



Change Of Venue Research Guide

A Research Guide For 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 research guide isn't a complete statement of the law. This information is intended as a starting point for your research into change of venue in North Dakota State District Courts. This information **isn't** intended for legal advice and **can't** replace the advice of a lawyer licensed to practice law in North Dakota.

The self-represented individual must make all decisions about how to proceed.

References to non-ND Legal Self Help Center resources are included for your convenience only. Including these references doesn't mean the ND Legal Self Help Center endorses, warrants, or accepts responsibility for the content or uses of the resource. **Use at your own risk.**

Overview of Change of Venue

What is venue?

Venue is the location (North Dakota county) in which the North Dakota state court will hear the civil case.

Venue **isn't** the same as jurisdiction. Jurisdiction is the type of court authorized to hear the civil case. For example, state court or federal court, or North Dakota small claims court or North Dakota State District Court. **Jurisdiction is determined before venue is determined.**

What is a Motion for Change of Venue?

A Motion for Change of Venue asks the current North Dakota State District Court to allow a District Court in a different North Dakota county to hear the case.

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Why would somebody file a Motion for Change of Venue?

Possible examples are (**this isn't a complete list**):

- It's too expensive to travel to the county designated for the case.
- It may be too difficult for potential witnesses to travel where the case is currently located.
- The venue of the current case was improper.

When do you file for a change of venue?

You must raise the issue of change of venue at your **earliest** chance. Otherwise you may accidentally waive it.

You can either write your objection to the venue in your Answer to the Summons and Complaint (or Petition) **or** file a separate Motion for Change of Venue with the court before you file any more pleadings.

(See [Rule 12\(b\)\(3\) of the North Dakota Rules of Civil Procedure](#).)

Change of Venue Legal Research Resources

North Dakota Statutes:

(North Dakota statutes are found in the [North Dakota Century Code \(NDCC\)](#). The North Dakota Century Code contains the laws enacted by North Dakota Legislature and signed by the Governor.)

[Chapter 27-05: District Courts](#)

- [Section 27-05-26: Change of venue](#). A change of venue may be taken from one judge to another in the same district or in another district, or from one county to another, or from one district to another district.

[Chapter 28-04: Venue](#)

- Review the entire chapter to decide the proper venue and why the court should change venue.
- Review the NDCC Sections related to the subject matter of the civil action. The NDCC Sections related to the subject matter may have their own venue requirements.

North Dakota Court Rules:

([Court rules](#) govern how a dispute makes its way to court and how the dispute is conducted. All of the court rules are found online.)

- [Rule 12 of the North Dakota Rules of Civil Procedure: Defenses and Objections.](#)
 - See Rule 12(b)(3) for asserting the defense of improper venue in an Answer to a Summons and Complaint (or Petition) **or** Motion for a change of venue.
- [Rule 39.1 of the North Dakota Rules of Civil Procedure: Change in Location of a Hearing, Proceeding, or Trial; Change of Venue.](#)

North Dakota Case Law:

(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.)

One way to research case law related to [change of venue](#) is in the print version of the North Dakota Century Code, Court Rules Annotated. Case law summaries are located directly after the text of a rule in the Court Rules Annotated.

To view the full text of the opinion you located in the print version of the North Dakota Century Code, Court Rules Annotated, go to ndcourts.gov, click on “Supreme Court Opinions” and enter the case name or citation.

You may also research case law by topic at ndcourts.gov. Click on “Supreme Court Opinions”. Use the “Topic” drop down list to narrow your search.

Laws constantly change through legislation, court rules, administrative rules and rulings, and court decisions.

To determine how a law or rule applies to your situation, review the applicable law or laws, court rules, administrative rules, and court decisions.

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.

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:

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

Trial Advocacy in a Nutshell, Paul B. Bergman, West Academic Publishing, 2017.

North Dakota Century Code Annotated, Lexis Nexis, Creation Date c1959 – present.

North Dakota Court Rules Annotated, Lexis Nexis, Creation Date c1990 – present.

Other Legal Research Resources:

[How to Research a Legal Problem: A Guide for Non-Lawyers](https://aallnet.org), American Association of Law Libraries. (aallnet.org)

Process for Including Change of Venue in An Answer

For all information and resources available through the ND Legal Self Help Center to answer a Summons and Complaint in a civil case, go to [Answering a District Court Civil Action](#).

