



## CONTESTED PARENTING RIGHTS & RESPONSIBILITIES BETWEEN UNMARRIED PARENTS (For Plaintiff & Defendant)

### 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 the 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'll need to do additional research to prepare.**

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

- State or federal laws that apply to your case;
- Case law, also called court opinions, that applies to your case; and
- Court rules that apply to your case, which may include:
  - North Dakota Rules of Civil Procedure;
  - North Dakota Rules of Court;
  - North Dakota Rules of Evidence;
  - North Dakota Administrative Rules and Orders;
  - Any local court rules.

Links to the laws, case law, and court rules can be found at [www.ndcourts.gov](http://www.ndcourts.gov).

A glossary with definitions of legal terms is available at [www.ndcourts.gov](http://www.ndcourts.gov) by clicking on the "Self Help" link.

**When you represent yourself, you're held to same requirements and responsibilities as a lawyer, even if you don't understand the rules or procedures.** If you're unsure if this information suits your circumstances, consult a lawyer.

- "If you would like to learn more about finding a lawyer to represent you, go to [www.ndcourts.gov/legal-self-help/finding-a-lawyer](http://www.ndcourts.gov/legal-self-help/finding-a-lawyer).

***This information isn't a complete statement of the law.** This covers basic information about the process of establishing parenting rights and responsibilities 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.***

**This informational guide is made up of three sections:**

**First Section: General information about parenting rights and responsibilities. (Pages 5-12)**

**Second Section: The basic contested parenting rights and responsibilities process from beginning to end. (Pages 13-33)**

**Third Section: Formatting examples of many required documents. (Pages 33-52)**

***WARNING – Establishing parenting rights and responsibilities can have serious long-term legal and financial consequences. It’s strongly recommended that you consult a lawyer and carefully consider all of your options before you represent yourself.***

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

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## INFORMATION ABOUT CONTESTED PARENTING RIGHTS AND RESPONSIBILITIES IN NORTH DAKOTA

### WHAT IS A CONTESTED PARENTING RIGHTS AND RESPONSIBILITIES ACTION?

Parents who have never been married to each other may ask a North Dakota state district court to establish parenting rights and responsibilities to their children. (Generally, establishing parenting rights and responsibilities between parents who are or were married to each other are part of divorce or legal separation proceedings.)

If you and the other parent **aren't** in agreement on every issue in establishing parenting rights and responsibilities, you have a contested parenting rights and responsibilities action.

### WHAT IF PATERNITY HASN'T BEEN ESTABLISHED?

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

The father-child relationship is established by:

- An acknowledgment of paternity
  - A process that occurs 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 to establish paternity
  - A civil action that establishes the father of a child that may involve genetic testing. A court issues an order establishing paternity so that the father'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 court issues an adoption order so that the new birth certificate is issued for the child. The new birth certificate lists the adoptive parent's name, or names.

If the father-child relationship **hasn't** been established, go to [www.ndcourts.gov/legal-self-help/paternity](http://www.ndcourts.gov/legal-self-help/paternity) for all of the information about paternity actions available through the ND Legal Self Help Center.

## **HOW IS MATERNITY ESTABLISHED?**

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

The mother-child relationship is established by:

- Giving birth to the child
- A civil action to establish maternity
  - A civil action that establishes the mother of a child. A court issues an order establishing maternity so that 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 court issues an adoption order so that the new birth certificate is issued for the child. The new birth certificate lists the adoptive parent's name, or names.

## **DOES THE ND LEGAL SELF HELP CENTER HAVE CONTESTED PARENTING RIGHTS AND RESPONSIBILITIES FORMS?**

**No, the ND Legal Self Help Center doesn't have a packet of forms for contested parenting rights and responsibilities actions.**

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

Formatting examples of some of the contested parenting rights and responsibilities documents are found in the Appendix at the end of this guide.

The General-Use template forms are available at [www.ndcourts.gov/legal-self-help](http://www.ndcourts.gov/legal-self-help) in the "District Court Civil" section. You may find the General-Use forms of interest as a starting point for creating your own parenting rights and responsibilities documents.

You may find the forms in the Legal Services of North Dakota Family Law Manual of interest. The Legal Services of North Dakota Family Law Manual contains a variety of divorce forms that were created for lawyers to use as examples in family law cases. The Legal Services of North Dakota website is [www.legalassist.org](http://www.legalassist.org).

*(References to the Legal Services of North Dakota Family Law Manual are for your convenience only. The ND Legal Self Help Center doesn't endorse, warrant, or accept responsibility for the content or uses of the Family Law Manual. You must independently determine the legal sufficiency of the forms in the Family Law Manual. Use at your own risk.)*

## **IS THERE HELP AVAILABLE FOR CREATING LEGAL DOCUMENTS?**

If you would like assistance creating your contested parenting rights and 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 rights and responsibilities action, such as preparing legal documents, while you handle the rest of the action. You and the lawyer must agree in writing to Limited Legal Representation.

## **WHAT ARE THE DEFINITIONS OF SOME OF THE COMMONLY USED TERMS IN A PARENTING RIGHTS AND RESPONSIBILITIES ACTION?**

**\*\*\*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.\*\*\***

**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 deploying or deployed parent is 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 or spousal support.

**Obligee** – the person receiving child support or spousal 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 rights and 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 known as visitation.)

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

**Residency requirement** – the amount of time a child and parent must live in North Dakota before they can ask a North Dakota district court to establish parenting rights and responsibilities between parents who were never married to each other. To determine whether your circumstances meet the North Dakota residency requirements, see the "What is the North Dakota Residency Requirement for Establishing Parenting Rights and Responsibilities" section below.

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

**Visitation** – See parenting time.

## **WHO ARE THE PARTIES IN A PARENTING RIGHTS AND RESPONSIBILITIES ACTION?**

**Plaintiff (or Petitioner)** – The parent who starts the contested parenting rights and responsibilities action by serving a summons and complaint to establish parenting rights and responsibilities on the other parent.

