to assign a case number, you must file the following, completed forms to show you started the parenting responsibility case:

- Summons
- Complaint
- Declaration of Custody Jurisdiction or Affidavit of Custody Jurisdiction
 - (only required if custody jurisdiction information isn't included in the Complaint)
- Confidential Information Form
- Proof of Service of Summons, Complaint and Plaintiff's Declaration or Affidavit of Custody Jurisdiction on Defendant

If the Clerk of District Court accepts your documents for filing, you must **pay the \$160.00 filing fee**. Then, the Clerk of District Court assigns a case number.

Forms and instructions to ask the court to waive the \$160.00 filing fee are available at [Filing Fee Waiver Request - District Court/Small Claims Court](#). The completed fee waiver request forms are filed at the same time as the summons and complaint.

The deadline to file the Joint Informational Statement is 7 days after the required meeting.

You're not required to file the Joint Informational Statement at the same time as the Summons, Complaint, Confidential Information Form, and proof of service, but the filing deadline is the same.

If you don't file the Joint Informational Statement at the same time, make sure you file within the deadline.

Notice of Filing the Summons and Complaint:

The Plaintiff must serve notice of filing the Summons and Complaint on the Defendant.

The Notice of Filing tells the Defendant the North Dakota county where the Summons and Complaint are filed, and the assigned case number.

- **A Notice of Filing form is available:**
 - In the Appendix at the end of this informational guide.
 - At ndcourts.gov/legal-self-help/starting-a-civil-action.

The Defendant Files the Answer and Counterclaim:

Within a reasonable time after receiving notice of filing of the summons and complaint, the Defendant must file the following original, completed documents with the Clerk of District Court and pay the **\$100.00 filing fee**:

- Answer and Counterclaim
- Defendant's Declaration of Custody Jurisdiction or Affidavit of Custody Jurisdiction
 - (only required if custody jurisdiction information isn't included in the Answer and Counterclaim)
- Proof of Service of Answer and Counterclaim and Defendant's Declaration or Affidavit of Custody Jurisdiction on Plaintiff
- Defendant's Confidential Information Form

Forms and instructions to ask the court to waive the \$100.00 filing fee are available at the [Filing Fee Waiver Request - District Court/Small Claims Court](#) link. The completed fee waiver request forms are filed at the same time as the answer and counterclaim.

Notice of Filing the Answer and Counterclaim:

The Defendant must serve notice of filing the Answer and Counterclaim on the Plaintiff.

The Notice of Filing tells the Plaintiff that the Defendant filed the Answer and Counterclaim in same case and the the same North Dakota county as the Summons and Complaint.

- A Notice of Filing form is available:
 - In the Appendix at the end of this informational guide.
 - At ndcourts.gov/legal-self-help/starting-a-civil-action.

Begin the Discovery Process:

You May Begin the Discovery Process:

Discovery is a formal process where the Plaintiff and Defendant ask each other for information. The Plaintiff and Defendant may also ask non-parties for information.

Once the parenting responsibilities case starts with service of the Summons and Complaint, both parents may begin the discovery process.

The “Discovery Rules” are Rule 26 through Rule 37 of the North Dakota Rules of Civil Procedure, available at <https://www.ndcourts.gov/legal-resources/rules/ndrcivp>.

For more information about discovery, see the “Discovery” Section of the Guide to Civil Action at the [Guide to a District Court Civil Action](#) link.

If you’re served with discovery requests, Don’t ignore them!

There are strict deadlines for you to respond. If you don’t respond at all, or don’t respond within the deadline, you may miss your chance to object. You may also have to explain to the judge why you didn’t respond.

If you don’t know how to respond to a discovery request, [consult a lawyer](#).

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Step Four: Steps the Parents Must Take Before the District Court Judge Can Decide Their Parenting Responsibilities Case (Case Management)

A Parenting Responsibility Case Includes Many Steps with Deadlines and Paperwork!

After a parenting responsibility case starts with service of the summons and complaint, **parents are responsible for meeting a lot of deadlines and completing a lot of paperwork.**

Step Four includes information on the following required case management deadlines and paperwork:

- **Family Law Mediation Program** (for disputed and unresolved parenting responsibilities, see [Rule 8.1 of the North Dakota Rules of Court](#))
- **The Judge Issues a Scheduling Order** (due within 30 days after the Informational Statement is filed, see [Rule 8.3.1 of the North Dakota Rules of Court](#))
- **Interim (Temporary) Orders** (for orders effective until the parenting responsibility case is final, see [Rule 8.2 of the North Dakota Rules of Court](#))
- **Appointment of Parenting Investigators, Parenting Coordinators, or Guardian Ad Litem** (see [Rule 8.6](#) and [Rule 8.11](#) of the North Dakota Rules of Court, and [N.D.C.C. § 14-09-06.4.](#))
- **Proposed Parenting Plans** (see the Scheduling Order for the due date)

You May Be Referred to the Family Law Mediation Program:

Within 10 days of filing the Summons, Complaint and proof of service, your parenting responsibilities case may be referred to the Family Law Mediation Program. The Family Law Mediation Program is for mediation of the disputed or unresolved parental responsibilities issues.

The Family Law Mediation Program provides up to 6 hours of combined pre-mediation orientation and mediation at no cost to the parents.

If your case is referred to the Family Mediation Program, you receive an order and schedule for mediation. Read the order and schedule carefully, as you need to follow the requirements and meet the deadlines.

Review [N.D.C.C. Chapter 14-09.1](#) and [Rule 8.1 of the North Dakota Rules of Court](#).

The District Court Judge Issues a Scheduling Order:

Within 30 days after your joint informational statement is accepted for filing, the judge assigned to your parenting responsibilities case issue their scheduling order. The judge uses the information in your joint informational statement to create their scheduling order.

Before issuing the scheduling order, the judge may require you to attend a scheduling conference. If the judge requires a scheduling conference, you get notice of the date, time and location.

The scheduling order may establish any or all of the following deadlines:

- Specific dates to finish discovery (evidence gathering) and other pretrial preparations;
- Specific dates for serving, filing, or hearing motions;
- Specific dates to finish mediation or [alternative dispute resolution](#);
- A specific date for the parents to finish parent education;
- Specific dates to finish parenting evaluations;
- A specific date for the parents to be prepared for the pretrial conference;
- A specific date for the parents to be prepared for the trial;
- A specific date for identification of witnesses and documents (see Prepare Witness and Exhibit Lists in Step Five); and
- A specific date for parents to submit their proposed parenting plans.

Read the order and schedule carefully, as you must follow the requirements and meet the deadlines.

Review [Rule 8.3.1 of the North Dakota Rules of Court](#).

Either Parent May Request an Interim, or Temporary, Order:

After the Summons, Complaint and proof of service are accepted for filing, either parent may made a motion for an interim, or temporary, order in your parenting responsibilities case.

A motion for an interim order is a written request to the judge asking for temporary resolution of any or all of the following:

- **Temporary** payment of child support;
- Award of **temporary** parental rights and responsibilities (custody, visitation, decision making, etc.);
- A **temporary** parenting schedule; and
- Payment of lawyer's fees and costs while the case is ongoing.

If the judge issues an interim order in your case, the order lasts until the judge issues a different interim order, issues a final parenting responsibilities judgment, or dismisses your case.

Review [Rule 8.2 of the North Dakota Rules of Court](#).

Motion for Interim (Temporary) Order Informational Guides are available for the parent making the motion and the parent answering, or responding to the motion.

- To make the motion, go to ndcourts.gov/legal-self-help/establishing-custody-and-visitation/default-parenting-motion.
- To answer, or respond, the motion, go to ndcourts.gov/legal-self-help/establishing-custody-and-visitation/default-parenting-answer.

Appointment of a Parenting Investigator, Parenting Coordinator, or Guardian Ad Litem for the Child(ren):

When a case to establish parenting responsibilities is contested, either parent may make a motion in writing to the judge to appoint a parenting investigator, a parenting coordinator, or a guardian ad litem. The other parent answer the motion in writing to tell the judge if they agree or disagree and explain why.

Parenting Investigators investigate the child's and family's history and present situation.

When the investigation is complete, they file a report with the judge.

The required qualifications and responsibilities of a Parenting Investigator are found in [Rule 8.6 of the North Dakota Rules of Court](#). See also, [N.D.C.C. § 14-09-06.3](#).

The North Dakota Court System maintains a [Parenting Investigator Roster](#).

Parenting Coordinators are neutral individuals authorized to use any dispute resolution process to resolve disputes between spouses related to a parenting plan or court order.

The required qualifications and responsibilities of a Parenting Coordinator are found in [Rule 8.11 of the North Dakota Rules of Court](#). See also, [N.D.C.C. Chapter 14-09.2](#).

The North Dakota Court System maintains a [Parenting Coordinator Roster](#).

Guardian Ad Litem are lawyers appointed by the District Court judge to represent the best interests of the minor child in a parenting responsibilities case. A judge may appoint a Guardian Ad Litem when either parent, or the judge, have special concern for the future of the child.

The required qualifications and responsibilities of a Guardian Ad Litem are found in [Rule 8.7 of the North Dakota Rules of Court](#). See also [N.D.C.C. § 14-09-06.4](#).

The North Dakota Court System maintains a [Guardian Ad Litem Roster](#).

The court may require one or both parents to pay the investigator, coordinator, or guardian ad litem fees.

If neither parent is able to pay the fees, the court may require that the county pay the fees, in whole or in part. The court may then require one or both parents to reimburse the county, in whole or in part, for payment of the fees.

For information about making and answering motions in a civil action, including General Use template forms for the type of documents you need to create, go to:

- **Making a Motion** at ndcourts.gov/legal-self-help/making-a-motion.
- **Answering a Motion** at ndcourts.gov/legal-self-help/answering-a-motion.

Prepare Proposed Parenting Plans:

A parenting plan is required to be part of the final judgment in your parenting responsibilities case. See [N.D.C.C. § 14-09-30](#) for the information that must be included in a parenting plan.

