

Instructions and Forms for Petition for Waiver of Fees

(Based on inability to pay.)

***For civil cases and Small Claims Court cases
ONLY***

IMPORTANT! READ BEFORE USING THIS PACKET

ND Legal Self Help Center staff and court employees can't help you fill out the forms in this packet. If you're unsure how to proceed, consult a lawyer.

To protect your rights, carefully read this information and any instructions to which you're referred.

You may go to court without a lawyer, but you follow the state or federal laws that apply to your case, the appropriate court rules, including North Dakota Rules of Civil Procedure, North Dakota Rules of Court, North Dakota Administrative Rules and Orders, and any local court rules. Links to the rules and state laws can be found at www.ndcourts.gov.

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

***This information is not a complete statement of the law.** This covers basic procedure for asking a North Dakota state district court to waive the civil filing fees in a North Dakota state district court case or a North Dakota Small Claims Court case. If the forms do not fit your circumstances, consult a lawyer. There is no guarantee that all judges and courts will accept forms available through the ND Legal Self Help Center. Use at your own risk.*

North Dakota state district court and Small Claims Court case records are generally available to the public, and anyone can request to look at the case records in almost any court case.

This packet of forms to waive filing fees is filed as a public case record, which means anyone can request to look at the forms you file.

Important Notices

Warning: you can't use these forms unless you're unable to afford the civil filing fee.

- Every person who appears in court without a lawyer is expected to know and follow the laws, rules and procedures, even if you don't understand the laws, rules or procedures.
- ND Legal Self Help Center staff and Court staff **can't** help you fill out the form(s) in this packet.
- You **must** fill out all forms included with this packet and you **must** follow the instructions included with this packet.
- Consult a lawyer if you don't know how to answer the questions on these forms or if you think the other party will hire a lawyer.
 - [The North Dakota Court System website](#) lists all lawyers who are licensed to practice law in North Dakota. You can narrow your search by name or location.
 - **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 you meet the income requirements for the Volunteer Lawyers program which offers low-cost legal assistance based on income.
 - The website is legalassist.org.
 - The phone number for under age 60 is (800) 634-5263.
 - The phone number for age 60 and older is (866) 621-9886.
 - **The State Bar Association of North Dakota** provides a lawyer referral service to match paying clients in need of legal services with lawyers. A referral includes a lawyer's name, phone number and up to a 30-minute consultation with the lawyer in the area of law of your choice and town or county of your choice. The charge for a referral is \$30.
 - The website is sband.org.
 - The phone number is (866) 450-9579.
- Type your answers or print neatly using dark ink. (*Hand-written forms must be readable.*)

INSTRUCTIONS

STEP ONE:

FILL OUT THE PETITION FOR WAIVER OF FILING FEES (*Form 1*)

Fill out the “Petition for Waiver of Filing Fees” form (FORM 1) included in this packet. This form asks the court to permit you to file your action without paying the required filing fee.

FILLING IN THE TOP PART OF THE FORM (*this is known as “the caption”*):

1. Write the name of the county where your case is located and the civil or small claims case number which is also called the “Court file number.”
 - For a map of Judicial Districts, go to www.ndcourts.gov/court-locations. Counties are within the Judicial District.
2. On the line marked “Plaintiff’s name,” write the name of the plaintiff.
3. On the line marked “Defendant’s name,” write the name of the defendant.
4. For Paragraph 1, if you’re the Plaintiff in the case, put a ✓ in the “Plaintiff” checkbox. If you’re the Defendant in the case, put a ✓ in the “Defendant” checkbox.
5. For Paragraph 2, put a ✓ in the checkbox that matches your selection in Paragraph 1.

DATE AND SIGN THE PETITION FOR WAIVER OF FILING FEES.

(This space left intentionally blank.)

STEP TWO:
**FILL OUT THE AFFIDAVIT IN SUPPORT OF PETITION FOR WAIVER OF
FILING FEES (*Form 2*)**

Fill out the “Financial Affidavit in Support of Petition for Waiver of Filing Fees” form (*Form 2*) included in this packet. This form tells the Court your financial circumstances, which make it hardship for you to pay the filing fee.

FILLING IN THE TOP PART OF THE FORM (*the caption*):

Fill in the top part of the form the same way you filled out the top of your Petition for Waiver of Filing Fees form (*Form 1*) in Step 1.

FILLING OUT THE REST OF THE FORM:

You **MUST** answer questions in Paragraphs 1 through 4. Then provide the following information:

Paragraph 1:

Fill in your full name in the space provided.

Paragraph 2 – Assets:

In the first table, tell the Court the current amounts of:

- Cash you have on hand;
- Money deposited in financial institutions;
- Stocks and bonds; and
- Total amounts of cash, money deposited in financial institutions, and stocks and bonds.