If you were served a Summons and Complaint (or Petition) and are still within the 21 day deadline for answering the Summons and Complaint, you can include your objection to venue and request to change venue in your written Answer.

A checklist and forms for answering a Summons and Complaint (or Petition) are available at [Answering a District Court Civil Action](#).

Process for a Motion for Change of Venue

For information about the motion process, go to [Making a Motion](#) and [Answering a Motion](#).

When asking the court for an order in an existing case, you make your request in writing in the form of a motion.

Documents in a Motion for Change of Venue

The ND Legal Self Help Center **doesn't** have forms or instructions available for making a Motion for change of venue.

The Moving Party's Motion Documents:

The party making the motion is called the Moving Party.

Generally, the Moving Party in the motion for change of venue must create and prepare the following motion documents:

- **Notice of Motion**
 - A required written notice that tells all parties that a request for an order will be made to the court.
- **Motion**
 - A required short, written request to the Court in an **existing** case for an order for a specific purpose.
- **Brief in Support of Motion**
 - A required written explanation of why the Court should grant the Moving Party's request.
 - A Brief takes the specific rules and laws that support the request and explains how they apply to the facts of the Moving Party's particular situation.
 - Facts referred to in the Brief should also appear in the Declaration.
- **Declaration in Support of Motion**
 - A written statement of facts about which the moving party has first-hand knowledge. Facts referred to in the Brief should also appear in the Declaration.
- **Other supporting documents** (other Declarations, exhibits, etc.)

- **Proof of Service of the Motion documents on the other parties**
 - If a sheriff or other law enforcement officer serves the Motion documents, a Certificate of Service is proof of service.
 - If a person other than a sheriff or other law enforcement officer serves the motion documents, a Declaration of Service is proof of service.

The Opposing Party's Motion Documents:

The party answering the motion is called the Opposing Party. The Opposing Party may also be called the Non-Moving Party.

Generally, the Opposing Party in the motion for change of venue must create and prepare the following Answer to Motion documents:

- **Answer Brief to Motion**
 - The Opposing Party's required written response to the motion made by the Moving Party.
 - An Answer Brief responds to the facts and arguments in the Brief in Support of Motion.
 - An Answer Brief takes the rules and laws that support the Opposing Party's response to the Moving Party's request and explains how the Opposing Party's version of the facts applies to the situation that led to the motion.
 - Facts referred to in the Answer Brief should also appear in the Opposing Party's Declaration in Support of Answer Brief.
- **Declaration in Support of Answer Brief**
 - A written statement of facts about which the Opposing Party has first-hand knowledge.
 - Facts referred to in the Brief should also appear in the Declaration in Support of Answer Brief.
- **Other supporting documents (other Declarations, exhibits, etc.)**
- **Proof of Service of the Answer to Motion documents on the other parties.**
 - If a sheriff or other law enforcement officer serves the Answer to Motion documents, a Certificate of Service is proof of service.
 - If a person other than a sheriff or other law enforcement officer serves the Answer to Motion documents, a Declaration of Service is proof of service.

General-Use Motion Forms:

The ND Legal Self Help Center has [General-Use Motion template forms](#) for making a motion and answering a motion.

Lawyer Resources and Limited Legal Representation

You aren't required to hire a lawyer to access the state court system. 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

For information about finding a lawyer to represent you, go to ndcourts.gov/legal-self-help/finding-a-lawyer.

- **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 legalassist.org.
- **Dakota Plains Legal Services** is a non-profit legal services organization that provides 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 webpage 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.
- **For a list of all lawyers licensed to practice in North Dakota**, go to the North Dakota Supreme Court website at ndcourts.gov/Lawyers.

Limited Legal Representation

Lawyers licensed to practice in North Dakota may provide Limited Legal Representation in civil cases. Limited Legal Representation (sometimes 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 paperwork, 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 questions 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 for information about the program, the online application, and, if you qualify, ask your civil legal question.

Please note that this program **doesn’t** provide any assistance with criminal legal questions.

This North Dakota Legal Self Help Center resource was created by Mallory Block, as part of the University of North Dakota School of Law Externship Program, Summer 2017.