If the parents don't agree to a parenting plan, you each need to prepare a proposed parenting plan as part of the contested parenting responsibilities case.

The judge uses the 13 "Best Interests of the Child" factors to decide residential responsibility (custody), parenting time (visitation) and everything else that must be included in the parenting plan. Best interests look at the child's needs and who will best meet their needs.

See [N.D.C.C. § 14-09-06.2](#) for the best interest factors.

A Proposed Parenting Plan form is available:

- In the Appendix at the end of this informational guide.

Your scheduling order should include the deadline for submitting your proposed parenting plans to the court. You must serve your proposed parenting plan on the other parent and file your proof of service with your proposed parenting plan.

- Go to ndcourts.gov/legal-self-help/service-in-a-civil-action and review the information in the "Service After a District Court Civil Action Has Started" section of the webpage.

Parents May Settle All or Party of the Issues in the Contested Parenting Plan Case Before Trial:

At any point during the contested parenting responsibilities case, parents may agree to settle all or part the issues.

The judge decides all issues that aren't settled by the parents before the trial.

If you and the other parent reach an agreement on an issue, prepare a written settlement agreement. This is also called a stipulation or a stipulated agreement.

Written settlement agreements must be signed by both parents in the presence of a notary public.

Written settlement agreements are filed with the Clerk of District Court.

Prepare for and Attend All Scheduled Hearings:

Various types of hearings may occur throughout your contested parenting responsibilities case.

Depending on the circumstances of your parenting responsibilities case, you may also be required to attend evidentiary hearings before the final trial is held.

An evidentiary hearing is where the judge makes a decision about part of your case based on evidence presented by the parents. Each parent is expected to present evidence to support their side of the issue.

For example, if you a parent makes a motion for an interim order, the judge holds an evidentiary hearing before deciding based on the evidence presented by the parents. On the other hand, a scheduling conference and a pre-trial conference are non-evidentiary hearings where decisions are made on managing the different stages of your case, such as due dates and trial dates.

You must attend all scheduled hearings unless you receive permission from the judge not to attend.

- See “If You Need Special Assistance at the Trial” below for requesting accommodations.

You can ask the judge for permission to attend a hearing by telephone or by some other reliable electronic means. The court isn't required to grant this type of request.

An **Appear by Reliable Electronic Means (Appear Remotely)** form set is available:

- At ndcourts.gov/legal-self-help in the “Miscellaneous” section

Step Five: Pre-Trial Preparation

If the parents don't reach a settlement on all issues, your contested parenting responsibilities case eventually goes to trial. Issues on which the parents don't agree are decided by the District Court judge.

A trial is where the judge decides all remaining issues in your parenting responsibilities case and grants a final judgment. Each parent is expected to present evidence to support their side of every undecided issue in the parenting responsibilities case.

(An evidentiary hearing is where the judge makes a decision about part of your case. See "Prepare for and Attend All Scheduled Hearings" above for more information.)

Warning! Preparing for trial is often a complex and confusing process. This Informational Guide gives only the basics of the process.

There are a lot of things you need to do to get ready for a trial, such as gathering your evidence, requesting evidence from other people (discovery), choosing witnesses to testify, and letting the other parent and the judge know the evidence and witnesses you plan to present at the trial.

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

You need to conduct additional research to prepare. Review pre-trial and trial guidebooks for self-represented litigants, paralegals, and lawyers. Your local public or academic library may have resources available.

Watch a trial in a parenting responsibility case. If possible, watch a trial with the same judge assigned to your case. In general, trials in parenting responsibility cases are open to the public.

To find upcoming parenting responsibility trials in your North Dakota county, go to [District Court Case Search](#), read the information and click "Click Here to Proceed".

- Select a location from the pull-down list and click on "Court Calendar".
- Search for future trials by "Date Range". Make sure only "Family" is selected in "Case Category".

If You Need Special Assistance at the Trial:

If you have a disability, don't read or understand English well, or require special accommodations in the courtroom or remote (electronic) hearing or trial, contact the Clerk of District Court's office as soon as possible.

Contact information is available at ndcourts.gov/court-locations.

You may also request accommodations using the **Americans with Disabilities Act (ADA) Accommodation Request Form** at ndcourts.gov/americans-with-disabilities-act-ada-accommodation-requests.

Library Resources (not all legal resources are available online):

ODIN is a shared library database of many North Dakota academic, public, state agency, and special libraries. Search ODIN for resources that may be available in a North Dakota library near you. (polaris.odinlibrary.org)

If the book is available for interlibrary loan through ODIN, ask the librarian or library staff of your local North Dakota library how to request the book.

Following are a selection of library resources on ODIN that may be of interest to you:

- **A Short & Happy Guide to Civil Procedure**, Richard Freer, West Academic Publishing, 2019.
- **A Short & Happy Guide to Evidence**, Sydney Beckman, West Academic Publishing, 2018.
- **Courtroom Evidence Handbook: 2018-2019 Student Edition**, Steven Goode, Olin Wellborn III, West Academic Publishing, 2018.
- **Essential Evidence Outlines**, Daniel Ryan, iUniverse, Inc., 2011.
- **Evidence for Paralegals**, Joelyn Marlowe, Wolters Kluwer, 2016.
- **The Legal Answer Book for Families**, Emily Daskow, Marcia Stewart, Nolo, 2014.
- **Nolo's Essential Guide to Child Custody & Support**, Emily Daskow, Nolo, 2015.
- **Objections at Trial**, Ronald Carlson, Edward Imwinkelried, Myron Bright, National Institute for Trial Advocacy, c2015.
- **One Hundred Days Before Trial: A Family Lawyer's Guide to Preparation and Strategy**, Steven Peskind, American Bar Association, 2015.

- **Represent Yourself in Court: How to Prepare & Try a Winning Case**, Paul Bergman, Sara Berman, Nolo, 2019.
- **North Dakota Century Code Annotated**, Lexis Nexis, Creation Date c1959 – present.
- **North Dakota Court Rules Annotated**, Lexis Nexis, Creation Date c1990 – present.

Rules of Evidence and Subpoenas:

Review the Guide to a Civil Action, or Civil Case, an informational guide to North Dakota civil court process. A parenting responsibilities case is a civil court process.

- The Guide to a Civil Action, Civil Case is available at ndcourts.gov/legal-self-help in the “District Court Civil” section.

Review the North Dakota Rules of Evidence carefully! The Rules of Evidence govern whether your evidence is admitted at trial. The Rules also govern how you object to evidence the other parent wants to admit at trial.

- The North Dakota Rules of Evidence are available at ndcourts.gov/legal-resources/rules/ndrev.
- The Evidence Research Guide is available at ndcourts.gov/legal-self-help in the “District Court Civil” section.
 - The Evidence Research Guide is a starting point for your research into gathering and presenting evidence in your parenting responsibilities case.

The Subpoenas webpage has all of the information about subpoenas available through the ND Legal Self Help Center.

- Go to ndcourts.gov/legal-self-help/subpoenas.

A subpoena is the process to require the attendance of a non-party witness at deposition, hearing or trial.

A subpoena is also the process to require a non-party to produce documents, electronically stored information or tangible things; or to require the inspection of premises.

Subpoenas may be used by a parent in a parenting responsibilities case to require a person do the following at a specific time and place:

- Attend and testify at a deposition, evidentiary hearing or trial;
- Produce the documents listed in the subpoena;
- Produce the electronically stored information listed in the subpoena;

- Produce the tangible things listed in the subpoena (the tangible things must be in the person's possession, custody or control); or
- Permit the inspection of the premises listed in the subpoena.

When you represent yourself in a parenting responsibilities case, you can't issue a subpoena on your own. Only a Clerk of District Court or a lawyer representing a parent can issue a subpoena.

Begin Preparing a Trial Notebook:

A trial notebook is a common way lawyers prepare for a trial. A trial notebook is used to organize documents and trial preparation outlines to help you present your side of the parenting responsibilities case effectively.

If you decide to use a trial notebook, you can find examples in pretrial and trial guidebooks for self-represented litigants, paralegals and lawyers.

Identify Your Witnesses and Exhibits:

Exhibits are all of the documents and objects you plan to offer into evidence at the trial.

Witnesses are the people you plan to have testify at the trial.

Review your scheduling order for your deadline to identify the witnesses and exhibits you plan to introduce at the trial. The scheduling order may require you to exchange your witness and exhibit list with the other parent before the trial.

Find Out if the Trial Will Be Recorded:

Most, but not all, trials are recorded. Parents, as parties in the parenting responsibilities case, can request an audio recording of the trial, if it was recorded. Parties get the audio recording free of charge. Go to ndcourts.gov/legal-self-help/prohibit-public-access for more information on requesting an audio recording.

Audio recordings are very useful, especially if the judge assigns either or both spouses to prepare proposed orders following the evidentiary hearing or trial.

Contact the Clerk of District Court to find out if the evidentiary hearing or trial will be recorded. If not, and you want to ask that the evidentiary hearing or trial be recorded, you may make a motion. The judge decides whether the evidentiary hearing or trial will be recorded.

If the evidentiary hearing or trial isn't recorded, you may [request a transcript](#). You're required to pay for transcripts.

Prepare for and Attend the Pre-Trial Conference:

Review your scheduling order for the date you need to be prepared for the pre-trial conference. You may receive a separate notice of the date and time of the pre-trial conference. Or, the date and time of the pre-trial conference may be listed in your scheduling order.

If a pre-trial conference is scheduled, both parents must attend, unless excused by the court.

Both parents must come to the pre-trial conference prepared to discuss the matters and issues listed in [Rule 16 of the North Dakota Rules of Civil Procedure](#).

Step Six: Trial

The trial is an examination of the facts and law, presided over by the judge. The parents each have an opportunity to tell their side of the facts and argue how the laws apply to the undecided issues in the parenting responsibilities case.