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

**Real Party in Interest** (*also known as the Statutory Real Party in Interest*) – The State of North Dakota is added as a real party in interest to parenting rights and responsibilities actions only when:

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



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

## **WHAT IS THE NORTH DAKOTA RESIDENCY REQUIREMENT FOR ESTABLISHING PARENTING RIGHTS AND RESPONSIBILITIES?**

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

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

- North Dakota is the home state of the child on the date the parenting rights and responsibilities action starts; or
- North Dakota was the home state of the child within six months before the date the parenting rights and responsibilities action started, and the child is absent from North Dakota but a parent or person acting as a parent continues to live in North Dakota; or
- 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 NORTH DAKOTA LAWS AND RULES RELATED TO ESTABLISHING PARENTING RIGHTS AND RESPONSIBILITIES?**

**Chapter 14-09 of the North Dakota Century Code** governs parenting rights and responsibilities, such as custody, visitation, and child support. Review the entire Chapter.

[www.legis.nd.gov/cencode/t14c09.html](http://www.legis.nd.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.

[www.legis.nd.gov/cencode/t14c12-2.html](http://www.legis.nd.gov/cencode/t14c12-2.html)

**Chapter 14-14.1 of the North Dakota Century Code** governs which state can make decisions about child custody issues and enforce child custody orders. You'll need to determine if a North Dakota District Court can establish parenting rights and responsibilities to your child. [www.legis.nd.gov/cencode/t14c14-1.html](http://www.legis.nd.gov/cencode/t14c14-1.html)

Chapter 14-09, 14-12.2 and 14-14.1 are Chapters within Title 14 of the North Dakota Century Code. There are many other laws related to families in Title 14. You may find them of interest. [www.legis.nd.gov/cencode/t14.html](http://www.legis.nd.gov/cencode/t14.html)

**The North Dakota Rules of Civil Procedure** apply to civil matters in North Dakota district courts. The rules are found at [www.ndcourts.gov/legal-resources/rules/ndrcivp](http://www.ndcourts.gov/legal-resources/rules/ndrcivp).

**The North Dakota Rules of Court** apply to civil matters in North Dakota district courts. The rules are found at [www.ndcourts.gov/legal-resources/rules/ndrct](http://www.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 found at [www.ndcourts.gov/legal-resources/rules/ndrev](http://www.ndcourts.gov/legal-resources/rules/ndrev).

**North Dakota case law** is useful for interpreting what the law means for your individual circumstances.

When the decision of a case is appealed from a North Dakota 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.

One way to research case law related to parenting rights and responsibilities, is to use the print version of the North Dakota Century Code to find the short summaries of case law after each Section of the Century Code. The case law summaries are located directly following the text of the Century Code Section.

To view the full text of the opinion, go to [www.ndcourts.gov](http://www.ndcourts.gov), click on the "Supreme Court Opinions" link and enter the case name or case citation.

**Laws constantly change through legislation, administrative rulings and case law (court decisions).** To determine how a law applies to your situation, review the applicable law or laws, administrative rulings and case law (*court decisions*). 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 has agreed 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 RIGHTS AND RESPONSIBILITIES ACTION?**

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

When parents can't agree on residential responsibility and parenting time, the court will decide 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](#).

### **Child Support:**

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

The Child Support Division of the North Dakota Department of Human Services created and provides support for the Child Support Guidelines Calculator. The Calculator can be found at [childsupport.dhs.nd.gov/lawyers/child-support-guidelines](http://childsupport.dhs.nd.gov/lawyers/child-support-guidelines).

The Child Support Division may be able to provide some assistance with your child support calculations. (701-328-5440; 800-231-4255) Court personnel and staff of the ND Legal Self Help Center can't assist with child support calculations.

## **LAWYER RESOURCES AND LIMITED LEGAL REPRESENTATION**

You're not required to hire a lawyer to bring an action to establish parenting rights and responsibilities in North Dakota District Court. If you decide to represent yourself, you must follow all of the rules, laws and procedures that a lawyer is required to follow.

### **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 [www.legalassist.org](http://www.legalassist.org).
- The State Bar Association 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 [www.sband.org](http://www.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 [www.ndcourts.gov/Lawyers](http://www.ndcourts.gov/Lawyers). You can narrow your search by name or location.

### **Limited Legal Representation**

Lawyers licensed to practice in North Dakota may provide Limited Legal Representation in civil actions. Limited Legal Representation (sometimes called "unbundling") is a way that 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.

# THE CONTESTED PARENTING RIGHTS AND RESPONSIBILITIES PROCESS IN NORTH DAKOTA FROM BEGINNING TO END

## An Overview of the Process

- Step One: Service of Parenting Rights & Responsibilities Summons and Complaint**  
Starts the District Court Parenting Rights & Responsibilities action.
- Step Two: Defendant Serves Written Answer**  
Defendant must answer the complaint within 21 days of service.
- Step Three: Required Meeting of Parents, Filing of Summons, Complaint and Answer, and Discovery**  
The parents meet, filing tells the court an action has started; the discovery process begins.
- Step Four: Processes that May Occur After Filing**  
Referral to family mediation; request an interim order; appointment of parenting investigator or guardian ad litem.
- Step Five: Pre-Trial Preparation**
- Step Six: Trial**
- Step Seven: Final Decision/Judgment**

## **PART ONE: THE PLAINTIFF STARTS THE CONTESTED PARENTING RIGHTS AND RESPONSIBILITIES ACTION BY SERVING THE SUMMONS AND COMPLAINT ON THE DEFENDANT**

Service of a copy of the summons and complaint on the other parent starts a parenting rights and responsibilities action in North Dakota. When the summons and complaint are served, both parents must obey the restraining provisions contained in the summons.