In the second table, list all other assets and each asset’s approximate value. Total the values of each asset you list. **Attach additional sheets if necessary and indicate that you have done so on the form.**

At the end of Paragraph 2, provide the court with a total of the value of all of your assets listed in the two tables.

Paragraph 3 – Liabilities:

Tell the court about your debts. List each debt separately, naming the creditor, the unpaid balance and the monthly payment. **Attach additional sheets if necessary and indicate that you have done so on the form.** At the end of Paragraph 3, provide the court with a total amount of all of your debts.

Paragraph 4 – Income:

Tell the court about your monthly income and your spouse's monthly income. Write an amount for each category, even if the amount is "0."

However, if you don't have a spouse, type or write "N/A" in each category in the "Spouse's Income" row.

You may find the information requested on a pay stub, W-2 form, or your most recent income tax return. List all deductions taken from your pay check or gross income. If you do not have a deduction for health insurance, for example, place a "0" on that line.

For "Total Deductions," provide the total of all of the deductions.

For "Net Income," subtract the "Total Deductions" total from the "Gross Income" total.

At the end of Paragraph 4, tell the court the how often you are paid. Do the same for your spouse if you have one. If you don't have a spouse, type or write "N/A."

Paragraph 5 – Expenses:

Tell the court about your monthly expenses, and the expenses of other members of your household.

Write an amount you spend each month for the category provided. If you don't have an expense for a category, type or write "0."

At the end of Paragraph 5, provide the court with a total of your necessary monthly living expenses.

Paragraph 6, Date and Signature:

Read Paragraph 6 carefully!

By signing your name, you are telling the Court that everything you included in this affidavit is true and correct, and you have a good faith reason for your requests. If you're not telling the truth, or if you're misleading the Court, or if you're filing this affidavit for an improper purpose, the Court could find you in contempt or you may be prosecuted for perjury.

You **MUST** fill in the name of the City, County, State and Country where you're physically located when you sign the affidavit.

Sign your name.

Fill in your printed name, address, telephone number, and email address.

STEP THREE:

FILL OUT THE ORDER WAVING FILING FEES (*Form 3*)

Fill out the Order Waiving Filing Fees form (*Form 3*) included in this packet. This is your proposed order for the Court to sign. If the Court grants your petition and waives the filing fee, the Court will sign an order. If the Court grants your petition, the Court will also decide whether to use your proposed order.

FILLING IN THE TOP PART OF THE FORM (*the caption*):

Fill in the top part of the Order Waiving Filing Fees form (*Form 3*) the same way you did on your Petition for Waiver of Filing Fees form (*Form 1*) in Step 1.

Paragraph 1:

If you're the Plaintiff in the case, put a ✓ in the "Plaintiff" checkboxes. If you're the Defendant in the case, put a ✓ in the "Defendant" checkboxes.

DON'T sign this form. Proceed to step 4.

STEP FOUR:

MAKES COPIES OF COMPLETED FORMS

Make one copy each of the completed "Petition for Waiver of Filing Fees" (*Form 1*) and completed "Financial Affidavit in Support of Petition for Waiver of Filing Fees" (*Form 2*). Keep the copy of each form for yourself.

Step 5 tells you what to do with the originals of the forms.

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STEP FIVE:

FILE THE FORMS WITH THE DISTRICT COURT

Take the original of the "Petition for Waiver of Filing Fees" form (Form 1), the "Financial Affidavit in Support of Petition for Waiver of Filing Fees" (Form 2), and the "Order Waving Filing Fees" (Form 3) to the Clerk of Court's Office in the county where your civil case or Small Claims Court case is located.

Tell the Clerk of Court that you wish to file the documents. You may file the forms at the same time you file your documents that generate the filing fee.

STEP SIX:

WAIT TO SEE HOW THE COURT DECIDES YOUR PETITION

The court will notify you if you can proceed without paying the filing fees by sending a signed copy of an order to you.

If the Court grants your petition and uses your proposed order, you'll receive a copy of the completed and signed Order Waiving Filing Fees form. If the Court grants your petition, but doesn't use your proposed order, you'll receive a copy of the Court's order.

If you requested waiver of filing fees and the Court grants your petition, you'll be able to proceed without paying the filing fees.

If the Court doesn't grant your petition, you'll receive a copy of the Court's order denying your petition. You'll have to pay the filing fees before your documents can be filed in the case.

STATE OF NORTH DAKOTA

IN DISTRICT COURT

COUNTY OF _____
(County where case is filed)

_____ JUDICIAL DISTRICT
(If unknown, leave blank)

(Plaintiff's name) PETITIONER,)

Civil No. _____
(Filled in by Clerk of Court)

v.)