The judge weighs the facts and arguments presented by both parents and decides the issues in the parenting responsibilities case.

The final decision of the judge or judicial referee is called a judgment.

If You Need Special Assistance at the Trial:

If you have a disability, don't read or understand English well, or require special accommodations in the courtroom or remote (electronic) trial, contact the Clerk of District Court's office as soon as possible.

Contact information is available at ndcourts.gov/court-locations.

You may also request accommodations using the **Americans with Disabilities Act (ADA) Accommodation Request Form** at ndcourts.gov/americans-with-disabilities-act-ada-accommodation-requests.

Arrive Early to the Trial:

If the trial is held in-person, arrive early to the courthouse on the date of the trial.

Don't miss your or trial. If you have a serious, unavoidable reason you can't attend, contact the Clerk of District Court's office as soon as possible. Be aware that the judge may decide to hold the evidentiary hearing or trial without you.

If the trial is held by Zoom, make sure you can connect to the Zoom trial.

Well before the trial begins, make sure you can connect and understand how to function in Zoom.

Don't miss or be late to your Zoom trial. If you have a serious, unavoidable reason you can't attend, contact the Clerk of District Court's office as soon as possible. Be aware that the judge may decide to hold the trial without you.

Bring the Information, Documents, etc, You Prepared for the Trial:

If you prepared a trial notebook, bring it with you.

Bring all of the files, paperwork, etc. that you gathered and organized while preparing for the trial. Bring the outline of what you want to say.

Be Prepared to Take Detailed Notes:

Be prepared to take detailed notes during the trial.

You need to make note of all of the judge's decisions, including whether the judge allowed your witnesses and exhibits to be presented as evidence.

A worksheet is a common way to keep track of whether your witnesses and exhibits are allowed to be presented as evidence. A worksheet is a running list of your witnesses and exhibits with a short description of each. A worksheet includes checkboxes for the most common events when presenting evidence. For example, offered, objected, reserved, overruled, sustained, withdrawn, and received.

ND Legal Self Help Center staff created a template for a witness and exhibit list worksheet you may use as a starting point for creating your own. You may edit the template in a word processing program, for example, Microsoft Word, WordPerfect, Google Docs, or Open Office.

- [Witness & Exhibit List Worksheet](#)

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Conduct of the Trial:

Before the trial officially begins:

- Organize your files and paperwork so you can easily locate information as needed.

The trial officially begins when the judge is announced in the courtroom.

In general, a trial proceeds in the following order:

- Opening Statements
 - Each parent gives an opening statement. An opening statement describes the parenting responsibilities issues to be decided by the judge and what the parent expects to prove during the trial.
 - Usually, the Plaintiff goes first.
- Plaintiff Presents Witnesses and Evidence
 - The Plaintiff presents their case first. The Defendant may cross-examine witnesses and object to the Plaintiff's evidence.
- Defendant Presents Witnesses and Evidence
 - The Defendant presents their case after the Plaintiff. The Plaintiff may cross-examine witnesses and object to the Defendant's evidence.
- Closing Arguments
 - Often, each parent gives a closing argument. A closing argument is a summary of the evidence the judge allowed to be presented and an argument to the judge on how the parenting responsibilities issues should be decided.
 - Usually, the Defendant goes first.

The judge considers all of the evidence presented and makes decisions. The judge may tell you their decisions immediately in court, or the judge may decide to think about the evidence and make decisions later.

Before You Leave the Trial:

Make sure you understand what happens next. Ask if you're not sure what, if anything, you need to do next.

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Step Seven: Final Parenting Responsibilities Judgment

After the parenting responsibility trial, the judge signs their Findings of Fact, Conclusions of Law, and Order for Judgment. Once dated and signed, the clerk of court issues a signed and dated Judgment, which officially ends the parenting responsibility case. (The judge may sign the Judgment, rather than the clerk of court.)

Your parenting rights and responsibilities aren't established, and the final Judgment in your parenting responsibilities case isn't valid and enforceable, until the Judgment is signed and dated by either the clerk of court or the judge.

The judge is allowed to require one or both parents to provide a proposed Findings of Fact, Conclusions of Law, and Order for Judgment for the judge to sign. The judge is also allowed to require one or both parents to provide a proposed Judgment.

If you're required to provide a proposed Findings of Fact, Conclusions of Law, and Order for Judgment, or a proposed Judgment, **make sure you have your notes from the trial before you start. Your notes should include everything the judge found to be true and everything the judge decided (ordered).**

If your notes are missing information from the trial, contact the clerk of court to get a copy of the audio recording of the trial.

Most, but not all, trials are recorded. Parents, as parties in the case, [can request an audio recording of the trial](#), if it was recorded. Parties get the audio recording free of charge.

Audio recordings are very useful when preparing proposed Findings of Fact, Conclusions of Law and Order for Judgment and proposed Judgments.

If the trial wasn't recorded, you may [request a transcript](#). You're required to pay for transcripts.

Pay attention to the judge's instructions or order regarding the deadline to file and serve your proposed documents.

Warning! The North Dakota Legal Self Help Center **Doesn't have forms for you to use. You create your own documents.**

If you decide to use a form from the Center's webpage as a template, you need to make changes to fit your specific circumstances, and to match the judge's decisions **exactly.**

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

Proposed Findings of Fact, Conclusions of Law, and Order for Judgment:

Review [Rule 52 of the North Dakota Rules of Civil Procedure](#) and [Rule 7.1 of the North Dakota Rules of Court](#) carefully!

Findings of fact are the judge's written determination of the facts made from the evidence presented. This explains what facts the judge.

Conclusions of law are the rulings of law made by the judge based on, or in connection with, the findings of fact. These are the legal consequences of the facts the judge found to be true.

The Parenting Plan **must** be included in the conclusions of law, **or** incorporated by reference into the conclusions of law, if the parenting plan is a separate document.

The judge ultimately decides whether and how to grant parenting rights and responsibilities to the parents in the parenting responsibilities case. The judge also decides whether to use your proposed Findings of Fact, Conclusions of Law, and Order for Judgment.

Proposed Judgment:

Review [Rule 54 of the North Dakota Rules of Civil Procedure](#) and [Rule 7.1 of the North Dakota Rules of Court](#) carefully!

The judgment is the written order of the judge's final decisions in your parenting responsibilities case.

Your proposed Judgment **must** be an exact copy of the Conclusions of Law section found in your proposed Findings of Fact, Conclusions of Law, and Order for Judgment. Copy each paragraph exactly as it is in your the Conclusions of Law section.

The Parenting Plan **must** be included in your proposed Judgment in exactly the same way as your Conclusions of Law section.

The judge ultimately decides whether to use your proposed Judgment.

Arrange to Serve Proposed Findings of Fact, Conclusions of Law, and Order for Judgment, and Proposed Judgment:

You must serve your proposed Findings of Fact, Conclusions of Law, and Order for Judgment, and your proposed Judgment on the other parent. File your proof of service with your proposed judgment documents.

- Go to ndcourts.gov/legal-self-help/service-in-a-civil-action and review the information in the "Service After a District Court Civil Action Has Started" section of the webpage.

Notice of Entry of Judgment:

Review [Rule 58 of the North Dakota Rules of Civil Procedure](#).

Within 14 days after the final Judgment is dated, signed, and entered into the case file, the prevailing parent must serve Notice of Entry of Judgment on the other parent.

- A Notice of Entry of Judgment Form is available:
 - At ndcourts.gov/legal-self-help/general-use-forms.

A copy of the dated and signed judgment must be included with the Notice of Entry of Judgment.

- Go to ndcourts.gov/legal-self-help/service-in-a-civil-action and review the information in the “Service After a District Court Civil Action Has Started” section of the webpage.

After service is complete, the prevailing parent must file the original, completed Notice of Entry of Judgment and proof of service on the other parent with the clerk of court.

Section Three: Appendix of Contested Parenting Responsibilities Formatting Examples and Forms

Remember! North Dakota Legal Self Help Center forms aren’t official court forms and courts aren’t required to accept them.

There’s no guarantee that all judges and courts will accept forms available through the Center. **Use at your own risk.**

Summons in Parenting Responsibilities Case (Fillable Form for Appendix A)

- This is a fillable form. If you prefer, you may print and hand write in blue or black ink. Or, you may copy and paste into word processing software, such as MS Word, Google Docs, or OpenOffice.

Complaint in Parenting Responsibilities Case (Formatting Example)

- This formatting example **Isn’t** a form. You need to create your own complaint yourself. See Page 17 for the minimum information you **Must** include in your complaint.

Answer and Counterclaim in Parenting Responsibilities Case (Fillable Form)

- This is a fillable form. If you prefer, you may print and hand write in blue or black ink. Or, you may copy and paste into word processing software, such as MS Word, Google Docs, or OpenOffice.

Confidential Information Form (Fillable Form for Appendix H)

- This is a fillable form. If you prefer, you may print and hand write in blue or black ink. Or, you may copy and paste into word processing software, such as MS Word, Google Docs, or OpenOffice.

Notice of Filing Summons and Complaint (Fillable Form)

- This is a fillable form. If you prefer, you may print and hand write in blue or black ink. Or, you may copy and paste into word processing software, such as MS Word, Google Docs, or OpenOffice.

Notice of Filing Answer and Counterclaim (Fillable Form)

- This is a fillable form. If you prefer, you may print and hand write in blue or black ink. Or, you may copy and paste into word processing software, such as MS Word, Google Docs, or OpenOffice.

Joint Informational Statement (Fillable Form for Appendix L)

- This is a fillable form. If you prefer, you may print and hand write in blue or black ink. Or, you may copy and paste into word processing software, such as MS Word, Google Docs, or OpenOffice.

Proposed Parenting Plan (Fillable Form)

- This is a fillable form. If you prefer, you may print and hand write in blue or black ink. Or, you may copy and paste into word processing software, such as MS Word, Google Docs, or OpenOffice.