### **Determine Whether North Dakota is a Real Party in Interest:**

Review Section 14-09-09.26 of the North Dakota Century Code ([www.legis.nd.gov/cencode/t14c09.pdf#nameddest=14-09-09p26](http://www.legis.nd.gov/cencode/t14c09.pdf#nameddest=14-09-09p26)) to determine if the State of North Dakota must be listed on your court documents as a Real Party in Interest.

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

**A note about confidential information in parenting rights and 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 required to remain confidential, even if it’s part of a public court record.

Each parent is solely responsible for making sure confidential information doesn’t appear in the documents they each prepare in a parenting rights and responsibilities action. Confidential information includes:

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

Documents filed in a parenting rights and responsibilities action 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 that contains the full confidential information that isn’t allowed in the parenting rights and responsibilities documents.

The confidential information form becomes a part of the court records that isn’t seen by the public.

**The Plaintiff Creates the Following Documents:**

- **Summons**
  - Review [Rule 8.4](#) of the North Dakota Rules of Court. Notifies the Defendant that the Plaintiff started the parenting rights and responsibilities process and the Defendant must file a written answer in order to participate in the case. See the “Summons form –Actions to Establish Parental Rights and Responsibilities” at [www.ndcourts.gov/legal-self-help/general-use-forms](http://www.ndcourts.gov/legal-self-help/general-use-forms).

- An example of a parenting rights and responsibilities summons is also found at the end of this Informational Guide.
- **Complaint**
  - Gives the court information about the Plaintiff, Defendant, and their children. Tells the court what the Plaintiff is asking for from the court.
  - At minimum, the parenting rights and 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 a North Dakota District Court.
    - How this action is the only current parenting rights and responsibilities-related proceeding.
    - 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 affidavit (see next bullet), refer to the 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 [www.ndcourts.gov/legal-self-help/general-use-forms](http://www.ndcourts.gov/legal-self-help/general-use-forms).)
    - Statements related to child support.
    - Requests for relief, also called demands for relief.
      - Tells the court what the Plaintiff wants the court to do.
  - The Plaintiff will need to create and prepare their own Complaint document. The ND Legal Self Help Center doesn't have a Complaint form.
    - See the “Caption and Signature form” at [www.ndcourts.gov/legal-self-help/general-use-forms](http://www.ndcourts.gov/legal-self-help/general-use-forms). The form may be of use as a starting point.
    - An example of a parenting rights and responsibilities complaint is also found at the end of this Informational Guide.

- **Affidavit of Custody Jurisdiction**
  - Plaintiff's written statement required by [§ 14-14.1-20](#) of the North Dakota Century Code. The Affidavit must include:
    - Each child's present address or whereabouts;
    - The places where each child has lived during the last five years;
    - The names and present 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 proceeding concerning the custody of or visitation with each child. If so, identify the following:
      - The court;
      - The case number; and
      - The date of the child custody determination, if any.
    - Whether the Plaintiff knows of any proceeding that could affect the current proceeding, 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 so, 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 not a party to the proceeding 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 so, list the following:

      - The names and addresses of those persons.
  - **NOTE:** rather than creating a separate affidavit, the affidavit information may be added to the parenting rights and responsibilities complaint. If the affidavit information is added to the parenting rights and responsibilities complaint, the complaint must be verified. See the "Verification form" at [www.ndcourts.gov/legal-self-help/general-use-forms](http://www.ndcourts.gov/legal-self-help/general-use-forms).
    - For an example of a parenting rights and responsibilities complaint that includes the affidavit information, see the example at the end of this Informational Guide.



- **Confidential Information Form**
  - Review [Rule 3.4](#) of the North Dakota Rules of Court. Lists the full confidential information that isn't allowed to appear in documents filed with the court. This form isn't a part of the public court record. See the form in [Appendix H](#) of the North Dakota Rules of Court.
  - An example of a confidential information form is also found at the end of this Informational Guide.

Make **TWO** copies of the following:

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

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

Make **ONE** 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 later in the process.

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

- Summons
- Complaint
- Affidavit of Custody Jurisdiction
  - **NOTE:** You don't need a separate affidavit if you included the affidavit information in the complaint.

Service of the summons and complaint on the Defendant starts the contested parenting rights and responsibilities action. Filing with the Clerk of District Court doesn't start a parenting rights and responsibilities action and isn't required to start a parenting rights and responsibilities action.

Information about service to start a civil action and blank affidavit of service forms are available at [www.ndcourts.gov/legal-self-help/service-in-a-civil-action](http://www.ndcourts.gov/legal-self-help/service-in-a-civil-action). Use the information, instructions and forms in the "Service to Start a Civil Action" section of the webpage.

The completed affidavit of service document is your proof of service. Make a copy of the completed affidavit of service document for your records.

You file the original, completed affidavit of service document with the Clerk of District Court later in the process. The District Court won't act on your parenting rights and responsibilities action until you file proof of service.

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

If the Plaintiff, after making a diligent effort to locate the Defendant for service of the summons and complaint, is unable to locate the Defendant, service by publication may be available.

Information about service by publication to start a civil action and a blank affidavit for publication form is available at [www.ndcourts.gov/legal-self-help/service-in-a-civil-action](http://www.ndcourts.gov/legal-self-help/service-in-a-civil-action).

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:**

If the Defendant doesn't serve a written answer to the summons and complaint on the Plaintiff within the required timeline, the Plaintiff may request a default parenting rights and responsibilities judgment.

The Plaintiff may request a default parenting rights and responsibilities judgment if the Plaintiff can prove to the court that the Defendant was served the summons and complaint correctly and did not answer. The request is made in a written motion to the court.

Informational guides for making a motion for a default parenting rights and responsibilities judgment, and answering a motion for a default parenting rights and responsibilities judgment are available at [www.ndcourts.gov/legal-self-help/establishing-custody-and-visitation](http://www.ndcourts.gov/legal-self-help/establishing-custody-and-visitation).

