



## Legal Separation (For Plaintiff & Defendant)

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

### An Informational Guide to a North Dakota Civil Court Process

The North Dakota Legal Self Help Center provides resources to people who represent themselves in civil matters in North Dakota state courts. The information provided in this informational guide **isn't** intended for legal advice but only as a general guide to a civil court process.

**If you decide to represent yourself, you need to do additional research to prepare.**

If you're unsure how to proceed, don't know if this informational guide suits your needs, or need legal advice or representation, consult a lawyer licensed to practice in North Dakota. For information about how to find a lawyer, go to [ndcourts.gov/legal-self-help/finding-a-lawyer](https://ndcourts.gov/legal-self-help/finding-a-lawyer).

**As a self-represented individual, you're expected to know and follow the law, including:**

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

Links to the laws, case law, and court rules are available at [ndcourts.gov](https://ndcourts.gov).

A glossary with definitions of legal terms is available at [ndcourts.gov/legal-self-help/glossary](https://ndcourts.gov/legal-self-help/glossary).

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

*This information **isn't** a complete statement of the law. This covers basic information about the process of legal separation in a North Dakota state district court when the spouses 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 a lawyer licensed in the state of North Dakota.*

**Use at your own risk.**

**Warning!** *Legal separation can have serious long-term legal and financial consequences.*

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

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

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## Section One: Information About Legal Separation Actions, or Cases in North Dakota

### What is a Legal Separation Action, or Case?

**A legal separation is a civil court process with requirements that are almost identical to the requirements for granting a divorce.**

**Unlike a divorce, a legal separation doesn't end the marriage.** Legally separated spouses can't remarry. However, a legal separation ends many of the legal responsibilities spouses have to each other while they're married.

**The legal separation judgment may include:**

- Property and debt division between the spouses;
- Spousal support;
- If the spouses have minor children of the marriage, residential responsibility (custody) and parenting time (visitation) established between the spouses; and
- Child support.

**A Legal Separation may be Granted for the Same Reasons (Grounds) a Divorce may be Granted:**

The most common reason (ground) given for legal separation and divorce is irreconcilable differences. Irreconcilable differences are also called "no fault."

Irreconcilable differences don't require either spouse to prove which spouse is at fault, and the court isn't required to decide which of the parties is at fault for the legal separation.

**Effect of a Legal Separation:**

When a North Dakota state district court grants a legal separation, the judgment gives the spouses all the rights of property, business, and contracts as if unmarried and releases both spouses from all obligations of maintenance, except as may be required by the judgment.

**If You Want a Divorce After a Legal Separation is Granted:**

If you decide you want a divorce after a North Dakota state district court grants a legal separation, you create, serve, and file paperwork to ask the court to revoke the legal separation and grant a divorce.

## Does the North Dakota Legal Self Help Center Have Forms for Legal Separation Cases?

**No**, the North Dakota Legal Self Help Center doesn't have a packet of forms for legal separation cases.

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

Formatting examples of some of the legal separation documents are available in the Appendix at the end of this informational guide.

General-Use template forms are available at [ndcourts.gov/legal-self-help/general-use-forms](https://ndcourts.gov/legal-self-help/general-use-forms).

## Is Help Available for Creating Legal Documents?

If you need help creating your legal separation 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 legal separation case, such as preparing legal documents, while you handle the rest of the case. You and the lawyer must agree in writing to Limited Legal Representation.

## Definitions of Commonly Used Terms in a Legal Separation Case

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

**Assets** – Everything owned by either spouse, whether owned jointly or individually, or acquired before or during the marriage. Assets include, but aren't limited to, real property, cars, furniture, bank accounts, jewelry, life insurance policies, businesses, and retirement plans.

**Best interests of the child** – The 13 factors the judge in your legal separation case uses to decide residential responsibility (*custody*), parenting time (*visitation*), and everything else involved in the parenting plan. Best interests look at the child's needs and who will best meet the child's needs.

See [N.D.C.C. Section 14-09-06.2](#) for the 13 best interests of the child factors.

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

**Custody** – See residential responsibility.

**Date of valuation** – The date the Fair Market Value (FMV) was established.

**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.

**Debts** – (*also called Liabilities*) Everything owed by either spouse, whether owed jointly or individually, or incurred before or during the marriage. Debts include, but aren't limited to, mortgage, credit cards, student loans and car loans.

**Deploying or deployed spouse** – 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.

**Equitable distribution** – Marital property and debt is divided equitably (fairly) in a legal separation. Equitable distribution doesn't mean equal distribution. A judge makes an equitable distribution based on the following factors (the Ruff-Fischer guidelines):

- Respective ages of the spouses;
- Earning ability;
- Duration of the marriage and conduct of the spouses during the marriage;
- Station in life;
- Circumstances and necessities of the spouses;
- Health and physical condition;
- Financial circumstances as shown by the property owned at the time;
- Value of the property owned at the time;
- Income-producing capacity of the property owned at the time, if any;
- Whether the property was accumulated before or after the marriage; and
- Any other matters that may be material.

**Equity** – Fair Market Value (FMV) of the asset, real property, or personal property, minus the debt connected to the asset, real property or personal property.

**Fair Market Value (FMV), or Market Value** – The price at which the property would sell.



**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.

**Irreconcilable differences** – (*also called No Fault*) Substantial reasons for not continuing the marriage and which make it appear the marriage should be dissolved. The judge need only find that irreconcilable differences exist.

**Liabilities** – See debts.

**Marital property** – All of the assets and debts owned by either spouse, whether owned or owed jointly or individually, or acquired or incurred before or during the marriage.

**Net Value** – See Equity.

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

**Obligee** – the person receiving child support ordered by the court or spousal support.

**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. If the spouses have minor children of the marriage, a parenting plan must be included in the court's final legal separation judgment.

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

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

**Personal property** – every kind of property that isn't real property.

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

**Qualified Domestic Relations Order (QDRO)** – an order of the court that directs the administrator of a retirement plan to divide retirement assets as granted in a divorce judgment. There are many different QDRO's that are specific to the type of retirement plan. For more information about QDRO's, go to [dol.gov/agencies/ebsa/workers-and-families/separation-anddivorce](https://dol.gov/agencies/ebsa/workers-and-families/separation-anddivorce) and scroll to the "Retirement" section.

\*\*\*If you divide a retirement asset between spouses, a QDRO is required. The spouses **Must** present a proposed QDRO to the judge to consider and sign.\*\*\*

**Real property** – (also called *Real Estate*) Land either with or without buildings on it. For example, a home is real property.

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

**Secured debt** – A debt that's backed by collateral you, the borrower, have. Collateral is an asset of value pledged to secure a debt. (For example, a home loan is a secured debt because you put your home up as collateral to secure the loan.)

**Unsecured debt** – Debt that isn't backed by collateral. Instead, unsecured debt relies on consideration. Consideration refers to the benefit each party receives in exchange for what the party gives up. Consideration may be a promise, performance, or forbearance. (Unsecured debts may include credit cards, medical bills, utility bills, etc.)

**Valuation date** – This is the date on which the fair market value (FMV) of property is established. This is also the date the total amount owed on a debt or liability is established. In a legal separation case, you need to figure out the valuation date for your property and debt.

See [N.D.C.C. Section 14-05-24\(1\)](#) for the valuation dates for property and debt in a legal separation case.

In general, the valuation date is the date to which both spouses agree.

There may be property to which federal law applies. If so, the valuation date is the date required by the federal law(s) that applies to the property.

**Visitation** – See parenting time.

## Who are the Parties in a Legal Separation Case?

**Plaintiff (or Petitioner)** – The spouse who starts the legal separation case by serving a summons and complaint on the other spouse.