Witness and Exhibit List (Fillable Form)

- This is a fillable form. If you prefer, you may print and hand write in blue or black ink. Or, you may copy and paste into word processing software, such as MS Word, Google Docs, or OpenOffice.

Instructions for Summons – Parenting Responsibilities Case

ND Legal Self Help Center staff and court employees can't help you fill out forms, or create documents for you. If you're unsure how to proceed, [consult a lawyer](#).

ND Legal Self Help Forms aren't official 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 this instruction sheet when you serve or file the completed form.

The "District Court Civil" Section of the [ND Legal Self Help Center webpage](#) has additional information and resources.

A Summons is a legal document that notifies the Defendant that the Plaintiff is starting the parenting responsibilities case and the Defendant must file a written answer in order to participate in the case. The Summons also contains a restraining provision that applies to **both** parents as soon as the Summons is served on the Defendant.

- ☐ Fill in the name of the North Dakota County where the Plaintiff intends to file the case to establish parenting responsibilities.
- ☐ Fill in the name of the Judicial District in North Dakota where the Plaintiff intends to file the case. (The County is within the Judicial District.) County and Judicial District information and maps are available at ndcourts.gov/court-locations.
- ☐ Leave the case number blank.
- ☐ Fill in the full, legal name of the Plaintiff on the Plaintiff line.
- ☐ Fill in the Defendant's full, legal name on the Defendant line.
- ☐ Create, date and sign your Complaint. See Page 16 of this Informational Guide for the content you must include. A formatting example of a Complaint follows this Summons.
- ☐ Sign and date the summons.
- ☐ If the Plaintiff isn't represented by a lawyer, **the clerk of court must sign and date the Summons before it's served on the Defendant**. Go to the clerk of court's office in the North Dakota County where the Plaintiff intends to file the case.
- ☐ A copy of the Complaint must be served with the summons.

****Disclaimer: The North Dakota Legal Self Help Center provides resources to people who represent themselves in civil matters in North Dakota state courts. The information provided by the Center isn't intended for legal advice but only a general guide to the civil court process. The Center can't guarantee that all judges and courts will accept forms available through the Center. 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 North Dakota. Use at your own risk.****

State of North Dakota

In District Court

County of _____

_____ Judicial District

Plaintiff,)
vs)

Defendant.)

Case No. _____

Summons

The State of North Dakota to the Above Named Defendant:

1. **You are hereby summoned** and required to appear and defend against the Complaint in this action by serving upon the undersigned an Answer or other proper response within twenty-one (21) days after the service of this Summons and Complaint upon you, exclusive of the day of service. A copy of the Complaint is served upon you with this Summons.
2. If you fail to do so, judgment by default will be taken against you for the relief demanded in the Complaint.

Notice of Temporary Restraining Provision:

3. Under Rule 8.4 of the North Dakota Rules of Court, upon service of this Summons, you, and the other party, are bound by the following restraint:
 - a. Except for temporary periods, neither party may remove any of their minor children from North Dakota without the written consent of the other party or order of the court.

4. If either party violates this provision, that party may be in contempt of court.

Dated _____

_____, Plaintiff
Signature of Plaintiff

Typed or Printed Name of Plaintiff

Address

City State Zip Code

Telephone Number

Email Address

Dated _____

Clerk of District Court

Formatting Example of a Complaint to Establish Parenting Responsibilities

State of North Dakota

In District Court

County of Anycounty

Central Judicial District

John Doe

Plaintiff,

vs

Case No. 00-2024-DM-00001

Jane Doe

Defendant,

Complaint

and

State of North Dakota

Statutory Real Party in Interest.

*Not required for every case.
Review pages 8 & 15 of Guide.*

The Plaintiff for his cause of action, states as follows:

1. Plaintiff, John Doe, is the father of the minor children.

Address: 123 North 4th Street
Anytown, North Dakota 58000

Birth Year: 1980

Last 4 Digits of Social Security Number: XXX-XX-1234

Employer's Name and Address: Any Employer, Inc.

567 Industrial Avenue
Anytown, North Dakota 58000

Length of Residence in North Dakota: 10 years, 1 month

2. Defendant, Jane Doe, is the mother of the minor children.

Address: 567 South 8th Street
Othertown, North Dakota 58100

Birth Year: 1980

Last 4 Digits of Social Security Number: XXX-XX-5678

Employer's Name and Address: Other Employer, LLC

890 Commerce Lane
Othertown, North Dakota 58100

Length of Residence in North Dakota: 5 years, 9 months

Formatting Example of a Complaint to Establish Parenting Responsibilities

3. Plaintiff and Defendant are not husband and wife and have never been married to each other, but were involved in a relationship with each other that resulted in the birth of their minor children, A.B.D., born in 2014, and C.D.D., born in 2016.
4. Neither Plaintiff nor Defendant is currently in the Armed Services of the United States of America or its allies.
5. Plaintiff and Defendant have minor children together, namely:

A.B.D. Year of Birth: 2014
Last 4 Digits of Social Security Number: XXX-XX-9012
Address: 567 South 8th Street, Othertown, North Dakota 58100

C.D.D. Year of Birth: 2016
Last 4 Digits of Social Security Number: XXX-XX-3456
Address: 567 South 8th Street, Othertown, North Dakota 58100
6. Plaintiff's father-child relationship is established by an acknowledgement of paternity for both A.B.D. and C.D.D.
7. It is in the best interests of the minor child(ren) that primary residential responsibility is granted to Defendant, subject to Plaintiff's reasonable parenting time.
8. Defendant is not pregnant.
9. This Court has jurisdiction to determine parenting rights and responsibilities and decision making responsibility of the minor child(ren) under N.D.C.C. § 14-14.1-12 because the child(ren) have lived in North Dakota with Defendant for at least six consecutive months immediately before the start of this proceeding.

Formatting Example of a Complaint to Establish Parenting Responsibilities

10. This proceeding will affect the custody of the minor children. The following information is required by N.D.C.C. § 14-14.1-20:

The information in Paragraph 10(a)-(e) may be included in a verified complaint, or provided in a separate declaration.

a. Within the past five (5) years, the children have lived at the following addresses:

Child's Initials	Address (street, city, state, zip code)	Date From	Date To
A.B.D.	567 South 8 th Street, Othertown, North Dakota 58100	1/14	Present
C.D.D.	567 South 8 th Street, Othertown, North Dakota 58100	1/16	Present

b. The names and current addresses of the persons with whom the children have lived in the past five (5) years are as follows:

Child's Initials	Name of Person(s)	Current Address (street, city, state, zip code)
A.B.D.	John Doe Jane Doe	123 North 4 th Street, Anytown, North Dakota 58000 567 South 8 th Street, Othertown, North Dakota 58100
C.D.D.	John Doe Jane Doe	123 North 4 th Street, Anytown, North Dakota 58000 567 South 8 th Street, Othertown, North Dakota 58100

- c. Plaintiff has not participated, as a party or witness or in any other capacity, in any other proceeding concerning the custody of or visitation with the children.
- d. Plaintiff does not know of any proceeding that could affect the current proceeding, including proceedings for enforcement and proceedings relating to domestic violence, protective orders, termination of parental rights, adoptions, neglect, abuse, deprivation, guardianship, or paternity.
- e. Plaintiff does not know of any person who is not a party to this proceeding who has physical custody of the children or claims rights of legal custody or physical custody of, or visitation with, the children.

Formatting Example of a Complaint to Establish Parenting Responsibilities

11. There is a North Dakota District Court child support order already in existence. The case number is 00-2023-DM-00111.

12. No separate proceeding to establish parenting responsibilities has been started or is pending in the State of North Dakota or elsewhere.

Wherefore, Plaintiff asks for judgment as follows:

13. For residential responsibility and parenting time that serve the minor children's best interests.

14. For such further and additional relief as this Court may deem just and proper.

Dated July 31, 2024.

John Doe

John Doe
123 North 4th Street
Anytown, North Dakota 58000
(701) 234-5678

VERIFICATION

Required if Paragraph 10(a)-(e) information is included in the complaint.

I, John Doe, verify, under penalty of perjury under the law of North Dakota, that I am the Plaintiff in the above-entitled action; that I have read the Complaint to establish parenting responsibilities and know the contents thereof and that the same is true, except as to matters stated therein upon information and belief as to those matters I state that I believe them to be true.

State of: North Dakota

County of: Anycounty

Country of: USA

Signed on July 31, 2024.

John Doe

State of North Dakota

In District Court

County of _____

_____ Judicial District

Plaintiff,
vs

Defendant.

Case No. _____

Answer & Counterclaim

Answer

_____ (*Defendant's name*), the Defendant
in this action to establish parenting responsibility, submits this Answer to the allegations in the
Plaintiff's Complaint:

1. Defendant denies each and every allegation in the Plaintiff's Complaint unless
specifically admitted to in Paragraphs 2 and 3 below.

2. Defendant admits to the allegations in the following paragraphs in the Plaintiff's
Complaint (*list each paragraph number with which you completely agree*): _____
_____.

3. Defendant admits part and denies part of the allegations in the following paragraphs in
the Plaintiff's Complaint (*list the paragraph number and explain the part of the paragraph with
which you agree and the part with which you disagree*):

- a. Paragraph #____: _____
- b. Paragraph #____: _____
- c. Paragraph #____: _____
- d. Paragraph #____: _____

4. Defendant does not have sufficient knowledge to either admit or deny the allegations in the following paragraphs in the Plaintiff's Complaint (*list each paragraph number you don't have enough information with which to agree or disagree*): _____

_____.

Affirmative Defenses (N.D.R.C.P. Rule 8)

5. (*Choose one.*)

- a. ☐ Defendant does not have any affirmative defenses.
- b. ☐ Defendant has the following affirmative defenses (*select all that apply. You'll be required to prove all affirmative defenses you select*):

☐ Defendant was not served a copy of the summons and complaint.