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## **PART TWO: THE DEFENDANT SERVES A WRITTEN ANSWER TO THE SUMMONS AND COMPLAINT ON THE PLAINTIFF**

Service of the summons and complaint on the Defendant starts the contested parenting rights and responsibilities action. Filing with the Clerk of District Court doesn't start a parenting rights and responsibilities action and isn't required to start a parenting rights and responsibilities action.

### **THE DEFENDANT HAS LIMITED TIME TO ANSWER. DON'T DELAY!**

The Defendant has twenty-one (21) days, not including the date of service, to serve a written answer on the Plaintiff. If the Plaintiff is represented by a lawyer, serve the written answer on the lawyer. If the Defendant doesn't respond within twenty-one (21) days, not including the date of service, the Plaintiff can ask the court for a default judgment.

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

#### **A note about confidential information in parenting rights and 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 required to remain confidential, even if it's part of a public court record.

Each parent is solely responsible for making sure confidential information doesn't appear in the documents they each prepare in a parenting rights and responsibilities action. Confidential information includes:

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

Documents filed in a parenting rights and responsibilities action 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 that contains the full confidential information that isn't allowed in the parenting rights and responsibilities documents.

The confidential information form becomes a part of the court records that isn't seen by the public.

### **The Defendant Creates the Following Documents:**

- **Answer and Counterclaim**
  - Defendant's written response to the Plaintiff's complaint. If the Defendant has counterclaims related to the parenting rights and responsibilities action, counterclaims are included in the answer.
  - The Answer part of the document:
    - A paragraph by paragraph response to the complaint.
    - Must state defenses in short, plain statements.
    - **NOTE:** the Defendant may not have any defenses.
  - The Counterclaim part of the document:
    - A counterclaim is a written demand or request to the court for judgment granting the relief the Defendant is seeking. A counterclaim allows the Defendant to bring claims against the Plaintiff.
    - See the requirements for the Plaintiff's Complaint above.
  - See the Answer and Counterclaim formatting example at the end of this Informational Guide.
    - See the "Answer and Counterclaim form" at [www.ndcourts.gov/legal-self-help/general-use-forms](http://www.ndcourts.gov/legal-self-help/general-use-forms).
  - If the required information from the Affidavit of Custody Jurisdiction is included in the counterclaim part of the answer and counterclaim, the answer and counterclaim must be verified. See the "Verification form at [www.ndcourts.gov/legal-self-help/general-use-forms](http://www.ndcourts.gov/legal-self-help/general-use-forms).
- **Affidavit of Custody Jurisdiction**
  - Defendant's written statement required by [§ 14-14.1-20](#) of the North Dakota Century Code. The Affidavit must include:
    - Each child's present address or whereabouts;
    - The places where each child has lived during the last five years;
    - The names and present 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 proceeding concerning the custody of or visitation with each child. If so, identify the following:

- The court;
- The case number; and
- The date of the child custody determination, if any.
- Whether the Plaintiff knows of any proceeding that could affect the current proceeding, 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 so, 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 not a party to the proceeding 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 so, list the following:

- The names and addresses of those persons.
- If the Defendant chooses to create a separate affidavit, the Defendant will need to create and prepare their own affidavit document.
- **NOTE:** rather than creating a separate affidavit, the affidavit information may be added to the answer and counterclaim to the complaint. If the affidavit information is added to the answer and counterclaim to the complaint, the answer must be verified. See the “Verification form at [www.ndcourts.gov/legal-self-help/general-use-forms](http://www.ndcourts.gov/legal-self-help/general-use-forms).
- For an example of a parenting rights and responsibilities answer and counterclaim that includes the affidavit information, see the formatting example at the end of this Informational Guide.
- **Confidential Information Form**
  - Review [Rule 3.4](#) of the North Dakota Rules of Court. Lists the full confidential information that isn’t allowed to appear in documents filed with the court. This form isn’t a part of the public court record. See the form in [Appendix H](#) of the North Dakota Rules of Court.
  - An example of a confidential information form is also found at the end of this Informational Guide.

Make **TWO** copies of the following:

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

Keep one copy of each for your records. The other copy of each document is for service on the Plaintiff, or the Plaintiff's lawyer.

Make **ONE** 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'll file the Confidential Information form with the Clerk of District Court later in the process.

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

- Answer and Counterclaim
- Affidavit of Custody Jurisdiction
  - **NOTE:** You don't need a separate affidavit if you included the affidavit information in the answer and counterclaim.

If the Plaintiff is represented by a lawyer, serve the copy of the answer and affidavit of custody jurisdiction on the lawyer.

Information about service after a civil action has started and blank affidavit of service forms are available at [www.ndcourts.gov/legal-self-help/service-in-a-civil-action](http://www.ndcourts.gov/legal-self-help/service-in-a-civil-action). Use the information, instructions and forms in the "Information and Instructions for Service After a District Court Civil Action Has Started" section of the webpage.

The completed affidavit of service document is your proof of service. Make a copy of the completed affidavit of service document for your records.

You file the original, completed affidavit of service document with the Clerk of District Court later in the process. The District Court won't act on your parenting rights and responsibilities action until you file proof of service.

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

If the Defendant doesn't serve a written answer to the summons and complaint on the Plaintiff within the required timeline, the Plaintiff may request a default parenting rights and responsibilities judgment.

The Plaintiff may request a default parenting rights and responsibilities decision if the Plaintiff can prove to the court that the Defendant was served the summons and complaint correctly and did not answer. The request is made in a written motion to the court.

If the Plaintiff makes a motion for a default parenting rights and responsibilities decision, an Informational Guide for answering a motion for a default parenting rights and responsibilities judgment is available at [www.ndcourts.gov/legal-self-help/establishing-custody-and-visitation](http://www.ndcourts.gov/legal-self-help/establishing-custody-and-visitation).

### **PART THREE: REQUIRED MEETING OF PARENTS; FILING OF SUMMONS AND COMPLAINT; FILING OF ANSWER; DISCOVERY**

Review [Rule 8.3.1](#) of the North Dakota Rules of Court carefully! Both parents are required to meet and prepare written information within 30 days after the Plaintiff serves the summons and complaint on the Defendant.