**Defendant (or Respondent)** – The spouse who is served the summons and complaint for legal separation.

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

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

1. Child support will be established or modified **and** a minor child receives assistance through programs administered by the North Dakota Department of Health and Human Services, such as temporary assistance to needy families, Medicaid, and foster care; **or**
2. Child support will be established or modified **and** an application was made and accepted for services provided by the Child Support Division of the North Dakota Department of Health and Human Services; **or**
3. Child support will be established or modified **and** North Dakota or the Child Support Division of the North Dakota Department of Health and Human Services is required to be involved in proceedings related to support orders of other states or countries under the [Uniform Interstate Family Support Act](#).

### **What is the North Dakota Residency Requirement for Legal Separation Cases?**

[Section 14-05-17 of the North Dakota Century Code](#) governs when a North Dakota state district court judge can grant a legal separation.

**The Plaintiff, the spouse starting the legal separation case, must meet one of the following residency requirements:**

1. The Plaintiff must be a resident of North Dakota at least 6 months before starting the divorce with service of the summons and complaint; **or**
2. The Plaintiff must be a resident of North Dakota at least 6 months before the district court judge grants the legal separation judgment.

### **What are the Laws and Rules for Legal Separation Cases?**

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

**Chapter 14-05 of the North Dakota Century Code** governs divorce and legal separation. Go to [ndlegis.gov/cencode/t14c05.html](http://ndlegis.gov/cencode/t14c05.html).

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

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

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

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

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

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

See particularly:

- Rule 8.2 (Interim Orders),
- Rule 8.3 (Case Management), and
- Rule 8.4 (Summons).

**The North Dakota Rules of Evidence** apply to civil matters in North Dakota district courts. The rules are available at [ndcourts.gov/legal-resources/rules/ndrev](https://ndcourts.gov/legal-resources/rules/ndrev).

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

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

North Dakota case law related to legal separation is available at [ndcourts.gov/supreme-court/opinions](https://ndcourts.gov/supreme-court/opinions). Use the “Topic” drop down menu.

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

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

## What are the Legal Reasons (Grounds) for Legal Separation?

- Adultery
- Extreme cruelty
- Willful desertion
- Willful neglect
- Abuse of alcohol or controlled substance
- Conviction of a felony
- Irreconcilable differences (*most common reason for legal separation*)

Irreconcilable differences is also called a no fault legal separation. Neither spouse is required to prove the other spouse is at fault for the legal separation and the judge doesn't decide which spouse is at fault.

Irreconcilable differences only require that the court decide there are substantial reasons for not continuing the marriage, which make it appear the spouses should legally separate.

## What are Common Issues Related to Spouses?

- Spousal support
- Dividing property between spouses
- Dividing debts between spouses
- Name change back to the pre-marriage last name

Property and debt are divided equitably (fairly), not equally, in a legal separation. The court may redistribute property and debts after the legal separation is granted if a spouse failed to disclose property and debts, **or** if a spouse fails to follow the terms of the court order.

(See the definition of Equitable distribution above.)

### **A note about dividing pension or retirement plans:**

If neither spouse has pension nor retirement plans, **Or** the spouses keep their own pension and retirement plans **Without** dividing an individual plan, you don't need a Qualified Domestic Relations Order (QDRO).

**The QDRO process is extremely complicated.** Contact the plan administrator early in the process. Some plan administrators have sample QDRO documents for you to follow when drafting your own QDRO.

**If you need assistance, [consult a lawyer](#) licensed to practice in North Dakota.** North Dakota Legal Self Help Center staff **Can't** provide any assistance with QDRO's.

**Dividing pension plans and retirement accounts is extremely complicated.** You and your spouse are responsible for making sure these assets are divided. A separate court order is required to divide these assets.

**The separate court order is called a qualified domestic relations order (QDRO).** You and your spouse are responsible for getting a proposed QDRO and presenting the proposed QDRO to the judge. **The judge won't draft a QDRO document or an order including a QDRO.**

For more information about QDRO's, go to [dol.gov/agencies/ebsa/workers-and-families/separation-and-divorce](https://dol.gov/agencies/ebsa/workers-and-families/separation-and-divorce) and scroll to the "Retirement" section.

**If Plaintiff's plan will be divided,** the Plaintiff is responsible for obtaining the proposed QDRO.

**If Defendant's plan will be divided,** the Defendant is responsible for obtaining the proposed QDRO.

### What are Common Issues Related to Minor Children?

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

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

### You Must Calculate Child Support:

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

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

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

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

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

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

## Lawyer Resources and Limited Legal Representation

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

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

### Lawyer Resources

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

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

### **Limited Legal Representation**

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

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

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

### **North Dakota Free Legal Answers**

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

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

Go to [nd.freelegalanswers.org](http://nd.freelegalanswers.org) or information about the program, the online application, and, if you qualify, ask your civil legal question.



## Section Two: The Legal Separation Court Process from Beginning to End

### An Overview of the Process

**Step One: Plaintiff Arranges Service of Legal Separation Summons and Complaint**

Service starts the Legal Separation case.

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**Step Two: Defendant Serves Written Answer & Counterclaim**

Defendant must answer the complaint within 21 days after service.

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

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

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**Step Four: Steps Spouses Must Take Before Judge Can Decide the Legal Separation Case (Case Management)**

Scheduling Order deadlines; referral to family mediation; prepare pre-trial conference statements; request an interim order; appointment of parenting investigator or guardian ad litem.

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**Step Five: Pre-Trial Preparation**

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

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**Step Six: Trial**

**Step Seven: Final Decision/Judgment**

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

## Step One: The Plaintiff Starts the Legal Separation Case with Service of the Summons and Complaint on the Defendant

Service of a copy of the summons and complaint on the other spouse starts a legal separation case in North Dakota.

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

### Decide whether North Dakota is a Real Party in Interest:

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

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

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

### Confidential Information in Legal Separation Documents:

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

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

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

#### Confidential information includes:

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

**Documents filed in a legal separation case with references to confidential information must include only:**

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

Each spouse must prepare and file a separate confidential information form containing the full confidential information that isn't allowed in the legal separation documents.

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

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

**Summons**

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

**Complaint**

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

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

**Declaration of Custody Jurisdiction, or Affidavit of Custody Jurisdiction** (*only required if there are minor children of the marriage*)

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

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

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

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

### **Confidential Information Form**

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

### **Plaintiff Makes Two (2) Copies of the Following:**

- Completed Summons;
- Completed Complaint; and
- If there are minor children of the marriage, completed Declaration of Custody Jurisdiction, or Affidavit of Custody Jurisdiction (if the Plaintiff created a separate declaration/affidavit).

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

### **Plaintiff Makes One (1) Copy of the Following:**

- Completed Confidential Information Form.

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

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

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

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

**If the Defendant is represented by a lawyer, serve the lawyer.**

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

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

**Go to service to start a case at [ndcourts.gov/legal-self-help/service-in-a-civil-action](https://ndcourts.gov/legal-self-help/service-in-a-civil-action).**

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

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

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

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

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

**Go to service to start a case at [ndcourts.gov/legal-self-help/service-in-a-civil-action](https://ndcourts.gov/legal-self-help/service-in-a-civil-action).**

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

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

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

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

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

The North Dakota Legal Self Help Center **doesn't** have informational guides or forms for making a motion for a default judgment in a legal separation case. Consult a lawyer for help.

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

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

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

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

### **Warning! Don't Ignore the Summons and Complaint!**

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

**If you don't answer in writing within the deadline,** the judge is allowed to grant the Plaintiff a default legal separation judgment without your input.