☐ Defendant received a copy of the summons and complaint, but was not properly served because _____.

☐ A case to establish parenting responsibility has already started in _____
_____ (*State and name of Court*),
Case Number: _____.

☐ This court does not have jurisdiction because _____
_____.

☐ Other _____
_____.

Counterclaim

The Defendant in this action to establish parenting responsibility, submits this Counterclaim to the Plaintiff's Complaint:

6. The identifying information of Plaintiff and Defendant is as follows:

a. Plaintiff's full legal name is: _____.

Plaintiff's address is: _____
_____.

Plaintiff's employer's name and address: _____
_____.

Plaintiff's birth year: _____

Last 4 digits of Plaintiff's social security number: XXX-XX-_____

b. Defendant's full legal name is: _____.

Defendant's address is: _____
_____.

Defendant's employer's name and address: _____
_____.

Defendant's birth year: _____

Last 4 digits Defendant's social security number: XXX-XX-_____

7. Plaintiff and Defendant are not husband and wife and have never been married to each other, but were involved in a relationship with each other that resulted in the birth of their minor child(ren).

8. *(Choose one; Paragraph 8 continues on next page)*

☐ Neither Plaintiff nor Defendant is currently in the Armed Services of the United States of America or its allies.

OR

☐ (Select all that apply) ☐ Plaintiff/ ☐ Defendant is/are currently in the Armed Services of the United States of America or its allies but is not/are not currently deployed or notified of deployment.

9. Plaintiff and Defendant have minor children together, namely:

- a. Minor Child's Initials: _____ Year of Birth: _____
Last 4 Digits of Social Security Number: XXX-XX-_____
Address: _____
- b. Minor Child's Initials: _____ Year of Birth: _____
Last 4 Digits of Social Security Number: XXX-XX-_____
Address: _____
- c. Minor Child's Initials: _____ Year of Birth: _____
Last 4 Digits of Social Security Number: XXX-XX-_____
Address: _____

10. It is in the best interests of the minor child(ren) that residential responsibility is granted as follows (*choose one*):

- ☐ Shared equally between the Plaintiff and the Defendant.
- ☐ Primary residential responsibility granted to the Plaintiff, subject to the Defendant's reasonable parenting time.
- ☐ Primary residential responsibility granted to the Defendant, subject to the Plaintiff's reasonable parenting time.

11. (*Choose one.*)

- ☐ Neither Plaintiff nor Defendant is pregnant.
- ☐ (*Choose one*) ☐ Plaintiff/ ☐ Defendant is pregnant. However, the ☐ Plaintiff/ ☐ Defendant is not the father, and the child is not at issue in this proceeding.

12. (Choose one.)

☐ This Court **has** jurisdiction to determine parenting rights and responsibilities (*custody and visitation*) and decision making of the minor child(ren) pursuant to North Dakota Century Code Section 14-14.1-12 because (*choose one*):

☐ The child(ren) has/have lived in North Dakota with a parent or person acting as a parent for at least six consecutive months immediately before the start of this proceeding. If a child is less than six months old, the child has lived in North Dakota with a parent or person acting as a parent since their birth.

Name of parent or person acting as a parent: _____

Relationship to child(ren): _____

☐ North Dakota was the home state of the child(ren) within six months of the start of this proceeding, and one parent continues to reside in North Dakota.

Name of parent residing in North Dakota: _____

☐ This Court **DOES NOT have** jurisdiction to determine parenting rights and responsibilities (*custody and visitation*) and decision making of the minor child(ren) pursuant to North Dakota Century Code Section 14-14.1-12 because (*choose one*):

☐ The child(ren) **have not** lived in North Dakota with a parent or person acting as a parent for at least six consecutive months immediately before the start of this proceeding. If a child is less than six months old, the child **has not** lived in North Dakota with a parent or person acting as a parent since their birth.

☐ North Dakota **was not** the home state of the child(ren) within six months of the start of this proceeding, and one parent **does not** continue to reside in North Dakota.

13. This proceeding will affect the custody of the minor child(ren). The following information is required by North Dakota Century Code Section 14-14.1-20:

a. Within the past five (5) years, the child(ren) has/have lived at the following addresses:

Child's Initials	Address (street, city, state, zip code)	Date From	Date To

b. The names and current addresses of the persons with whom the child(ren) has/have lived in the past five (5) years are as follows:

Child's Initials	Name of Person(s)	Current Address (street, city, state, zip code)

c. *(Choose one; Paragraph 13(c) continues on next page)*

☐ Defendant has not participated, as a party or witness or in any other capacity, in any other proceeding concerning the custody of or visitation with the child(ren).

☐ Defendant has participated in the following proceeding(s) concerning the child(ren) as a party or witness, or in another capacity concerning the custody of or visitation with the child(ren):

Name of Court	State	Case Number	Date of Determination

d. (Choose one)

☐ Defendant does not know of any proceeding that could affect the current proceeding, including proceedings for enforcement and proceedings relating to domestic violence, protective orders, termination of parental rights, adoptions, neglect, abuse, deprivation, guardianship, or paternity.

☐ Defendant knows of the following proceeding(s) that could affect the current proceeding, including proceedings for enforcement and proceedings relating to domestic violence, protective orders, termination of parental rights, adoptions, neglect, abuse, deprivation, guardianship, or paternity.

Name of Court	State	Case Number	Type of proceeding

e. (Choose one; Paragraph 13(e) continues on next page)

☐ Defendant does not know of any person who is not a party to this proceeding who has physical custody of the child(ren) or claims rights of legal custody or physical custody of, or visitation with, the child(ren).

☐ Defendant knows of the following person(s) who is/are not a party to this proceeding who has physical custody of the child(ren) or claims rights of legal custody of physical custody of, or visitation with, the child(ren).

Name of Person(s)	Address (street, city, state, zip code)

14. (Choose one)

☐ (Choose one) ☐ Plaintiff/ ☐ Defendant is an able-bodied person and is able to contribute toward the support of the minor child(ren).

☐ There is a child support order already in existence. The case number is _____.

15. **Wherefore,** Defendant asks for the following relief on the Answer and Counterclaim

(select all that apply; Paragraph 15 continues on next page):

☐ That Plaintiff's Complaint be dismissed because (explain) _____.

☐ For residential responsibility and parenting time that serve the minor child(ren)'s best interests.

☐ For child support obligations that serve the minor child(ren)'s best interests, including those related to traditional child support, dependent medical and dental insurance coverage, and contribution to the child(ren)'s uninsured dental and medical expenses.

☐ That Plaintiff and Defendant pay their own attorney's fees and costs associated with bringing this action.

☐ For such further and additional relief as this Court may deem just and proper.

16. I verify, under penalty of perjury under the law of North Dakota, that I am the Defendant in the above-entitled action; that I have read the Answer and Counterclaim and know the contents thereof and that the same is true and correct, except as to matters stated therein upon information and belief as to those matters I state that I believe them to be true and correct.

Signed on _____ (date) in _____ (city),
_____ (county), _____ (state), _____ (country).

Signature of Defendant

Typed or Printed Name of Defendant

Address

City State Zip Code

Telephone Number

Email Address

State of North Dakota

In District Court

County of _____

_____ Judicial District

_____)
Plaintiff,)
)
vs)
)
_____)
Defendant.)

Case No. _____

Confidential Information Form

I am the (*choose one*) ☐ Plaintiff / ☐ Defendant in this action to establish parenting responsibilities and I submit this Confidential Information Form to the Court.

Full Information

Redacted Information

Plaintiff:

Name: _____
Date of Birth: _____
Social Security #: _____

Year of Birth: _____
XXX-XX-_____

Defendant:

Name: _____
Date of Birth: _____
Social Security #: _____

Year of Birth: _____
XXX-XX-_____

Minor Child:

Name: _____
Date of Birth: _____
Social Security #: _____

Initials: _____
Year of Birth: _____
XXX-XX-_____

Minor Child:

Name: _____ Initials: _____
Date of Birth: _____ Year of Birth: _____
Social Security #: _____ XXX-XX-_____

Minor Child:

Name: _____ Initials: _____
Date of Birth: _____ Year of Birth: _____
Social Security #: _____ XXX-XX-_____

Dated _____.

Signature of (choose one) ☐Plaintiff / ☐Defendant

Typed or Printed Name

Address

City State Zip Code

Telephone Number

Email Address

State of North Dakota

In District Court

County of _____

_____ Judicial District

Plaintiff,)
vs)

Defendant.)

Case No. _____

Notice of Filing

To: _____
(List the Defendant's name)

1. **Please take notice** that as required by Rule 5(d) of the North Dakota Rules of Civil Procedure, you are notified that the Summons and Complaint to establish parenting responsibilities are filed with the Clerk of Court in _____ County, North Dakota, and assigned case number _____.
2. Please indicate the assigned case number on the front or title page in the upper right-hand portion of **all** documents to be filed.

Dated _____

_____, Plaintiff
Signature of Plaintiff

Typed or Printed Name of Plaintiff

Address

City State Zip Code

Telephone Number

Email Address

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*) and I am at least 18 years of age.

2. List of Court Documents Served:

- Notice of Filing

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 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

State of North Dakota

In District Court

County of _____

_____ Judicial District

Plaintiff,)
vs)

Defendant.)

Case No. _____

Notice of Filing

To: _____
(List the Plaintiff's name)

1. **Please take notice** that as required by Rule 5(d) of the North Dakota Rules of Civil Procedure, you are notified that the Answer and Counterclaim to establish parenting responsibilities are filed with the Clerk of Court in _____ County, North Dakota, and assigned case number _____.
2. Please indicate the assigned case number on the front or title page in the upper right-hand portion of **all** documents to be filed.

Dated _____

_____, Defendant
Signature of Defendant

Typed or Printed Name of Defendant

Address

City State Zip Code

Telephone Number

Email Address

State of North Dakota

In District Court

County of _____

_____ Judicial District

Plaintiff,)
vs)

Defendant.)