PETITION FOR WAIVER OF FILING FEES

(Defendant's name) RESPONDENT.)

1. COMES NOW, the Plaintiff Defendant (choose one), and petitions the Court under Section 27-01-07 of the North Dakota Century Code for an Order waiving the filing fee in the above matter.

2. This petition is based upon the Plaintiff's Defendant's (choose same option as Paragraph 1) inability to pay the filing fee as more fully appears in the attached Financial Affidavit in support of Petition for Waiver of Filing Fees.

Dated: _____

Signature

Printed Name

Address

City, State, Zip Code

Telephone Number

Email Address

STATE OF NORTH DAKOTA

IN DISTRICT COURT

COUNTY OF _____
(County where case is filed)

_____ JUDICIAL DISTRICT
(If unknown, leave blank)

(Plaintiff's name) PETITIONER,)

Civil No. _____
(Filled in by Clerk of Court)

v.)

FINANCIAL AFFIDAVIT IN SUPPORT OF
PETITION FOR WAIVER OF FILING FEES

(Defendant's name) RESPONDENT.)

1. My name is _____ (name of individual
petitioning for waiver of filing fees). I understand that I must tell the truth.

2. **ASSETS.**

I have cash on hand:	\$
I have on deposit in financial institutions:	\$
I have stocks and bonds in the amount of:	\$
Total	\$

Other assets and approximate value (list):

ITEM	VALUE	IN POSSESSION OF
	\$	
	\$	
	\$	
	\$	
	\$	
	\$	
	\$	
Total	\$	

Total Assets: \$ _____

3. **LIABILITIES.**

CREDITORS	UNPAID BALANCE	MONTHLY PAYMENT
	\$	\$
	\$	\$
	\$	\$
	\$	\$
	\$	\$
	\$	\$
	\$	\$
	\$	\$
Total	\$	\$

Total Liabilities: \$ _____

4. **INCOME.** My monthly income, and that of my spouse, is as follows:

	MY INCOME	SPOUSE'S INCOME
GROSS INCOME	\$	\$
DEDUCTIONS	\$	\$
FEDERAL TAX	\$	\$
FICA	\$	\$
MEDICARE	\$	\$
STATE TAX	\$	\$
HEALTH INSURANCE	\$	\$
RETIREMENT	\$	\$
SAVINGS	\$	\$
OTHER	\$	\$
TOTAL DEDUCTIONS	\$	\$
NET INCOME	\$	\$

My pay period is every _____.

My spouse's pay period is every _____.

5. **EXPENSES.** My current monthly expenses to support myself and my child(ren) are as follows:

HOUSE/RENT PAYMENT	\$
GAS/ELECTRICITY	\$
HOMEOWNER'S/RENT INSURANCE	\$
WATER	\$
TELEPHONE	\$
CABLE/SATELLITE TELEVISION	\$
INTERNET	\$
FOOD AND HOUSEHOLD ITEMS	\$
CLOTHING	\$
LAUNDRY	\$
LIFE INSURANCE	\$
AUTOMOBILE INSURANCE	\$
TRANSPORTATION	\$
CHILD CASE	\$
SCHOOL EXPENSES	\$
UNREIMBURSED MEDICAL, DENTAL, OPTICAL	\$
NEWSPAPER AND MAGAZINES	\$
DONATIONS	\$
ENTERTAINMENT	\$
OTHER:	\$
OTHER:	\$
OTHER:	\$
OTHER:	\$
OTHER:	\$
Total	\$

6. I state, under penalty of perjury under the law of North Dakota, that everything I stated in the Financial Affidavit in Support of Petition for Waiver of Filing Fees is true and correct.

Signed on _____, 20____, in _____ (city),
_____ County, _____ (state), _____ (country).

Signature

Printed Name

Address

City, State, Zip Code

Telephone Number

Email Address

STATE OF NORTH DAKOTA

IN DISTRICT COURT

COUNTY OF _____

_____ JUDICIAL DISTRICT

_____)
)
 PETITIONER,)
)
 v.)
)
 _____)
)
 RESPONDENT.)

Civil No. _____

ORDER WAIVING FILING FEES

1. The Court duly considered the Plaintiff's Defendant's (*choose one*), Petition for Waiver of Filing fees and Financial Affidavit seeking a waiver of the filing fee under Section 27-01-07 of the North Dakota Century Code in the above matter and it appearing to the Court that the Plaintiff Defendant (*choose same option as above*) is unable to pay such filing fee;
2. IT IS HEREBY ORDERED that the filing fee in the above matter be waived and that the Clerk of District Court cause the same to be filed without a filing fee.

BY THE COURT:

_____)
 Judge of District Court