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

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

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

### **Confidential Information in Legal Separation Documents:**

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

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

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



**Confidential information includes:**

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

**Documents filed in a legal separation case with references to confidential information must include only:**

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

Each spouse must prepare and file a separate confidential information form containing the full confidential information that isn't allowed in the legal separation documents.

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

**Defendant Creates the Answer & Counterclaim and Confidential Information Form:****Answer and Counterclaim**

- The Answer and Counterclaim is the required legal document the Defendant must serve on the Plaintiff in response to the Plaintiff's Summons and Complaint, and the Defendant's requests to the judge related to the case.
- The Answer part of the document is:
  - The Defendant's paragraph by paragraph response to the Plaintiff's Complaint.
  - The Answer must state defenses in short, plain statements.
    - The Defendant may not have any defenses.
- The Counterclaim part of the document:
  - The Defendant's written demand or request to the judge for judgment granting the relief the Defendant is seeking. A counterclaim allows the Defendant to bring their own claims related to the legal separation case.
  - See the requirements for the Plaintiff's Complaint on Page 19.
- **An Answer and Counterclaim form for a legal separation case is available:**
  - In the Appendix at the end of this informational guide.

**Declaration of Custody Jurisdiction, or Affidavit of Custody Jurisdiction** (*only required if there are minor children of the marriage*)

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

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

This guide **doesn't** have a separate declaration or affidavit of custody jurisdiction.

- If there are minor children of the marriage, the Declaration of Custody Jurisdiction, or Affidavit of Custody Jurisdiction, is the Defendant's written statement of fact required by [§ 14-14.1-20](#) of the North Dakota Century Code.
    - A declaration isn't required to be notarized, but must include a specific statement directly above the date and signature.
    - An affidavit is dated and signed in the presence of a notarial officer.
  - The Declaration or Affidavit must include the following custody jurisdiction information:
    - Each child's current address or whereabouts;
    - The places where each child has lived during the last five years;
    - The names and current addresses of the persons with whom each child lived during the last five years;
    - Whether the Defendant has participated, as a party or witness or in any other capacity, in any other case or proceeding concerning the custody of or visitation with each child. If yes, identify the following:
      - The court;
      - The case number; and
      - The date of the child custody determination, if any.
    - Whether the Defendant knows of any case or proceeding that could affect the legal separation case, including, but not limited to, the following:
      - Proceedings for enforcement;
      - Proceedings relating to domestic violence;
      - Proceedings relating to protective orders;
      - Proceedings relating to termination of parental rights; and
      - Proceedings relating to adoptions.
- If yes, identify the following:
- The court;
  - The case number; and
  - The nature of the proceeding.

- Whether the Defendant knows the names and addresses of any person who isn't a party to the legal separation case who:
  - Has physical custody of the child;
  - Claims rights of legal custody or physical custody of the child; or
  - Claims rights of visitation with the child.
 If yes, list the following:
  - The names and addresses of those persons.
- General Use template forms are available at [ndcourts.gov/legal-self-help/starting-a-civil-action](https://ndcourts.gov/legal-self-help/starting-a-civil-action).
  - [Declaration form](#)
  - [Affidavit form](#)

### **Confidential Information Form**

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

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

- Completed Answer and Counterclaim; and
- If there are minor children of the marriage, completed Declaration of Custody Jurisdiction, or Affidavit of Custody Jurisdiction (if the Defendant created a separate declaration/affidavit).

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

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

- Completed Confidential Information Form.

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

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

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

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

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

**Go to service to answer a case at [ndcourts.gov/legal-self-help/service-in-a-civil-action](https://ndcourts.gov/legal-self-help/service-in-a-civil-action).**

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

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

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

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

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

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

### A Legal Separation Case Includes Many Steps with Deadlines and Paperwork!

After a legal separation case starts with service of the summons and complaint, **spouses are responsible for meeting a lot of deadlines and completing a lot of paperwork.**

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

- **Required Meeting of the Spouses** (due 30 days after service of summons and complaint, see [Rule 8.3 of the North Dakota Rules of Court](#))
  - **Joint Informational Statement** (filed within 7 days after the required meeting)
  - **Joint Property and Debt Listing** (start working on this document)
- **Plaintiff Files Summons, Complaint, and Proof of Service** (filed within 7 days after the required meeting of the spouses, see [Rule 8.3 of the North Dakota Rules of Court](#))
- **Defendant Files Answer and Counterclaim, and Proof of Service** (filed within a reasonable time after service of notice of filing the summons and complaint, see [Rule 5 of the North Dakota Rules of Civil Procedure](#))
- **Discovery** (evidence gathering that begins after service of the summons and complaint)

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

[Rule 8.3 of the North Dakota Rules of Court](#) requires both spouses to meet within 30 days after service of the summons and complaint.

The purpose of the required meeting is to prepare a joint informational statement and begin working on the joint property and debt listing.

#### At minimum, the spouses must come to the meeting prepared to:

- Exchange copies of current paystubs, employment and income information, tax returns, preliminary pension or retirement account information, and asset, debt, and expense documentation.
- Decide what additional information is necessary in order to complete the legal separation case.
- Decide whether alternative dispute resolution methods, such as mediation, are appropriate.

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

**If the spouses are unable to complete the joint informational statement together,** Rule 8.3 doesn't say what to do.

If you decide to prepare, serve and file the joint informational statement on your own, the form included in the Appendix at the end of this informational guide includes space for you to explain why. The judge decides whether your Rule 8.3 informational statement meets the requirements of the Rule.

### **Joint Informational Statement**

- The Joint Informational Statement contains scheduling decisions resulting from the required meeting of the spouses. The judge considers the information on the Joint Informational Statement when creating their scheduling order. (See Step Four for more information about the scheduling order.)
- **No Joint Informational Statement form is available specifically for legal separation cases.**
  - A Joint Informational Statement form for divorce cases is available at [ndcourts.gov/legal-self-help/divorce/steps-you-must-take-before-the-court-can-grant-a-divorce](https://ndcourts.gov/legal-self-help/divorce/steps-you-must-take-before-the-court-can-grant-a-divorce).
  - If you decide to use the divorce form as a template for creating your own Joint Informational Statement, you must decide whether your document is legally sufficient for your legal separation case.

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

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

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

- Summons
- Complaint
- If there are minor children of the marriage, Declaration of Custody Jurisdiction or Affidavit of Custody Jurisdiction
  - (only required if custody jurisdiction information isn't included in the Complaint)
- Confidential Information Form
- Proof of Service of Summons, Complaint and Plaintiff's Declaration or Affidavit of Custody Jurisdiction on Defendant (**or Defendant's lawyer, if represented**)

If the Clerk of District Court accepts your documents for filing, you must **pay the \$80.00 filing fee**. Then, the Clerk of District Court assigns a case number.

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.

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

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

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

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

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

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

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

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

Within a reasonable time after receiving notice of filing of the summons and complaint, the Defendant must file the following original, completed documents with the Clerk of District Court and pay the **\$50.00 filing fee**:

- Answer and Counterclaim
- If there are minor children of the marriage, Defendant's Declaration of Custody Jurisdiction or Affidavit of Custody Jurisdiction
  - (only required if custody jurisdiction information isn't included in the Answer and Counterclaim)
- Proof of Service of Answer and Counterclaim and Defendant's Declaration or Affidavit of Custody Jurisdiction on Plaintiff (**or Plaintiff's lawyer, if represented**)
- 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 and Counterclaim on the Plaintiff.

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

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

### **Begin the Discovery Process:**

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

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

Once the legal separation case starts with service of the Summons and Complaint, both spouses may begin the discovery process.