Case No. _____

Declaration of Service by Mail

The person serving court documents by mail states:

1. My name is _____ (*name of person who mailed document*) and I am at least 18 years of age.

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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

2. It is estimated that the discovery specified below can be completed within _____ months from the date of this form.

a. Written discovery (*choose one*): ☐No ☐Yes

b. Factual depositions (*choose one*): ☐No ☐Yes

Identify the persons who will be deposed by either party: _____

c. Medical/Vocational/Parenting Evaluations (*choose one*): ☐No ☐Yes

Identify the person who will conduct such evaluations [for either party]: _____

d. Experts (*choose one*): ☐No ☐Yes

Identify any experts or area of expertise for either party: _____

3. Date ready for trial: _____.

4. Estimated length of trial: _____.

5. Please list any additional information, which might be helpful to the court when scheduling this matter, including, e.g., facts that will affect readiness for trial:

6. Is the State of North Dakota a real party in interest under N.D.C.C. 14-09-09.26 regarding child support? (*Choose one*): ☐No ☐Yes
(If “yes”, you must add the state as a party to the title under N.D.R.Civ.P. 10(a).)

Plaintiff's Date & Signature:

(Date)

(Plaintiff's Signature)

(Plaintiff's Printed Name)

(Address)

(City, State, Zip Code)

(Telephone Number)

(Email Address)

Defendant's Date & Signature

(Date)

(Defendant's Signature)

(Defendant's Printed Name)

(Address)

(City, State, Zip Code)

(Telephone Number)

(Email Address)

Instructions Proposed Parenting Plan – Parenting Responsibilities Case

A Parenting Plan is required in every parenting responsibility case because they involve residential responsibility (custody), parenting time (visitation), and decision making.

These are the instructions for the Proposed Parenting Plan form. When parents don't agree on a parenting rights and responsibilities, each must prepare, serve, and file a proposed parenting plan. Review the scheduling order in your case for the due date.

The Proposed Parenting Plan form is designed for common, uncomplicated parenting responsibility cases. 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 advise 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.

The Proposed Parenting Plan 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 section of the form asks for information you don't know and are unable to find, write "Unknown."

If the section of the form asks for a dollar amount and there is none, type or write \$0.00 in the space.

If a form isn't completely filled out, it could result in the clerk not accepting your forms 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.

Best Interests of the Child ([N.D.C.C. Section 14-09-06.2](#))

The judge in your case uses the 13 “Best Interests of the Child” factors to decide residential responsibility (custody), parenting time (visitation), and everything else required to be in the parenting plan. Best interests look at the child’s needs and who will best meet their needs.

Review the 13 “Best Interests of the Child” factors at [N.D.C.C. Section 14-09-06.2](#). If your case goes to trial and you and the other parent disagree on parenting rights and responsibilities, you need to be prepared to argue how each factor applies to your proposed parenting plan.

☐ **Fill in the Top of the Form:**

The information to fill out the top part of the form (“the caption”) is the same as on the Summons.

- Put a checkmark ☒ in the box indicating if you are the Plaintiff or Defendant.

☐ **Paragraph 1:** Read carefully. You don’t need to do anything with this paragraph.

☐ **Paragraph 2:** Put a checkmark ☒ in the box indicating if you are the Plaintiff or Defendant.

☐ **Paragraph 3:** List the minor child(ren) in this parenting responsibilities case. Include **only** the minor child(ren)’s initials, birth year, and age.

☐ **Paragraph 4:** Read carefully. If you don’t agree with this statement, you can’t use this form.

☐ **Paragraph 5:** Put a checkmark ☒ in the box indicating the legal residence of the minor child(ren) for school attendance. If you check “Other,” list the name of the person you want to have legal residency of the child(ren).

- **Legal residence** is the place at which a person has been physically present, that the person regards as home, and to where, whenever absent, the person intends to return.

☐ **Paragraph 6: Residential Responsibility and Parenting Time**

- **Residential responsibility** (also known as custody) is a parent’s responsibility to provide a home for the child.
- **Parenting time** (also known as visitation) is the time when the child is to be in the care of a parent.

☐ **a. Residential Responsibility.**

- ☐ Put a checkmark ☒ in the box next to **equal residential responsibility** **if** you believe it's in the best interests of the minor child(ren) for the parents to share residential responsibility of the child(ren) 50% of the time.
- Explain in detail the schedule you're proposing the Plaintiff have.
 - Explain in detail the schedule you're proposing the Defendant have.

*Some examples of equal residential responsibility are the following as stated in Nolo's Essential Guide to Divorce, by Emily Duskow, June 2016.

Fourteen Overnights:

(Split time between parents and alternate schedule each week as follows:)

Parent A/Week One: Sunday evening to Wednesday morning;

Parent B/Week One: Wednesday afternoon to Sunday evening;

Parent A/Week Two: Sunday evening to Wednesday morning;

Parent B/Week Two: Wednesday afternoon to Sunday evening.

Fourteen Overnights:

(Split midweeks and every other weekend as follows:)

Parent A: Monday evening to Wednesday evening each week, and every other weekend from Friday evening to Monday morning;

Parent B: Wednesday evening to Friday morning each week, and every other weekend from Friday evening to Monday morning.

- ☐ Put a checkmark ☒ in the box next to **Plaintiff having primary residential responsibility** **if** you believe it's in the best interests of the minor child(ren) for the Plaintiff to have primary residential responsibility of the child(ren).
- Put a checkmark ☒ in the box next to any or all proposed parenting time options. If you have checked "Other,"* explain the proposed parenting schedule for Defendant, as well as pickup times.
- ☐ Put a checkmark ☒ in the box next to **Defendant having primary residential responsibility** **if** you believe it's in the best interests of the minor child(ren) for the Defendant to have primary residential responsibility of the child(ren).
- Put a checkmark ☒ in the box next to any or all proposed parenting time options. If you have checked "Other,"* explain the proposed parenting schedule for Plaintiff, as well as pickup times.

☐ **b. Alternate Schedules.**

- This is your alternate schedule. If you have no alternate schedule, write *“No Alternate Schedule”* on the first line of each section. If you are proposing an alternate schedule, state in detail the schedule for any or all of the following, including pickup times:
- **Summer Time.** Fill in your proposed definition of summer time. If you want an alternative schedule, fill in your proposed schedule. Otherwise, write *“No Alternate Schedule.”*
- **School Release Days.** Fill in your proposed definition of school release days. If you want an alternative schedule, fill in your proposed schedule. Otherwise, write *“No Alternate Schedule.”*
- **Summer Time/School Release Days. (Please note** the statement about summer time and school release dates taking precedence over summer activities. If you don’t want this, you can’t use this form.)
- **Vacation with Parents.** Fill in your proposed schedule. Otherwise, write *“No Alternate Schedule.”*

Examples of definitions include (but aren’t limited to):

- Summertime – “According to the public school calendar;” “From June 1-August 15;” etc.
- School Release Days – “Days as defined by the public school calendar;” “non-holiday school breaks;” etc.
- Vacation with Parents – “two consecutive weeks in the summer time;” “two non-consecutive weeks at any time;” “to be scheduled during normal parenting time;” “only upon 30 days written notice;” etc.

☐ **c. Schedule for Holidays and Other Special Days.** Fill in your proposed Holidays and Special Days schedule with as many specifics as possible. Include when each holiday and special day is scheduled for both the Plaintiff and Defendant.

- In the space provided after the Holidays and Special Days schedule, write the beginning times and ending times for the holiday/special day. If you’d like the holiday/special day to include the weekend if it falls during a weekend or on a Friday or a Monday, write that here. If there are any other special arrangements with regard to holidays/special days, write them here.

- ☐ **d. Children's Activities During Parenting Time.** Fill in your proposed details of how the parents will inform each other of their minor child(ren)'s extracurricular activities.
- ☐ **e. Timeliness.** Fill in your proposal to handle timeliness of visits.
- ☐ **f. Missing Parenting Time.** Fill in your proposal to handle missed parenting time.
 - Examples include (but aren't limited to) "missed parenting time isn't made up;" "missed parenting time is made up the following week;" "a missed holiday is or isn't made up;" etc.
- ☐ **g. Notification.** Fill in your proposal for notifying each other in advance of missed parenting time.
 - Examples include (but aren't limited to) "24 hours in advance;" "by phone;" "text;" etc.
- ☐ **h. Restrictions on Contact with the Child(ren).** Put a checkmark ☒ in the box next to whether you are proposing restrictions on the other parent's ability to contact the child(ren).
 - If you put a checkmark ☒ in the box restricting the other parent's contact with the child(ren), fill in your proposal.
- ☐ **Paragraph 7. Limitations on Residential Responsibility and Parenting Time Modifications.** Read carefully. You don't need to fill out anything. If you don't agree with this statement, you can't use this form.
- ☐ **Paragraph 8. Decision Making Responsibility.** Complete all parts of Paragraph 8 (a through g). The Parenting Plan must include decision making responsibility for routine or day-to-day decisions, and major decisions such as education, health care and spiritual development.
 - ☐ **a. Emergency Medical Decisions.** Read carefully. You don't need to fill out anything. If you don't agree with this statement, you can't use this form.
 - ☐ **b. Day-to-Day Decisions.** Read carefully. You don't need to fill out anything. If you don't agree with this statement, you can't use this form.
 - ☐ **c. Daycare/Afterschool Provider.** Put a checkmark ☒ in the box next to the option or options you propose and fill out any blanks associated with the checkmark ☒.
 - ☐ **d. Education Decisions.** Put a checkmark ☒ in the box next to the option you propose. Don't checkmark more than one option.