#### **Within 30 Days After Service of the Summons and Complaint, Both Parents Must Meet with Each Other to Prepare the Following Document:**

- Joint Informational Statement
  - See the example in [Appendix L](#) of the North Dakota Rules of Court.
  - An example of a joint informational statement form is also found at the end of this Informational Guide.

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

At the meeting, the parents must exchange information and documentary evidence necessary for the determination of child support.

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

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

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### **File the Summons and Complaint:**

File the following original, completed documents with the Clerk of District Court and pay the **\$80.00 filing fee**:

- Summons
- Complaint
- Affidavit of Custody Jurisdiction (if applicable)
- Proof of Service of Summons, Complaint and Plaintiff's Affidavit of Custody Jurisdiction on Defendant
- Confidential Information Form
- Joint Informational Statement

Forms and instructions to ask the court to waive the \$80.00 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.

If the Clerk of District Court accepts your documents for filing, a case number will be assigned.

### **Notice of Filing the Summons and Complaint:**

The parent who filed the above documents must serve notice of filing on the other parent. See the "Notice of Filing form" in the [General Use Checklists and Forms](#) section.

### **The Defendant Files the Answer:**

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 **\$50.00 filing fee**:

- Answer and Counterclaim
- Defendant's Affidavit of Custody Jurisdiction (if applicable)
- Proof of Service of Answer and Counterclaim and Defendant's Affidavit of Custody Jurisdiction on Plaintiff
- Defendant's Confidential Information Form

Forms and instructions to ask the court to waive the \$50.00 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 on the Plaintiff. See the "Notice of Filing form" in the [General Use Checklists and Forms](#) link.



### **You May Begin the Discovery Process:**

Once the contested parenting rights and responsibilities action starts, both parents 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.

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.

## **PART FOUR: AFTER THE CONTESTED PARENTING RIGHTS AND RESPONSIBILITIES SUMMONS AND COMPLAINT ARE FILED WITH THE CLERK OF DISTRICT COURT**

### **You May Be Referred to Family Mediation:**

Review [Chapter 14-09.1](#) of the North Dakota Century Code. Review [Rule 8.1](#) of the North Dakota Rules of Court.

Within 10 days of filing the contested case, you may be referred to the Family Mediation Program for mediation of the disputed or unresolved parental rights and responsibilities issues. The Family Law Mediation Program will provide 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’ll receive an order and schedule for mediation. Read the order and schedule carefully, as you’ll need to follow the requirements and meet the deadlines.

### **The Court Issues a Scheduling Order:**

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

Within 30 days after the summons and complaint and the joint informational statement are filed with the Clerk of District Court, the court must issue its scheduling order. The court may require a scheduling conference in-court or by telephone before issuing the scheduling order.

The scheduling order may establish any of the following deadlines for the contested parenting rights and responsibilities action:

- Specific dates to complete discovery and other pretrial preparations;
- Specific dates for serving, filing, or hearing motions;
- Specific dates to complete mediation/alternative dispute resolution;
- A specific date for the parties to complete parent education;

- Specific dates to complete parenting evaluations;
- A specific date by which the parties will be prepared for the pretrial conference;
- A specific date by which the parties will be prepared for the trial;
- A specific date for identification of witnesses and documents; and
- A specific date by which the parties will submit the parenting plans.

Read the order and schedule carefully, as you'll need to follow the requirements and meet the deadlines.

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

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

Generally, either parent can request an interim order after a contested parenting rights and responsibilities action is filed. This is a request for a temporary order for support, parental rights and responsibilities, and lawyer's fees and costs. The interim order, if signed by the court, is in effect until there is a different order or a final decision in the case.

For more information about motions for interim orders, and answer to motions for interim orders, go to [www.ndcourts.gov/legal-self-help](http://www.ndcourts.gov/legal-self-help) and scroll to the "Family Law" section. Click on the "Temporary (Interim) Orders in Family Law Cases" link.

All of the information available through the ND Legal Self Help Center is found at the "Temporary (Interim) Orders in Family Law Cases" link.

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

Review [§ 14-09-06.3](#) and [§ 14-09-06.4](#) of the North Dakota Century Code. Review [Rule 8.6](#) and [Rule 8.11](#) of the North Dakota Rules of Court.

When parenting rights and responsibilities is contested, either parent may motion the court to appoint a parenting investigator or a guardian ad litem to represent the child concerning parenting rights and responsibilities.

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

The ND Legal Self Help Center doesn't have forms or instructions for petitioning the court to appoint a parenting investigator or a guardian ad litem for the child(ren).

For more information about making and answering motions in a civil action, including the type of documents you'll need to create, go to:

- “Making a Motion” at [www.ndcourts.gov/legal-self-help/making-a-motion](http://www.ndcourts.gov/legal-self-help/making-a-motion).
- “Answering a Motion” at [www.ndcourts.gov/legal-self-help/answering-a-motion](http://www.ndcourts.gov/legal-self-help/answering-a-motion).

### **Prepare Proposed Parenting Plans:**

A parenting plan is required to be part of the final parenting rights and responsibilities judgment.

If you and the other parent don't agree to a parenting plan, you'll each likely need to prepare a proposed parenting plan as part of the contested parenting rights and responsibilities proceedings.

The State Bar Association of North Dakota created a Model North Dakota Parenting Plan that may be of interest to you. It's found in the Parenting Plan section of the Legal Services of North Dakota Family Law Manual. It's also found on the State Bar Association of North Dakota website of [www.sband.org](http://www.sband.org).

### **Parents May Settle All or Part of the Issues in the Contested Parenting Rights and Responsibilities Action:**

At any point during the contested parenting rights and responsibilities action, parents may discuss settlement of all or part of the issues.