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

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

#### **If You’re Served with Discovery Requests, Don’t Ignore Them!**

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

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



## Step Four: Steps the Spouses Must Take Before the District Court Judge Can Decide Their Legal Separation Case (Case Management)

### A Legal Separation Case Includes Many Steps with Deadlines and Paperwork!

After a legal separation case starts with service of the summons and complaint, **spouses are responsible for meeting a lot of deadlines and completing a lot of paperwork.**

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

- **Family Law Mediation Program** (for disputed and unresolved parenting responsibilities, see [Rule 8.1 of the North Dakota Rules of Court](#))
- **The Judge Issues a Scheduling Order** (within 30 days after the Informational Statement is filed, see [Rule 8.3 of the North Dakota Rules of Court](#))
- **Interim (Temporary) Orders** (for orders effective until the legal separation case is final, see [Rule 8.2 of the North Dakota Rules of Court](#))
- **Appointment of Parenting Investigators, Parenting Coordinators, or Guardian Ad Litem**, if there are minor children of the marriage (see [Rule 8.6](#) and [Rule 8.11](#) of the North Dakota Rules of Court, and [N.D.C.C. § 14-09-06.4.](#))
- **Prepare Pre-Trial Conference Statements** (see the Scheduling Order for the due date), **Including:**
  - Property and Debt Listing
  - Itemized Monthly Expenses
  - Proposed Parenting Plan (if there are minor children of the marriage)
- **Joint Property and Debt Listing** (due 14 days before trial)
- **Witness and Exhibit List** (see the Scheduling Order for the due date)

**You May Be Referred to the Family Law Mediation Program** (*only if there are minor children of the marriage*):

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

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

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

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

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

**Within 30 days after the clerk of court accepts your joint informational statement for filing, the judge assigned to your legal separation case issue their scheduling order.** The judge uses the information in your joint informational statement to create their scheduling order.

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

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

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

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

Review [Rule 8.3 of the North Dakota Rules of Court](#).

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## **Either Spouse May Request an Interim, or Temporary, Order:**

After the clerk of court accepts the Summons, Complaint and proof of service for filing, either spouse may make a motion for an interim, or temporary, order in your legal separation case.

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

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

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

An interim order can only be modified or amended if:

- Both spouses agree to the modifications or amendments in writing; or
- One spouse can prove to the judge that there's been a material change in circumstances since the interim order was granted.

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

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

- Go to [ndcourts.gov/legal-self-help/temporary-orders](https://ndcourts.gov/legal-self-help/temporary-orders).

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

When a legal separation case is contested, either spouse may make a motion in writing to the judge to appoint a parenting investigator, a parenting coordinator, or a guardian ad litem. The other spouse answers the motion in writing to tell the judge they agree or disagree and explain why.

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

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

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

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

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

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

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

**Guardian Ad Litem** are lawyers appointed by the judge to represent the best interests of the minor child in a legal separation case. A judge may appoint a Guardian Ad Litem when either spouse, or the judge, has special concerns for the future of the child.

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

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

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

If neither spouse 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 spouses to reimburse the county, in whole or in part, for payment of the fees.

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

- **Making a Motion** at [ndcourts.gov/legal-self-help/making-a-motion](https://ndcourts.gov/legal-self-help/making-a-motion).
- **Answering a Motion** at [ndcourts.gov/legal-self-help/answering-a-motion](https://ndcourts.gov/legal-self-help/answering-a-motion).

*(This space left intentionally blank.)*

## **Prepare Pre-Trial Conference Statements: Including a Property & Debt Listing, Itemized Monthly Expenses, and a Proposed Parenting Plan:**

At least 14 days before the date of the pre-trial conference, each spouse must prepare, serve, and file their own, separate Pretrial Conference Statement.

The Pre-Trial Conference Statement is made up of 4 separate documents:

1. Pre-Trial Conference Statement ([Rule 8.3 Appendix D](#))
2. Property and Debt Listing
3. Itemized Monthly Expenses
4. Proposed Parenting Plan (*only required if there are minor children of the marriage*)

### **1. Pre-Trial Conference Statement:**

This document tells the judge what issues are still in dispute between the spouses. This document also gives the judge and the other spouse additional financial information.

- **No Pre-Trial Conference Statement form is available specifically for legal separation cases.**
  - A Pre-Trial Conference Statement form for divorce cases is available at [ndcourts.gov/legal-self-help/divorce/steps-you-must-take-before-the-court-can-grant-a-divorce](https://ndcourts.gov/legal-self-help/divorce/steps-you-must-take-before-the-court-can-grant-a-divorce).
  - If you decide to use the divorce form as a template for creating your own Pre-Trial Conference Statement, you must decide whether your document is legally sufficient for your legal separation case.

### **2. Property and Debt Listing:**

This document gives the judge and the other spouse more complete information about the spouse's property and debt. This is a required attachment to the Pre-Trial Conference Statement.

- **No Property and Debt Listing form is available specifically for legal separation cases.**
  - A Property and Debt Listing form for divorce cases is available at [ndcourts.gov/legal-self-help/divorce/steps-you-must-take-before-the-court-can-grant-a-divorce](https://ndcourts.gov/legal-self-help/divorce/steps-you-must-take-before-the-court-can-grant-a-divorce).
  - If you decide to use the divorce form as a template for creating your own Property and Debt Listing, you must decide whether your document is legally sufficient for your legal separation case.

### 3. Itemized Monthly Expenses:

This document gives the judge and the other spouse more complete information about the spouse's monthly expenses. This is a required attachment to the Pre-Trial Conference Statement.

- **No Itemized Monthly Expenses form is available specifically for legal separation cases.**
  - An Itemized Monthly Expenses form for divorce cases is available at [ndcourts.gov/legal-self-help/divorce/steps-you-must-take-before-the-court-can-grant-a-divorce](https://ndcourts.gov/legal-self-help/divorce/steps-you-must-take-before-the-court-can-grant-a-divorce).
  - If you decide to use the divorce form as a template for creating your own Itemized Monthly Expenses, you must decide whether your document is legally sufficient for your legal separation case.

### 4. Proposed Parenting Plan *(only required if there are minor children of the marriage)*:

This document is only required if there are minor children of the marriage **And** the spouses **Don't Agree** on parenting rights and responsibilities.

This document is the spouse's proposed parenting plan.

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

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

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

- **No Proposed Parenting Plan form is available specifically for legal separation cases.**
  - A Proposed Parenting Plan form for divorce cases is available at [ndcourts.gov/legal-self-help/divorce/steps-you-must-take-before-the-court-can-grant-a-divorce](https://ndcourts.gov/legal-self-help/divorce/steps-you-must-take-before-the-court-can-grant-a-divorce).
  - If you decide to use the divorce form as a template for creating your own Proposed Parenting Plan, you must decide whether your document is legally sufficient for your legal separation case.

### **Prepare Joint Property and Debt Listing 14 Days Before Trial:**

At least **14 days** before your legal separation trial date, you **must** file a **joint** property and debt listing.

Carefully review the Order you receive after your pretrial conference. If your Pretrial Order gives you a different deadline for filing the Joint Property and Debt Listing, follow the requirements of your Pretrial Order.

If you and your spouse are unable to complete the Confidential Property and Debt Listing jointly, you may file a **Joint Property and Debt Listing** ([Rule 8.3 Appendix E](#)) on your own.

- **No Joint Property and Debt Listing form is available specifically for legal separation cases.**
  - A Joint Property and Debt Listing form for divorce cases is available at [ndcourts.gov/legal-self-help/divorce/steps-you-must-take-before-the-court-can-grant-a-divorce](https://ndcourts.gov/legal-self-help/divorce/steps-you-must-take-before-the-court-can-grant-a-divorce).
  - If you decide to use the divorce form as a template for creating your own Joint Property and Debt Listing, you must decide whether your document is legally sufficient for your legal separation case.