- ☐ e. **Non-Emergency Health Care Decisions.** Put a checkmark ☒ in the box next to the option you propose. Don't checkmark more than one option.
- ☐ f. **Spiritual Development Decisions.** Put a checkmark ☒ in the box next to option you propose. Don't checkmark more than one option.
- ☐ g. **Both parents must consent.** Fill out your proposal to what both parents must agree to before the minor child(ren) is permitted to do something.
- ☐ **Paragraph 9. Information Sharing and Access.**
 - ☐ For **paragraphs 9a – 9i**, read carefully. If you don't agree to these provisions, you can't use this form.
 - ☐ j. Fill out your proposal for telephone access to the child(ren) by the other parent. Examples for j, k, and l, include (but aren't limited to) "daily;" "once every 3 days;" etc.
 - ☐ k. Fill out your proposal for electronic access to the child(ren) by the other parent.
 - ☐ l. Fill out your proposal for contact with the child(ren) by the other parent during long vacations with the child(ren).
- ☐ **Paragraph 10. Communication Between Parents.** Read carefully. You don't need to fill out anything. If you don't agree with this paragraph, you can't use this form.
- ☐ **Paragraph 11. Children's Clothing and Personal Items.** Put a checkmark ☒ in the box next to any option or options you propose. Put a checkmark ☒ in the **"Other"** box, if needed, and explain other proposed options.
- ☐ **Paragraph 12. Transportation and Exchange Arrangements Considering the Safety of the Child(ren).** The Parenting Plan must include arrangements for transportation and exchange of the minor child(ren). Put a checkmark ☒ in the box next to your proposed option or options. If an option requires additional information, fill in the information. Put a checkmark ☒ in the **"Other"** box, if needed, and explain other proposed options.
- ☐ **Paragraph 13. Procedure for Review and Adjustment to Parenting Plan.** Read carefully. You don't need to fill out anything. If you don't agree with this paragraph, you can't use this form.
- ☐ **Paragraph 14. Changes to Residence of the Children.** Read carefully. You don't need to fill out anything. If you don't agree with this paragraph, you can't use this form.

- ☐ **Paragraph 15. Dispute Resolution.** Complete all 4 parts of Paragraph 15. The Parenting Plan must include methods for resolving disputes.
- ☐ **a.** Put a checkmark ☒ in the box next to the option you propose. If the option requires details, fill in the details. **Don't** checkmark more than one option.
- ☐ **b.** Put a checkmark ☒ in the box next to the option you propose. If the option requires details, fill in the details. **Don't** checkmark more than one option.
- ☐ **c.** Put a checkmark ☒ in the box next to the option, or options, you propose. If the option requires details, fill in the details.
- ☐ **d.** Read carefully. If you don't agree to these provisions, you can't use this form.
- ☐ **Paragraph 16. Compliance.** Read carefully. If you don't agree to these provisions, you can't use this form.
- ☐ **Date and Signature:** You, the parent who completed this form:
- ☐ Date the document.
- ☐ Sign the signature line and put a checkmark ☒ in the correct box indicating if you're the Plaintiff or Defendant.
- ☐ 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 Proposed Parenting Plan; Serve 1 Copy on the Other Parent; and File the Original with the Clerk of Court

- ☐ Make two copies: one for you, one for the other parent.
- ☐ Serve 1 copy on the other parent.
- See Page 34 of the Contested Parenting Responsibilities Informational Guide.
 - Go to ndcourts.gov/legal-self-help/service-in-a-civil-action and review the information in the "Service After a District Court Civil Action Has Started" section of the webpage.
- ☐ File the following original, completed documents with the Clerk of Court by the deadline in your scheduling order:
- Proposed Parenting Plan
 - Proof of service on the other parent

State of North Dakota

In District Court

County of _____

_____ Judicial District

Plaintiff,)
vs)

Defendant.)

Case No. _____

Proposed Parenting Plan

of (choose one) ☐ Plaintiff / ☐ Defendant

*(Review your scheduling order for the deadline in your parenting responsibilities case to file proposed parenting plans. If you and the other parent are unlikely to agree on parenting rights and responsibilities by the deadline for at least one of your minor children, each parent **must** complete a proposed parenting plan to serve and file with the Court.)*

1. The Plaintiff and Defendant in this parenting responsibilities case disagree on parenting rights and responsibilities of the minor child(ren).
2. Paragraphs 3 through 15 are the proposed Parenting Plan of the (choose one) ☐ Plaintiff / ☐ Defendant, which is submitted as required by their Rule 8.3.1, N.D.R.Ct., scheduling order.
3. The proposed Parenting Plan applies to the following child(ren) in this parenting responsibilities case:

Initials: Birth Year: Age:

4. **PARENTAL RIGHTS AND RESPONSIBILITIES:** The Plaintiff and Defendant shall have the parental rights and responsibilities as set forth in North Dakota Century Code Section 14-09-32.

5. LEGAL RESIDENCE: The legal residence of the minor children for school attendance

shall be (*choose one*):

- ☐ The Plaintiff's place of residence.
- ☐ The Defendant's place of residence.
- ☐ Other: _____.

6. RESIDENTIAL RESPONSIBILITY AND PARENTING TIME:

- a. It is in the best interests of the minor child(ren) that** (*choose **one** of the three options in Paragraph 6a below; Paragraph 6a continues on next page*):

☐ **The Plaintiff and Defendant shall have equal residential responsibility of the minor child(ren).** Equal residential responsibility means each parent must have the child(ren) 50% of the time. With that in mind (*describe the schedule for each parent; see instructions for examples*):

The Plaintiff shall have residential responsibility of the minor child(ren) as follows:

The Defendant shall have residential responsibility of the minor child(ren) as follows:

☐ **Primary residential responsibility shall be with the Plaintiff.** Defendant shall have parenting time in the following Parenting Time Schedule (*select any that apply*):

- ☐ Wednesday evenings from 6:00 p.m. to 8:00 p.m.
- ☐ Every other weekend from Friday at _____, until Sunday at _____.
- ☐ Other: _____

☐ **Primary residential responsibility shall be with the Defendant.** Plaintiff shall have parenting time in the following Parenting Time Schedule (*select any that apply*):

- ☐ Wednesday evenings from 6:00 p.m. to 8:00 p.m.
- ☐ Every other weekend from Friday at _____, until Sunday at _____.
- ☐ Other: _____

b. Alternate Schedules: The above Parenting Time schedule for Paragraph 6a is the default “normal” schedule **except** as described below. The alternate schedules will be as follows (*if you don’t have an alternate schedule, write “No Alternate Schedule” on the first line of each section*):

Summer Time*: Summer time is defined as: _____

The Summer Time alternate schedule is: _____

School Release Days*: School release days are defined as: _____

The School Release Days alternate schedule is: _____

***Summer Time/School Release Days** with the other parent take precedence over summer activities, such as sports, when Parenting Time cannot be reasonably scheduled around such events.

Vacation with Parents: Each parent shall have vacation with the child(ren) as follows: ____

- c. **Schedule for Holidays and Other Special Days:** The parenting schedule for holidays and other special days applies to the residential responsibility in Paragraph 6a. The parenting schedule for the child(ren) for holidays and other special days is:

	With the Plaintiff <i>(Odd, Even, Every Year, or Regular Parenting Time)</i>	With the Defendant <i>(Odd, Even, Every Year, or Regular Parenting Time)</i>
New Year's Day		
Martin Luther King Day		
President's Day		
Spring Break		
Easter		
Mother's Day		

	With the Plaintiff <i>(Odd, Even, Every Year, or Regular Parenting Time)</i>	With the Defendant <i>(Odd, Even, Every Year, or Regular Parenting Time)</i>
Father's Day		
Independence Day		
Labor Day		
Teacher's Break (Convention)		
Halloween		
Veteran's Day		
Thanksgiving Day		
Winter Break		
Christmas Eve Day		
Christmas Day		
Plaintiff's Birthday		
Defendant's Birthday		
Child's Birthday		

For the purposes of the Holidays and Other Special Days parenting schedule, a holiday includes *(indicate whether the holiday includes the entire weekend and the time of day/night during which holiday parenting time will occur)*: _____

- d. Child(ren)'s Activities During Parenting Time:** In order to promote the development of well-rounded healthy children, both parents will support the extracurricular activities of the child(ren). The parents will work together to ensure the child(ren)'s activities are not planned as to interfere with the relationship of either parent. The parents will inform each other of the child(ren)'s extracurricular activities by:

- e. Timeliness:** If a parent is more than _____ minutes late to pick up the child(ren) for a visit, that visit will be cancelled, **OR:** _____

- f. If either parent misses their parenting time for any reason, the parents will deal with the missed parenting time as follows:** _____

- g. Except in extreme emergencies, each parent must notify the other parent that they will not be able to exercise their scheduled parenting time as follows:**

h. Restrictions on Contact with the Child(ren) (choose one):

- ☐ There are no restrictions on contact with the child(ren).
- ☐ Until further order of the Court, the child(ren)'s time with the
(choose one) ☐ Plaintiff / ☐ Defendant is subject to the following conditions: _____

7. LIMITATIONS ON RESIDENTIAL RESPONSIBILITY AND PARENTING TIME

MODIFICATIONS: Modifications to residential responsibility and parenting time shall be governed by North Dakota Century Code Section 14-09-06.6 and North Dakota Century Code Chapter 14-14.1, the Uniform Child Custody Jurisdiction and Enforcement Act.

8. DECISION MAKING RESPONSIBILITY:

- a. Emergency Medical Decisions:** Each parent is authorized to make emergency health care decisions while the child(ren) is/are in that parent's care.
- b. Day-to-day Decisions:** Each parent is authorized to make decisions regarding the day-to-day care and control of the child(ren) while the child(ren) reside with that parent, except as provided in 8c, 8d, 8e, 8f, and 8g below.
- c. Daycare/Afterschool provider (select any that apply; Paragraph 8c continues on next page):**
- ☐ When the parents reside in the same community, they will use the same daycare/afterschool provider.
- ☐ Each parent may decide to utilize the daycare/afterschool provider of their own choosing.
- ☐ The Plaintiff will designate the daycare/afterschool provider.