If you and the other parent reach an agreement on an issue, prepare a written settlement agreement. This may also be referred to as 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 rights and responsibilities action. For example, you may have a hearing on a motion for an interim order, a scheduling conference, or a pre-trial conference.

You must attend all hearings that are scheduled unless you've received permission from the court not to attend.

You can ask the court 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. Forms and instructions for this request can be found at [Appear by Phone or Other Electronic Means Request](#).

## **PART FIVE: PRE-TRIAL PREPARATION**

If you and the other parent don't reach a settlement on all issues, your contested parenting rights and responsibilities action will eventually go to trial. Issues on which you and the other parent don't agree will be decided by a District Court Judge or a Judicial Referee.

**Caution!** Preparing for trial is often a complex and confusing process. You're held to same requirements and responsibilities as a lawyer, even if don't understand the rules or procedures. This informational guide gives only the basics of the process. You'll need to conduct additional research to prepare.

Review pre-trial and trial guidebooks for self-represented litigants and lawyers. Your local public or academic library may have resources available.

### **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. ([www.odin.nodak.edu](http://www.odin.nodak.edu))

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 Evidence](#), Sydney Beckman, West Academic Publishing, 2018.

[Courtroom Evidence Handbook: 2018-2019 Student Edition](#), Steven Goode, Olin Wellborn III, West Academic Publishing, 2018.

[The Legal Answer Book for Families](#), Emily Doskow, Marcia Stewart, NOLO, 2014.

[Objections at Trial](#), Ronald Carlson, Edward Imwinkelried, Myron Bright, National Institute for Trial Advocacy, c2015.

[Represent Yourself in Court: How to Prepare & Try a Winning Case](#), Paul Bergman, Sara Berman, NOLO, 2016.

[North Dakota Century Code Annotated](#), Lexis Nexis, Creation Date c1959 – present.

[North Dakota Court Rules Annotated](#), Lexis Nexis, Creation Date c1990 – present.

### **If You Need Special Assistance at the Hearings/Trial:**

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

### **Prepare for and Attend the Pre-Trial Conference:**

Both parents must attend the pre-trial conference, 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.

### **Review Your Scheduling Order Carefully!**

Each parent is required follow the requirements and deadlines in the scheduling order.

Copies of documents each parent prepares as required by the scheduling order must be served on the other parent. The original must be filed with the Clerk of District Court.

The Plaintiff arranges for service of copies of documents on the Defendant.

The Defendant arranges for service of service of copies of documents on the Plaintiff.

Information about service after a civil action has started and blank affidavit of service forms are available at [Service Instructions and Forms](#).

### **Finish Your Pre-Trial Preparations:**

Review the [North Dakota Rules of Evidence](#) carefully! The North Dakota 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.

- An Evidence Research Guide is available at the [Evidence](#) link.

Review [Rule 45](#) of the North Dakota Rules of Civil Procedure carefully! If you require a witness to appear at trial or require production of documents, electronically stored information or other tangible things, you may need the Clerk of District Court to issue a subpoena. Only a Clerk of District Court or a lawyer for a party may issue a subpoena.

- A Subpoena Informational Guide is available at [Subpoenas](#) link.

Organize the information, documents, etc. that you think you'll need for the trial. At minimum, prepare an outline of your remarks and arguments.

## **PART SIX: TRIAL**

The trial is an examination of the facts and law, presided over by the judge or judicial referee. The trial is the final hearing in a contested parenting rights and responsibilities action. The decision of the judge or judicial referee is called a judgment.

**Caution!** Representing yourself at trial is often a complex and confusing process. You're held to same requirements and responsibilities as a lawyer, even if don't understand the rules or procedures. This informational guide gives only the basics of the process. You'll need to conduct additional research to prepare.

Review the Library Resources above in Part Five: Pre-Trial Preparation.

### **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, contact the Clerk of District Court's office as soon as possible.

### **Arrive Early to the Courthouse on the Date of the Trial:**

Don't miss your trial date and time. If you have a serious, unavoidable reason you can't get to court on the date and time scheduled for trial, call the Clerk of District Court as soon as you can.

NOTE: Depending on the circumstances, the judge or judicial referee may still decide to move forward with the trial as scheduled.

### **Bring the Information, Documents, Etc. you Prepared for the Trial:**

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.

### **Conduct of the Trial:**

The judge or judicial referee, in a contested parenting rights and responsibilities trial, hears both sides and then issues a final judgment. Sometimes, the final judgment is issued at the end of the trial. Often, the final judgment is issued at a later date.

Before the trial officially begins:

- Organize your files and paperwork on your assigned table in the courtroom so you can easily locate information as needed.

In general, a trial in a contested parenting rights and responsibilities action proceeds in the following order:

- Judge or Judicial Referee Begins the Trial
  - The trial officially begins when all are asked to rise when the judge or judicial referee comes into the courtroom.
- Opening Statements
  - Each parent gives an opening statement. 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
  - Each parent gives a closing argument. Usually, the Plaintiff goes first.

**Before You Leave the Courthouse:**

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

**PART SEVEN: FINAL JUDGMENT**

Parenting rights and responsibilities aren't established until a final judgment establishing parenting rights and responsibilities is signed by the judge or judicial referee and filed with the Clerk of District Court.

**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 or judicial referee's written determination of the facts made from the evidence presented. This explains what facts the judge or judicial referee found to be true.

**Conclusions of law** are the rulings of law made by the judge or judicial referee based on, or in connection with, the findings of fact. These are the legal consequences of the facts the judge or judicial referee 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 or judicial referee may require one or both parents to prepare and file proposed findings of fact, conclusions of law and an order for judgment. The proposed findings of fact, conclusions of law and an order for judgment must also be served on all parties, and proof of service filed with the Clerk of District Court.

The judge or judicial referee will decide whether the proposed findings of fact, conclusions of law and order for judgment are appropriate. If the judge or judicial referee decides they are appropriate, the judge or judicial referee will sign and date the findings of fact, conclusions of law and order for judgment.