### **Begin Identifying Your Witnesses and Exhibits:**

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

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

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

- **No Witness and Exhibit List form is available specifically for legal separation cases.**
  - A Witness and Exhibit List form for divorce cases is available at [ndcourts.gov/legal-self-help/divorce/preparing-for-your-divorce-trial](https://ndcourts.gov/legal-self-help/divorce/preparing-for-your-divorce-trial).
  - If you decide to use the divorce form as a template for creating your own Witness and Exhibit List, you must decide whether your document is legally sufficient for your legal separation case.

## **Spouses May Settle All or Party of the Issues in the Legal Separation Case Before Trial:**

At any point during the legal separation case, spouses may agree to settle all or part of the issues.

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

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

Written settlement agreements must be signed by both spouses 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 legal separation case.

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

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

For example, if a spouse makes a motion for an interim order, the judge holds an evidentiary hearing before deciding based on the evidence presented by the spouses.

On the other hand, a scheduling conference and a pre-trial conference are **non-evidentiary hearings** where decisions are made on managing the different stages of your case, such as due dates and trial dates.

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

- See "If You Need Special Assistance at the Trial" on Page 42 for requesting accommodations.

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

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

- At [ndcourts.gov/legal-self-help](https://ndcourts.gov/legal-self-help) in the "Miscellaneous" section



## Step Five: Pre-Trial Preparation

If the spouses don't reach a settlement on all issues, your legal separation case eventually goes to trial. Issues on which the spouses don't agree are decided by the judge.

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

*(An evidentiary hearing is where the judge makes a decision about part of your case. See "Prepare for and Attend All Scheduled Hearings" on Page 40 for more information.)*

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

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

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

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

Watch a trial in a legal separation, divorce, or parenting responsibility case. If possible, watch a trial with the same judge assigned to your case. In general, trials in these types of cases are open to the public.

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

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

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

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

Contact information is available at [ndcourts.gov/court-locations](https://ndcourts.gov/court-locations).

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

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

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

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

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

- **A Short & Happy Guide to Civil Procedure**, Richard Freer, West Academic Publishing, 2019.
- **A Short & Happy Guide to Evidence**, Sydney Beckman, West Academic Publishing, 2018.
- **The Complete QDRO Handbook**, James R. Lewis, Patricia Shewmaker, ABA Publishing, 2019.
- **Courtroom Evidence Handbook: 2018-2019 Student Edition**, Steven Goode, Olin Wellborn III, West Academic Publishing, 2018.
- **Divorce & Money**, Lina Guillen, Violet Woodhouse, Nolo, 2017.
- **Essential Evidence Outlines**, Daniel Ryan, iUniverse, Inc., 2011.
- **Evidence for Paralegals**, Joelyn Marlowe, Wolters Kluwer, 2016.
- **The Legal Answer Book for Families**, Emily Duskow, Marcia Stewart, Nolo, 2014.
- **Nolo's Deposition Handbook**, Paul Bergman, Albert Moore, Nolo, 2018.
- **Nolo's Essential Guide to Child Custody & Support**, Emily Duskow, Nolo, 2015.

- **Nolo’s Essential Guide to Divorce**, Emily Doskow, Nolo, 2016.
- **Objections at Trial**, Ronald Carlson, Edward Imwinkelried, Myron Bright, National Institute for Trial Advocacy, c2015.
- **One Hundred Days Before Trial: A Family Lawyer’s Guide to Preparation and Strategy**, Steven Peskind, American Bar Association, 2015.
- **Represent Yourself in Court: How to Prepare & Try a Winning Case**, Paul Bergman, Sara Berman, Nolo, 2019.
- **North Dakota Century Code Annotated**, Lexis Nexis, Creation Date c1959 – present.
- **North Dakota Court Rules Annotated**, Lexis Nexis, Creation Date c1990 – present.

### **Rules of Evidence and Subpoenas:**

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

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

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

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

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

- Go to [ndcourts.gov/legal-self-help/subpoenas](https://ndcourts.gov/legal-self-help/subpoenas).

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

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

Subpoenas may be used by a spouse in a legal separation case to require a person do the following at a specific time and place:

- Attend and testify at a deposition, evidentiary hearing or trial;
- Produce the documents listed in the subpoena;
- Produce the electronically stored information listed in the subpoena;
- Produce the tangible things listed in the subpoena (the tangible things must be in the person's possession, custody or control); or
- Permit the inspection of the premises listed in the subpoena.

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

### **Begin Preparing a Trial Notebook:**

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

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

### **Identify Your Witnesses and Exhibits:**

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

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

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

- **No Witness and Exhibit List form is available specifically for legal separation cases.**
  - A Witness and Exhibit List form for divorce cases is available at [ndcourts.gov/legal-self-help/divorce/preparing-for-your-divorce-trial](https://ndcourts.gov/legal-self-help/divorce/preparing-for-your-divorce-trial).
  - If you decide to use the divorce form as a template for creating your own Witness and Exhibit List, you must decide whether your document is legally sufficient for your legal separation case.

### **Find Out if the Trial Will Be Recorded:**

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

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

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

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

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

Review your scheduling order for the date you need to be prepared for the pre-trial conference.

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

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

Both spouses 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](#).

### **Remote (Electronic) Attendance at an Evidentiary Hearing or Trial:**

If the evidentiary hearing or trial is scheduled to be held in-person at the courthouse, you can ask the judge for permission to attend remotely (electronically). You can also ask the judge for permission for a witness to attend remotely (electronically).

The judge isn't required to grant your request, so have a back-up plan to attend in-person if your request is denied.

Make your request as soon as possible.

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

- At [ndcourts.gov/legal-self-help](https://ndcourts.gov/legal-self-help) in the "Miscellaneous" section

## Step Six: Trial

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

The judge weighs the facts and arguments presented by both spouses and decides the issues in the legal separation case.

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

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

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

Contact information is available at [ndcourts.gov/court-locations](https://ndcourts.gov/court-locations).

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

### **Arrive Early to the Trial:**

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

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

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

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

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

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

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

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

## **Be Prepared to Take Detailed Notes:**

Be prepared to take detailed notes during the trial.

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

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

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

- [Witness & Exhibit List Worksheet](#)

## **Conduct of the Trial:**

### **Before the trial officially begins:**

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

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

In general, a trial proceeds in the following order:

- Opening Statements
  - Each spouse gives an opening statement. An opening statement describes the issues to be decided by the judge and what the spouse expects to prove during the trial.
  - Usually, the Plaintiff goes first.
- Plaintiff Presents Witnesses and Evidence
  - The Plaintiff presents their case first. The Defendant may cross-examine witnesses and object to the Plaintiff's evidence.

- Defendant Presents Witnesses and Evidence
  - The Defendant presents their case after the Plaintiff. The Plaintiff may cross-examine witnesses and object to the Defendant’s evidence.
- Closing Arguments
  - Often, each spouse gives a closing argument. A closing argument is a summary of the evidence the judge allowed to be presented and an argument to the judge on how the issues should be decided.
  - Usually, the Defendant goes first.

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

### **Before You Leave the Trial:**

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

## **Step Seven: Final Legal Separation Judgment**

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

**You aren’t legally separated and the final Judgment in your legal separation case isn’t valid and enforceable, until the Judgment is signed and dated by either the clerk of court or the judge.**

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

The judge ultimately decides all the issues in the legal separation case. The judge also decides whether to use your proposed Findings of Fact, Conclusions of Law, and Order for Judgment.