- ☐ The Defendant will designate the daycare/afterschool provider.
- ☐ The child(ren)'s daycare/afterschool provider is _____.
- ☐ Other: _____.

d. Education Decisions will be made by (*choose one*):

- ☐ The Plaintiff
- ☐ The Defendant
- ☐ The Plaintiff and Defendant jointly

e. Non-Emergency Health Care Decisions will be made by (*choose one*):

- ☐ The Plaintiff
- ☐ The Defendant
- ☐ The Plaintiff and Defendant jointly

f. Spiritual Development Decisions will be made by (*choose one*):

- ☐ The Plaintiff
- ☐ The Defendant
- ☐ The Plaintiff and Defendant jointly

g. Both parents must consent before any minor child will be permitted to _____

9. INFORMATION SHARING AND ACCESS:

- a.** Both parents shall have access to educational, medical, dental, religious, insurance, and other records. Both parents have the right and shall notify and authorize the daycare, the school, and the children's doctors and other professionals to communicate directly with and outside the presence of the other parent. Each parent shall be listed as the child(ren)'s parent and as an emergency contact with the daycare, the school, and all health professionals unless directed by court order to the contrary.

- b.** Both parents have the right to attend school conferences. This right does not require any school to hold a separate conference with each parent. Each parent shall keep the other parent informed of the name and address of the school the child(ren) attend.
- c.** Each parent must communicate with the other parent with regard to grade reports, extra-curricular activities, and any other notices from the daycare, the school, and related entitles regarding the child(ren). Both parents must notify the child(ren)'s daycare and school(s) of the split households and advise to send copies of the child(ren)'s school documents, notices, and related information to each parent.
- d.** Each parent must inform the other as soon as reasonably possible of serious accidents or serious illness which require health care treatment, providing the time of the accident or illness and the name of the treating health care provider. If the child is taking medications, the parents must communicate regarding instructions, dosage, and related information.
- e.** The parent who has medical insurance coverage on the children must supply to the other parent an insurance card and, as applicable, insurance forms and a list of insurer-approved or HMO-qualified health care providers in the area where the other parent is residing.
- f.** Both parents must notify the other parent in writing of any change in residence, telephone numbers, names and addresses of employers, changes in health insurance coverage for the child(ren), and changes in health insurance available through employer which could cover the child(ren).

- g. Communication between parents and children must be liberally permitted at reasonable hours and at the expense of the parent initiating contact.
- h. At all other times, the parent with whom the child is staying shall not refuse to allow contact or take any action in order to deny the other parent contact. Each parent shall facilitate the communication between the child and the other parent.
- i. Both parents shall allow reasonable access to the child by phone or other means.
- j. Telephone access to the child(ren) shall be as follows: _____

- k. Electronic access to the child(ren) shall be as follows: _____

- l. During long vacations the parent with whom the child is on vacation shall make the child available for contact as follows: _____

10. COMMUNICATION BETWEEN PARENTS: The parents shall communicate only in positive ways. The parents shall not make and shall not allow others to make derogatory remarks about the other parent in the child(ren)'s presence.

11. CHILDREN'S CLOTHING AND PERSONAL ITEMS *(select any that apply; Paragraph 11 continues on next page):*

- ☐ Each parent must supply the appropriate children's clothing with them for their scheduled time with the other parent.
- ☐ Each parent must supply appropriate clothing for the child(ren) to remain at that parent's home during parenting time.
- ☐ The clothing is considered the child(ren)'s clothes and must be returned clean, when reasonably possible, with the child(ren) by the other parent.

- ☐ The child(ren) must leave personal items at each parent's home and must not remove those items from that home.
- ☐ The child(ren) must take personal items between each parent's home, and it is the responsibility of each parent to ensure the personal items remain with the child(ren).
- ☐ In the cold months of the year, each parent shall ensure that the child(ren) have appropriate winter clothing to wear, regardless of parenting time.
- ☐ Other: _____
- ☐ Other: _____

12. TRANSPORTATION AND EXCHANGE ARRANGEMENTS CONSIDERING THE SAFETY OF THE CHILD(REN) *(select any that apply):*

- ☐ When Plaintiff and Defendant live in the same community, the responsibility of picking up and returning the child(ren) is shared with the *(choose one)* ☐ Plaintiff / ☐ Defendant picking up the child(ren) and *(choose one)* ☐ Plaintiff / ☐ Defendant dropping off the child(ren).
- ☐ The child(ren) shall be picked up and returned to the front entrance of the appropriate residence.
- ☐ The parent dropping off the child(ren) shall not leave the premises until the child(ren) are safely inside.
- ☐ Any change in pick up or drop off location will be determined by _____.
- ☐ The person picking up or dropping off the child(ren) during times of parenting time has an obligation to be punctual, arriving at the agreed time and place, not substantially earlier or later.
- ☐ Other: _____.
- ☐ Other: _____.

13. PROCEDURE FOR REVIEW AND ADJUSTMENT TO PARENTING PLAN: If the parents want to make permanent changes to the Parenting Plan, those changes shall be reduced to writing and submitted to the Court for approval.

14. CHANGES TO RESIDENCE OF THE CHILD(REN):

- a. A parent with primary residential responsibility for a child may not change the primary residence of the child to another state except upon order of the Court or with the written consent of the other parent, if the other parent has been given parenting time by order of the Court.
- b. A parent with equal residential responsibility for a child may not change the residence of the child to another state except with the written consent of the other parent or upon order of the Court allowing the move and awarding that parent primary residential responsibility.
- c. A court order is not required if the other parent:
 - 1) Has not exercised parenting time for a period of one year; or
 - 2) Has moved to another state and is more than 50 miles (80.47 kilometers) from the residence of the parent with primary residential responsibility.

15. DISPUTE RESOLUTION:

- a. In the event Plaintiff and Defendant are unable to resolve their differences with regard to the Parenting Plan, disputes shall be submitted to (*choose one*):

☐ Counseling

☐ Mediation

☐ Other: _____

b. The cost of this process will be allocated between Plaintiff and Defendant as follows

(choose one):

☐ Plaintiff and Defendant shall each pay one-half.

☐ As determined in the dispute resolution process.

☐ Other: _____

c. A parent will begin the dispute resolution process by notifying the other parent by

(select all that apply):

☐ Written request

☐ Certified mail

☐ Other: _____

d. In the dispute resolution process with regard to the parenting plan:

1) Preference will be given to carrying out this Parenting Plan.

2) Unless an emergency exists, the parents shall use the designated process to resolve disputes relating to implementation of the plan, except those related to financial support.

3) A written record will be prepared of any agreement reached in counseling or mediation and of each arbitration award and will be provided to each parent.

4) If the court finds that a parent has used or frustrated the dispute resolution process without good reason, the court may award attorneys' fees and financial sanctions to the other parent.

16. COMPLIANCE: After this Parenting Plan has been made a part of a court order or judgment, repeated, unjustified violations of these provisions may subject the offender to court sanctions, or, if continuous and serious, may result in modification of the Parenting Plan. One parent's failure to comply with a provision of the Parenting Plan does not affect the other parent's obligation to comply with the Parenting Plan. Violation of provisions of this plan with actual knowledge of its terms is punishable by contempt of court and may be a criminal offense. Violation of this plan may subject a violator to arrest, fines, imprisonment or sanctions or other remedies available under the law.

(Date)

(Signature), ☐Plaintiff (OR) ☐Defendant

(Printed Name)

(Address, City, State, Zip Code)

(Telephone Number/Email)

Instructions for Witness and Exhibit List – Parenting Responsibilities

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

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

This Witness and Exhibit List is designed for common, uncomplicated parenting responsibility cases. 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 advise 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.

The Witness and Exhibit List 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 section of the form asks for information you don't know and are unable to find, write "Unknown."

If a form isn't completely filled out, it could result in the clerk not accepting 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.

☐ **Fill in the Top of the Form:**

The information to fill out the top part of the form ("the caption") is the same as on the Summons.

☐ **Paragraph A:**

- Put a checkmark ☒ in the box to indicate if you're the Plaintiff or Defendant.
- Fill in the date of the trial.

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

- List the name of the person you want to call as a witness at the trial.
- State their relationship to your parenting responsibility case.
- Cross out all lines you don't use.

☐ **Paragraph B9: Review.** You're stating 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.
- Cross out all line you don't use.

☐ **Paragraph C21: Review.** You're stating 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 correct box indicating whether you're the Plaintiff or Defendant.
- ☐ 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 and File the Witness and Exhibit List

- ☐ **Serve the Witness and Exhibit List on the other parent.**
 - See Page 34 of the Contested Parenting Responsibilities Informational Guide.
 - Go to ndcourts.gov/legal-self-help/service-in-a-civil-action and review the information in the “Service After a District Court Civil Action Has Started” section of the webpage.
- ☐ **File the following original, completed documents with the Clerk of Court by the deadline in your scheduling order or other order:**
 - Witness and Exhibit List
 - Proof of service on the other parent

State of North Dakota

In District Court

County of _____

_____ Judicial District

Plaintiff,)
vs)

Defendant.)

Case No. _____

Witness and Exhibit List

(If your parenting responsibility case goes to trial, 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 trial. (Review the [Evidence](#) research guide and the information on the [Subpoenas](#) webpage.)

Make sure your list is as complete as possible. The judge may not allow you to introduce witnesses or exhibits during the trial 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) ☐ Plaintiff (OR) ☐ Defendant in this parenting responsibility case.

The trial is scheduled on (trial date(s)) _____.

B. My List of Witnesses: This is the list of people I want to call as witnesses at the trial to tell the judge what they know about my parenting responsibility case (*for each witness, list their name and relationship to your case. 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 to consider at the trial *(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)

(Signature), ☐ Plaintiff (OR) ☐ Defendant

(Printed Name)

(Address, City, State, Zip Code)

(Telephone Number/Email)