The findings of fact, conclusions of law and order for judgment aren't official until signed and dated by the judge or judicial referee.

**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 or judicial referee's final decision in your contested parenting rights and responsibilities action.

The parenting plan must be included in the judgment, or incorporated by reference into the judgment, if the parenting plan is a separate document.

The judge or judicial referee may require one or both parents to prepare and file a proposed judgment. The proposed judgment must also be served on all parties, and proof of service filed with the Clerk of District Court.

The judge or judicial referee will decide whether the proposed judgment is appropriate. If the judge or judicial referee decides it's appropriate, the judge or judicial referee will sign and date the judgment.

Parenting rights and responsibilities aren't established until a final judgment establishing parenting rights and responsibilities is signed by the Clerk of District Court.

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## Notice of Entry of Judgment

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

Within 14 days after the judgment is entered, the prevailing parent must serve notice of entry of judgment on the other parent. A copy of the signed judgment must be included with the notice of entry of judgment. See the “Notice of Entry of Judgment form” in the [General Use Checklists and Forms](#) link.

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 District Court.

### **Formatting Examples of the parenting rights and responsibilities documents listed below are found on the following pages.**

- **Summons in Action for Parenting Rights and Responsibilities (Appendix A)**
  - (This document ISN'T fillable. You may hand write in blue or black ink. Or, you may copy and paste into word processing software, such as MS Word or Google Docs.)
- **Complaint in Action for Parenting Rights and Responsibilities (Formatting Example)**
  - (This formatting example ISN'T a form. You'll need to create your own complaint yourself. See Page 15 for the minimum information you MUST include.)
- **Answer in Action for Parenting Rights and Responsibilities (Formatting Example)**
  - (This document ISN'T fillable. You may hand write in blue or black ink. Or, you may copy and paste into word processing software, such as MS Word or Google Docs.)
- **Confidential Information Form (Appendix H)**
  - (This document ISN'T fillable. You may hand write in blue or black ink. Or, you may copy and paste into word processing software, such as MS Word or Google Docs.)
- **Informational Statement (Appendix L)**
  - (This document ISN'T fillable. You may hand write in blue or black ink. Or, you may copy and paste into word processing software, such as MS Word or Google Docs.)

STATE OF NORTH DAKOTA

IN DISTRICT COURT

COUNTY OF \_\_\_\_\_

\_\_\_\_\_ JUDICIAL DISTRICT

\_\_\_\_\_  
(Plaintiff) )

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

PLAINTIFF, )

SUMMONS

Vs )

\_\_\_\_\_  
(Defendant) )

DEFENDANT, )

THE STATE OF NORTH DAKOTA TO THE ABOVE NAMED DEFENDANT:

YOU ARE HEREBY SUMMONED and required to appear and defend against the Complaint in this action, which is served upon you, 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.

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**

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:

1. 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.

**IF EITHER PARTY VIOLATES THIS PROVISION, THAT PARTY MAY BE IN CONTEMPT OF COURT.**

*(Signatures follow on Page 2 of 2)*

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_

\_\_\_\_\_, Plaintiff  
(Signature of Plaintiff)

\_\_\_\_\_  
(Printed Name of Plaintiff)

\_\_\_\_\_ (Address),

City of \_\_\_\_\_, North Dakota \_\_\_\_\_

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_

\_\_\_\_\_  
Clerk of Court

**FORMATTING EXAMPLE OF A COMPLAINT FOR PARENTING RIGHTS AND RESPONSIBILITIES**

STATE OF NORTH DAKOTA

IN DISTRICT COURT

COUNTY OF ANYCOUNTY

CENTRAL JUDICIAL DISTRICT

	)	
John Doe	)	
	)	
PLAINTIFF,	)	Case No. 00-2018-DM-00001
vs	)	
	)	
Jane Doe	)	COMPLAINT
	)	
DEFENDANT,	)	
and	)	
State of North Dakota	)	
STATUTORY REAL PARTY IN INTEREST.	)	

*Not required for every case.  
Review pages 8 & 13 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 4<sup>th</sup> 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 8<sup>th</sup> 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 FOR PARENTING RIGHTS AND 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 8<sup>th</sup> 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 8<sup>th</sup> 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) pursuant to 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.
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 affidavit.*

- 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 <sup>th</sup> Street, Othertown, North Dakota 58100	1/14	Present
C.D.D.	567 South 8 <sup>th</sup> Street, Othertown, North Dakota 58100	1/16	Present

**FORMATTING EXAMPLE OF A COMPLAINT FOR PARENTING RIGHTS AND RESPONSIBILITIES**

- 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 <sup>th</sup> Street, Anytown, North Dakota 58000 567 South 8 <sup>th</sup> Street, Othertown, North Dakota 58100
C.D.D.	John Doe Jane Doe	123 North 4 <sup>th</sup> Street, Anytown, North Dakota 58000 567 South 8 <sup>th</sup> 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.
11. There is a North Dakota District Court child support order already in existence. The case number is 00-2017-DM-00111.
12. No separate proceeding for determining parenting rights and responsibilities between unmarried parents 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 this 31st day of March, 2018.

*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 for determining parenting rights and responsibilities between unmarried parents 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 March 31, 2018.

*John Doe*

EXAMPLE

STATE OF NORTH DAKOTA

IN DISTRICT COURT

COUNTY OF \_\_\_\_\_

\_\_\_\_\_ JUDICIAL DISTRICT

\_\_\_\_\_  
PLAINTIFF,

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

Vs

ANSWER AND COUNTERCLAIM

\_\_\_\_\_  
DEFENDANT.

**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 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 what part of the paragraph you  
agree and what part 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 Pursuant to Rule 8 of the North Dakota Rules of Civil Procedure**

5. (*Choose one.*)

- a.  Defendant does not have any affirmative defenses.
- b.  Defendant has the following affirmative defenses (*Select all that apply. You will 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: \_\_\_\_\_.
  - Other \_\_\_\_\_.