- **Forms for proposed Findings of Fact, Conclusions of Law and Order for Judgment in divorce cases are available at [ndcourts.gov/legal-self-help/divorce/get-the-final-divorce-judgment-both-spouses](https://ndcourts.gov/legal-self-help/divorce/get-the-final-divorce-judgment-both-spouses).**
  - If you decide to use the divorce form as a template for creating your own documents, you must decide whether your document is legally sufficient for your legal separation case.

### **Proposed Judgment:**

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

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

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

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

The judge ultimately decides whether to use your proposed Judgment.

- Forms for proposed Judgments in divorce cases are available at [ndcourts.gov/legal-self-help/divorce/get-the-final-divorce-judgment-both-spouses](https://ndcourts.gov/legal-self-help/divorce/get-the-final-divorce-judgment-both-spouses).
  - If you decide to use the divorce form as a template for creating your own documents, you must decide whether your document is legally sufficient for your legal separation case.

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

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

#### **If your spouse is represented by a lawyer, serve the lawyer.**

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

### **Notice of Entry of Judgment:**

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

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

#### **If your spouse is represented by a lawyer, serve the lawyer.**

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

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

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

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

## Section Three: Appendix of Legal Separation Formatting Examples and Forms

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

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

### Summons in Legal Separation Case (Fillable Form for Appendix A)

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

### Complaint (No Children) in Legal Separation Case (Formatting Example)

- This formatting example is for spouses without minor children of the marriage. This formatting example **isn’t** a form. You need to create your own complaint yourself. See Page 19 for the minimum information you **Must** include in your complaint.

### Complaint (With Children) in Legal Separation Case (Formatting Example)

- This formatting example is for spouses with minor children of the marriage. This formatting example **isn’t** a form. You need to create your own complaint yourself. See Page 19 for the minimum information you **Must** include in your complaint.

### Answer and Counterclaim (No Children) in Legal Separation Case (Fillable Form)

- This is a fillable form for spouses without minor children of the marriage. If you prefer, you may print and hand write in blue or black ink. Or, you may copy and paste into word processing software, such as MS Word, Google Docs, or OpenOffice.

### **Answer and Counterclaim (With Children) in Legal Separation Case (Fillable Form)**

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

### **Confidential Information Form (Fillable Form for Appendix H)**

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

### **Notice of Filing Summons and Complaint (Fillable Form)**

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

### **Notice of Filing Answer and Counterclaim (Fillable Form)**

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

## Instructions For Summons – Divorce Or Separation Action, or Cases

**ND Legal Self Help Center Staff and Court employees can't help you fill out forms, or create documents for you. If you're unsure how to proceed, consult a lawyer.**

**ND Legal Self Help Forms aren't official forms. Judges and courts aren't required to accept them. There's no guarantee Center forms will be accepted. Use at your own risk.**

**Don't include this instruction sheet when you serve or file the completed form.**

A Summons notifies the Defendant that the Plaintiff started the divorce or legal separation process and the Defendant must file a written Answer in order to participate in the civil action, or case. The Summons also contains restraining provisions that applies to both spouses as soon as the Summons is served on the Defendant.

- Fill in the name of the North Dakota County where the Plaintiff intends to file the divorce, or legal separation action, or case.
- Fill in the name of the Judicial District where the Plaintiff intends to file the case. (The County is within the Judicial District.) County and Judicial District information and maps are available at [ndcourts.gov/court-locations](https://ndcourts.gov/court-locations).
- Leave the case number blank unless a rule or law tells you differently.
- Fill in the full, legal name of the Plaintiff on the Plaintiff line.
- Fill in the Defendant's full, legal name on the Defendant line.
- Sign and date the Summons.
- If the Plaintiff isn't represented by a lawyer, **the clerk of court must sign and date the Summons before it's served on the Defendant.** Go to the clerk of court's office in the North Dakota County where the Plaintiff intends to file the case.
- A copy of the Complaint must be served with the Summons.

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

State of North Dakota

In District Court

County of \_\_\_\_\_

\_\_\_\_\_ Judicial District

\_\_\_\_\_  
Plaintiff, )

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

vs )

**Summons**

\_\_\_\_\_  
Defendant. )

**The State of North Dakota to the above-named Defendant:**

1. **You are hereby summoned** and required to appear and defend against the Complaint in this action by serving upon the undersigned an Answer or other proper response within twenty-one (21) days after the service of this Summons and Complaint upon you, exclusive of the day of service. A copy of the Complaint is served upon you with this Summons.

2. If you fail to do so, judgment by default will be taken against you for the relief demanded in the Complaint.

**Notice of Temporary Restraining Provisions:**

3. Under Rule 8.4 of the North Dakota Rules of Court, upon service of this Summons, you, and your spouse, are bound by the following restraints:

a. Neither spouse shall dispose of, sell, encumber, or otherwise dissipate any of the parties' assets, except:

i. For necessities of life or for the necessary generation of income or preservation of assets; or

ii. For retaining counsel to carry on or to contest the proceeding.

If a spouse disposes of, sells, encumbers, or otherwise dissipates assets during the interim period, that spouse must provide to the other spouse an accounting within thirty (30) days.

- b. Neither spouse shall harass the other spouse.
- c. All currently available insurance coverage must be maintained and continued without change in coverage or beneficiary designation.
- d. Except for temporary periods, neither spouse may remove any of their minor children from North Dakota without the written consent of the other spouse or order of the court.

**4. If either spouse violates any of these provisions, that spouse may be in contempt of court.**

Dated \_\_\_\_\_

\_\_\_\_\_, Plaintiff  
*Signature of Plaintiff*

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

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

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

\_\_\_\_\_  
*Telephone Number*

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

Dated \_\_\_\_\_  
\_\_\_\_\_  
Clerk of District Court

**Formatting Example of Complaint for Legal Separation Without Children**

State of North Dakota

In District Court

County of Anycounty

Central Judicial District

John Doe	)		
	)		
	)	<b>Plaintiff,</b>	<b>Case No. 00-2024-DM-00001</b>
vs	)		
	)		
	)	<b>Complaint</b>	
Jane Doe	)		
	)		
	)	<b>Defendant.</b>	
	)		

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

1. Plaintiff John Doe, is now, and for the entire 6 months immediately before the start of these legal separation proceedings, a resident of North Dakota.
2. No separate proceeding for divorce or legal separation has been started or is pending in North Dakota or elsewhere.
3. Plaintiff and Defendant were married on January 1, 2012 at Anytown, North Dakota and have been married ever since.
4. The identifying information for Plaintiff and Defendant is as follows:

Plaintiff's full legal name is John Doe.

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



## Formatting Example of Complaint for Legal Separation Without Children

Defendant's full legal name is Jane Doe.

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

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

6. Irreconcilable differences have arisen between Plaintiff and Defendant making continuation of the marriage impossible.

7. Plaintiff and Defendant have no minor children nor are expecting any children to be born of the marriage.

8. Plaintiff and Defendant are owners of property, which should be divided by the Court and an equitable portion awarded to each party.

9. Plaintiff and Defendant have accumulated a certain amount of debt throughout the marriage, which should be divided, and an equitable portion assessed to each party.

**WHEREFORE**, Plaintiff asks for judgment as follows:

10. That Plaintiff be granted a decree of legal separation from Defendant that confers upon the parties all the rights of property, business, and contracts as if unmarried and releases both parties from all obligations of maintenance, except as may be required by the decree.

11. For a fair and equitable division of the property.

**Formatting Example of Complaint for Legal Separation Without Children**

12. For a fair and equitable distribution of the accumulated debts of the Plaintiff and Defendant.
13. For such further and additional relief as this Court may deem just and proper.

Dated this 31st day of March, 2024.