**COUNTERCLAIM**

\_\_\_\_\_ (*Defendant's name*), 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)*

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

**OR**

b.  Plaintiff/ Defendant is currently in the Armed Services of the United States of America or its allies but is 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*):

a.  Shared equally between the Plaintiff and the Defendant.

**OR**

b.  Primary residential responsibility granted to the Plaintiff, subject to the Defendant's reasonable parenting time.

**OR**

c.  Primary residential responsibility granted to the Defendant, subject to the Plaintiff's reasonable parenting time.

11. (*Choose one.*)

a.  Neither Plaintiff nor Defendant is pregnant.

**OR**

b.  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.*)

a.  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): \_\_\_\_\_

**OR**

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: \_\_\_\_\_

b.  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 lived in North Dakota with a parent or person acting as a parent since their birth.

**OR**

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:

*(Paragraph 13(b) continues on next page.)*

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

c. (Choose one.)

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).

**OR**

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.

**OR**

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.

(Paragraph 13(d) continued.)

Name of Court	State	Case Number	Type of proceeding

e. (Choose one)

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).

**OR**

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)

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

**OR**

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

\_\_\_\_\_.

**WHEREFORE**, Defendant asks for the following relief on the Answer and Counterclaim:

15. (Select all that apply.)

- a.  That Plaintiff's Complaint be dismissed because (explain) \_\_\_\_\_  
\_\_\_\_\_.
- b.  For residential responsibility and parenting time that serve the minor child(ren)'s best interests.
- c.  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.
- d.  That Plaintiff and Defendant pay their own attorney's fees and costs associated with bringing this action.
- e.  For such further and additional relief as this Court may deem just and proper.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_  
*Signature of Defendant*

\_\_\_\_\_  
*Typed or Printed Name of Defendant*

\_\_\_\_\_  
*Address*

\_\_\_\_\_, \_\_\_\_\_  
*City State Zip Code*

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

*Telephone Number*

(Verification of Defendant on Page 9 of 9)

**VERIFICATION OF DEFENDANT**

**STATE OF \_\_\_\_\_)**

**COUNTY OF \_\_\_\_\_)SS**

**COUNTRY OF \_\_\_\_\_)**

*(State, County and Country where Defendant signed)*

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 \_\_\_\_\_, 20\_\_\_\_\_

\_\_\_\_\_  
*(Defendant's Signature)*

\_\_\_\_\_  
*(Defendant's Printed Name)*

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



STATE OF NORTH DAKOTA

IN DISTRICT COURT

COUNTY OF \_\_\_\_\_

\_\_\_\_\_ JUDICIAL DISTRICT

\_\_\_\_\_)  
 \_\_\_\_\_)  
 (Plaintiff) )  
 PLAINTIFF, )  
 Vs )  
 \_\_\_\_\_)  
 (Defendant) )  
 DEFENDANT. )

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

CONFIDENTIAL INFORMATION FORM

**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: \_\_\_\_\_

Date of Birth: \_\_\_\_\_

Social Security #: \_\_\_\_\_

Initials: \_\_\_\_\_

Year of Birth: \_\_\_\_\_

XXX-XX-\_\_\_\_\_

**MINOR CHILD:**

Name: \_\_\_\_\_

Date of Birth: \_\_\_\_\_

Social Security #: \_\_\_\_\_

Initials: \_\_\_\_\_

Year of Birth: \_\_\_\_\_

XXX-XX-\_\_\_\_\_

**FULL INFORMATION**

**REDACTED INFORMATION**

**MINOR CHILD:**

Name: \_\_\_\_\_

Initials: \_\_\_\_\_

Date of Birth: \_\_\_\_\_

Year of Birth: \_\_\_\_\_

Social Security #: \_\_\_\_\_

XXX-XX-\_\_\_\_\_

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_

\_\_\_\_\_, Plaintiff (OR) Defendant  
(Signature)

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

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

\_\_\_\_\_  
(Telephone Number)

STATE OF NORTH DAKOTA

IN DISTRICT COURT

COUNTY OF \_\_\_\_\_

\_\_\_\_\_ JUDICIAL DISTRICT

\_\_\_\_\_  
 )  
 )  
 (Plaintiff) )  
 )  
 PLAINTIFF, )  
 Vs )  
 )  
 )  
 \_\_\_\_\_ )  
 (Defendant) )  
 )  
 DEFENDANT. )

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

RULE 8.3.1, N.D.R.Ct.,  
INFORMATIONAL STATEMENT

1. It is estimated that the discovery specified below can be completed within \_\_\_\_\_ months from the date of this form. *(Check all that apply and supply estimates where indicated.)*

a. Written discovery:  No  Yes

b. Factual depositions:  No  Yes

Identify the persons who will be deposed by either party:

\_\_\_\_\_  
\_\_\_\_\_

c. Medical/Vocational/Parenting Evaluations:  No  Yes

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

\_\_\_\_\_  
\_\_\_\_\_

d. Experts:  No  Yes

Identify any experts or area of expertise for either party:

\_\_\_\_\_  
\_\_\_\_\_

2. Date ready for trial: \_\_\_\_\_

3. Estimated length of trial: \_\_\_\_\_

4. 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:

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5. Is the State of North Dakota a real party in interest under North Dakota Century Code § 14-09-09.26 regarding child support:  No  Yes

*(If “yes,” you must add the state as a party to the title under N.D.R. Civ. P. 10(a).)*

---

*(Date)*

---

*(Date)*

---

*(Plaintiff)*

---

*(Defendant)*

---

*(Attorney for Plaintiff, if applicable)*

---

*(Attorney for Defendant, if applicable)*

---

*(Address)*

---

*(Address)*

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*(City, State, Zip Code)*

---

*(City, State, Zip Code)*

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*(Telephone Number/Email)*

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*(Telephone Number/Email)*

---

*(Attorney Identification Number)*

---

*(Attorney Identification Number)*