*John Doe*

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

Formatting Example

**Formatting Example of Complaint for Legal Separation With Children**

State of North Dakota

In District Court

County of Anycounty

Central Judicial District

John Doe )  
)  
Plaintiff, )  
vs ) Case No. 00-2024-DM-00001  
)  
Jane Doe ) Complaint  
)  
and )  
)  
Defendant, )  
)  
State of North Dakota )  
Statutory Real Party in Interest. )

*Not required for every case.  
Review pages 10 & 18 of Guide.*

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

1. Plaintiff John Doe, is now, and for the entire 6 months immediately before the start of these legal separation proceedings, a resident of North Dakota.
2. No separate proceeding for divorce or legal separation has been started or is pending in North Dakota or elsewhere.
3. The identifying information for Plaintiff and Defendant is as follows:

Plaintiff's full legal name is John Doe.

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

**Formatting Example of Complaint for Legal Separation With Children**

Defendant's full legal name is Jane Doe.

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

4. Plaintiff and Defendant were married on January 1, 2012 at Anytown, North Dakota and have been married ever since.

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

6. Irreconcilable differences have arisen between Plaintiff and Defendant making continuation of the marriage impossible.

7. 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

8. 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.

9. Defendant is not pregnant.

**Formatting Example of Complaint for Legal Separation With Children**

10. 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.

11. 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 11(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

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.

**Formatting Example of Complaint for Legal Separation With Children**

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.

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

13. Plaintiff and Defendant are owners of property, which should be divided by the Court and an equitable portion awarded to each party.

14. Plaintiff and Defendant have accumulated a certain amount of debt throughout the marriage, which should be divided, and an equitable portion assessed to each party.

**WHEREFORE**, Plaintiff asks for judgment as follows:

15. That Plaintiff be granted a decree of legal separation from Defendant that confers upon the parties all the rights of property, business, and contracts as if unmarried and releases both parties from all obligations of maintenance, except as may be required by the decree.

16. For a fair and equitable division of the property.

17. For a fair and equitable distribution of the accumulated debts of the Plaintiff and Defendant.

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

**Formatting Example of Complaint for Legal Separation With Children**

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

Dated this 31st day of March, 2024.

*John Doe*

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

**Verification**

*Required if Paragraph 11(a)-(e)  
information is included in the complaint.*

I, John Doe, verify, under penalty of perjury under the laws of North Dakota, that I am the Plaintiff in the above-entitled action; that I have read the Complaint for legal separation 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.

Signed on March 31, 2024 in Anycity, Anycounty County, North Dakota, U.S.A.

*John Doe*

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

State of North Dakota

In District Court

County of \_\_\_\_\_

\_\_\_\_\_ Judicial District

\_\_\_\_\_  
Plaintiff, )

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

vs )

Answer & Counterclaim  
(Legal Separation No Children)

\_\_\_\_\_  
Defendant. )

**Answer**

\_\_\_\_\_ (Defendant's name), the Defendant  
in this legal separation action, submits this Answer to the allegations in the Plaintiff's  
Complaint:

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

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

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

a. Paragraph #\_\_\_\_: \_\_\_\_\_

b. Paragraph #\_\_\_\_: \_\_\_\_\_

c. Paragraph #\_\_\_\_: \_\_\_\_\_

d. Paragraph #\_\_\_\_: \_\_\_\_\_



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

\_\_\_\_\_.

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

5. (*Choose one*)

Defendant does not have any affirmative defenses.

**OR**

Defendant has the following affirmative defenses (*select all that apply. You'll be required to prove all affirmative defenses you select*):

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

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

A divorce case, dissolution of marriage case, or legal separation case has already started in (*name of court*) \_\_\_\_\_ of (*name of State or tribe*) \_\_\_\_\_, Case Number \_\_\_\_\_.

Other \_\_\_\_\_

### **Counterclaim for Legal Separation**

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 social security number: \_\_\_\_\_.

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 of social security number: \_\_\_\_\_.

7. Plaintiff and Defendant were married on \_\_\_\_\_ (date), at \_\_\_\_\_ (city), \_\_\_\_\_ (state) and ever since have been married.

8. (Choose one)

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

**OR**

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

9. Irreconcilable differences have arisen between Plaintiff and Defendant making continuation of the marriage impossible.

10. Plaintiff and Defendant have no minor children together and are not expecting any children to be born of the marriage.

11. (Choose one)

Defendant wants to restore their name.

**OR**

Defendant does not want to restore their name.

12. Plaintiff and Defendant are owners of property, which should be divided by the Court and an equitable portion awarded to each party.

13. Plaintiff and Defendant have accumulated a certain amount of debt throughout the marriage, which should be divided, and an equitable portion assessed to each party.

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

14. That Defendant be granted a decree of legal separation from Plaintiff that confers upon the parties all the rights of property, business, and contracts as if unmarried and releases both parties from all obligations of maintenance, except as may be required by the decree.

15. For a fair and equitable division of the assets and liabilities accumulated and incurred by the parties.

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

Dated \_\_\_\_\_.

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

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

\_\_\_\_\_  
*Address City State Zip Code*

\_\_\_\_\_  
*Telephone Number Email Address*

State of North Dakota

In District Court

County of \_\_\_\_\_

\_\_\_\_\_ Judicial District

\_\_\_\_\_  
Plaintiff, )

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

vs )

Answer & Counterclaim  
(Legal Separation With Children)

\_\_\_\_\_  
Defendant. )

**Answer**

\_\_\_\_\_ (Defendant's name), the Defendant  
in this legal separation action, submits this Answer to the allegations in the Plaintiff's  
Complaint:

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

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

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

a. Paragraph #\_\_\_\_: \_\_\_\_\_

b. Paragraph #\_\_\_\_: \_\_\_\_\_

c. Paragraph #\_\_\_\_: \_\_\_\_\_

d. Paragraph #\_\_\_\_: \_\_\_\_\_

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

\_\_\_\_\_.

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

5. (*Choose one.*)

Defendant does not have any affirmative defenses.

**OR**

Defendant has the following affirmative defenses (*select all that apply. You'll be required to prove all affirmative defenses you select*):

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

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

A divorce case, dissolution of marriage case, or legal separation case has already started in (*name of court*) \_\_\_\_\_ of (*name of State or tribe*)

\_\_\_\_\_, Case Number \_\_\_\_\_.

Other \_\_\_\_\_.

### **Counterclaim for Legal Separation**

The Defendant 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 social security number: \_\_\_\_\_.

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 of social security number: \_\_\_\_\_.

7. Plaintiff and Defendant were married on \_\_\_\_\_ (date), at \_\_\_\_\_ (city), \_\_\_\_\_ (state) and ever since have been married.

8. (Choose one)

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

**OR**

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

9. Irreconcilable differences have arisen between Plaintiff and Defendant making continuation of the marriage impossible.

10. Plaintiff and Defendant have minor children together, namely (Paragraph 10 continues on next page):

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: \_\_\_\_\_

(Choose if applicable) Additional sheets are attached for Paragraph 10.

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

Shared equally between the Plaintiff and the Defendant.

**OR**

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

**OR**

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

12. (Choose one.)

Neither Plaintiff nor Defendant is pregnant.

**OR**

(Choose one) Plaintiff/ Defendant is pregnant. However, the Plaintiff/ Defendant is not the father, and the child is not at issue in this proceeding.

13. (Choose one)

This Court **has** jurisdiction to determine parenting rights and responsibilities and decision making of the minor child(ren) under North Dakota Century Code Section 14-14.1-12 because *(choose and complete only one of the two options below)*:

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 legal separation proceeding. If a child is less than six months old, the child has lived in North Dakota with a parent or person acting as a parent since their birth.

Name of parent or person acting as a parent: \_\_\_\_\_

Relationship to child(ren): \_\_\_\_\_

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

Name of parent residing in North Dakota: \_\_\_\_\_

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

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 legal separation 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.

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.



**14.** This proceeding will affect the custody of the minor child(ren) of the marriage. 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:

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

**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:

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

**c.** *(Choose one; Paragraph 14(c) continues on next page)*

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

**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 this current legal separation 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 this current legal separation proceeding, including proceedings for enforcement and proceedings relating to domestic violence, protective orders, termination of parental rights, adoptions, neglect, abuse, deprivation, guardianship, or paternity:

Name of Court	State	Case Number	Type of proceeding

e. (Choose one)

Defendant does not know of any person who is not a party to this legal separation 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 legal separation 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)

(Choose if applicable) Additional sheets are attached for Paragraph 14(e).

15. (Choose one)

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

**OR**

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

\_\_\_\_\_.

16. Plaintiff and Defendant are owners of property, which should be divided by the Court and an equitable portion awarded to each party.

17. Plaintiff and Defendant have accumulated a certain amount of debt throughout the marriage, which should be divided, and an equitable portion assessed to each party.

18. *(Choose one)*

Defendant wants to restore their name.

**OR**

Defendant does not want to restore their name.

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

19. That Defendant be granted a decree of legal separation from Plaintiff that confers upon the parties all the rights of property, business, and contracts as if unmarried and releases both parties from all obligations of maintenance, except as may be required by the decree.

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

21. For child support obligations, if requested in Paragraph 15 above, 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.

22. For a fair and equitable division of the assets and liabilities accumulated and incurred by the parties.

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

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

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

\_\_\_\_\_, Defendant

*Signature of Defendant*

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

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

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

\_\_\_\_\_  
*Telephone Number*

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

State of North Dakota

In District Court

County of \_\_\_\_\_

\_\_\_\_\_ Judicial District

\_\_\_\_\_  
Plaintiff, )

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

vs )

Confidential Information Form

\_\_\_\_\_  
Defendant. )

**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**

**Financial Account Numbers:**

Name of Account: \_\_\_\_\_

Account Number: \_\_\_\_\_

Last 4 Digits: \_\_\_\_\_

Name of Account: \_\_\_\_\_

Account Number: \_\_\_\_\_

Last 4 Digits: \_\_\_\_\_

Name of Account: \_\_\_\_\_

Account Number: \_\_\_\_\_

Last 4 Digits: \_\_\_\_\_

Name of Account: \_\_\_\_\_

Account Number: \_\_\_\_\_

Last 4 Digits: \_\_\_\_\_

Name of Account: \_\_\_\_\_

Account Number: \_\_\_\_\_

Last 4 Digits: \_\_\_\_\_

Name of Account: \_\_\_\_\_

Account Number: \_\_\_\_\_

Last 4 Digits: \_\_\_\_\_

Name of Account: \_\_\_\_\_

Account Number: \_\_\_\_\_

Last 4 Digits: \_\_\_\_\_

Dated \_\_\_\_\_.

\_\_\_\_\_  
*Signature of Plaintiff or Defendant*

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

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

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

\_\_\_\_\_  
*Telephone Number*

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

State of North Dakota

In District Court

County of \_\_\_\_\_

\_\_\_\_\_ Judicial District

\_\_\_\_\_  
Plaintiff, )

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

vs )

Notice of Filing

\_\_\_\_\_  
Defendant. )

TO: \_\_\_\_\_  
(List the Defendant's name)

1. **Please take notice** that as required by Rule 5(d) of the North Dakota Rules of Civil Procedure, you are notified that the Summons and Complaint for Legal Separation are filed with the Clerk of Court in \_\_\_\_\_ County, North Dakota, and assigned case number \_\_\_\_\_.

2. Please indicate the assigned case number on the front or title page in the upper right-hand portion of **all** documents to be filed.

Dated \_\_\_\_\_

\_\_\_\_\_, Plaintiff  
*Signature of Plaintiff*

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

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

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

\_\_\_\_\_  
*Telephone Number*

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



State of North Dakota

In District Court

County of \_\_\_\_\_

\_\_\_\_\_ Judicial District

\_\_\_\_\_  
Plaintiff, )

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

vs )

Declaration of Service by Mail

\_\_\_\_\_  
Defendant. )

**The person serving court documents by mail states:**

1. My name is \_\_\_\_\_ (*name of person who mailed document(s) in Paragraph 2*) and I am at least 18 years of age.

**2. List of Court Documents Served:**

- Notice of Filing

**3. Service by Mail:**

As required by Rule 5(b)(3) of the North Dakota Rules of Civil Procedure, I served a true and correct copy of each of the court document(s) listed in Paragraph 2 by mailing them, enclosed in an envelope, by First-Class mail, postage prepaid, and by depositing them in the United States Mail, directed to the person listed in Paragraph 5.

**4. Date of Service by Mail:**

Date Court Documents Were Served by Mail: \_\_\_\_\_

**5. Person Served by Mail:**

Name of Person Served: \_\_\_\_\_

Mailing Address: \_\_\_\_\_

City, State, Zip Code: \_\_\_\_\_

6. I declare, under penalty of perjury under the law of North Dakota, that everything I stated in this Declaration of Service by Mail is true and correct.

Signed on \_\_\_\_\_ (date) in \_\_\_\_\_ (city),  
\_\_\_\_\_ County, \_\_\_\_\_ (state), \_\_\_\_\_ (country).

\_\_\_\_\_  
*Signature of Person Who Mailed Documents*

\_\_\_\_\_  
*Printed Name of Person Who Mailed Documents*

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

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

\_\_\_\_\_  
*Telephone Number*

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

State of North Dakota

In District Court

County of \_\_\_\_\_

\_\_\_\_\_ Judicial District

\_\_\_\_\_  
Plaintiff, )

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

vs )

Notice of Filing

\_\_\_\_\_  
Defendant. )

TO: \_\_\_\_\_  
(List the Plaintiff's name)

1. **Please take notice** that as required by Rule 5(d) of the North Dakota Rules of Civil Procedure, you are notified that the *(put a checkmark (✓) next to document(s) filed)*

- Answer and Counterclaim for this legal separation case
- Summons and Complaint for this legal separation case

are filed with the Clerk of Court in \_\_\_\_\_ County, North Dakota, and assigned case number \_\_\_\_\_.

2. Please indicate the assigned case number on the front or title page in the upper right-hand portion of **all** documents to be filed.

Dated \_\_\_\_\_

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

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

\_\_\_\_\_  
*Address* *City* *State* *Zip Code*

\_\_\_\_\_  
*Telephone Number* *Email Address*

State of North Dakota

In District Court

County of \_\_\_\_\_

\_\_\_\_\_ Judicial District

\_\_\_\_\_  
Plaintiff, )

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

vs )

Declaration of Service by Mail

\_\_\_\_\_  
Defendant. )

**The person serving court documents by mail states:**

1. My name is \_\_\_\_\_ (name of person who mailed document(s) in Paragraph 2) and I am at least 18 years of age.

**2. List of Court Documents Served:**

- Notice of Filing

**3. Service by Mail:**

As required by Rule 5(b)(3) of the North Dakota Rules of Civil Procedure, I served a true and correct copy of each of the court document(s) listed in Paragraph 2 by mailing them, enclosed in an envelope, by First-Class mail, postage prepaid, and by depositing them in the United States Mail, directed to the person listed in Paragraph 5.

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\_\_\_\_\_ County, \_\_\_\_\_ (state), \_\_\_\_\_ (country).

\_\_\_\_\_  
*Signature of Person Who Mailed Documents*

\_\_\_\_\_  
*Printed Name of Person Who Mailed Documents*

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

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

\_\_\_\_\_  
*Telephone Number*

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