

INSTRUCTIONS FOR NOTICE OF MOTION FORM; MOTION TO APPEAR BY RELIABLE ELECTRONIC MEANS FORM; (PROPOSED) ORDER FORM

The District Court where your case is filed may have a local form for requesting to appear by reliable electronic means. Contact the Clerk of Court to ask if a local form is preferred.

ND Legal Self Help Center Staff and Court employees cannot help you fill out forms. If you are unsure how to proceed, you should consult a lawyer.

There is no guarantee that all judges and courts will accept forms available through the ND Legal Self Help Center. Use at your own risk.

Do not include this instruction sheet when you serve or file the completed form.

SEE THE “MOTIONS” SECTION OF THE [GUIDE TO A CIVIL ACTION](#) on the ND Legal Self Help Center website for additional information and resources about motions.

After a civil action is filed with the court, a party in a civil action may ask the court for permission to appear at a hearing, trial, or other proceeding by reliable electronic means. A party in a civil action may ask the court for permission for a witness to appear by reliable electronic means. The court decides whether to grant the motion to appear by reliable electronic means.

Examples of reliable electronic means include, but are not limited to, telephone or Interactive Video Network (IVN).

The party making the motion to appear by reliable electronic means is the “Moving Party.” The party responding to the motion is the “Opposing Party.”

After you have completed the forms, a copy of each completed form must be served on all other parties in the civil action. Before the court will act on your request, you must file proof of service with the court that you served a copy of each completed form on all other parties.

NORTH DAKOTA APPEAR BY RELIABLE ELECTRONIC MEANS RULES

Review the following North Dakota Rules carefully. You are not required to hire an attorney to access the court system. If you decide to represent yourself, you must follow all of the rules, laws and procedures that an attorney is required to follow.

Rule 52 of the North Dakota Supreme Court Administrative Rules: A court may allow appearance by reliable electronic means. Rule 52 is found online at <http://www.ndcourts.gov/court/rules/Administrative/AR52.htm>.

Rule 3.2 of the North Dakota Rules of Court: Provides the basic requirements and process for making motions. Rule 3.2 is found online at <http://www.ndcourts.gov/court/rules/NDROC/rule3.2.htm>.

Rule 6 of the North Dakota Rules of Civil Procedure: Provides motion timing requirements. Rule 6 is found online at <http://www.ndcourts.gov/court/rules/CIVIL/rule06.htm>.

STEP ONE: Complete the Forms

FORMS IN THE PACKET

- Notice of Motion to Appear by Reliable Electronic Means;
- Motion to Appear by Reliable Electronic Means; and
- Order on Motion Appear by Reliable Electronic Means (Proposed).

NOTICE OF MOTION TO APPEAR BY RELIABLE ELECTRONIC MEANS FORM

Top of Form (Caption): Fill in the caption exactly as it appears in the summons.

To: List the names of the parties to receive notice of the motion and motion. If a party is represented by an attorney, also list the name of the attorney.

Read the two paragraphs. This tells the other parties in the civil action that they have fourteen (14) days to respond to the motion. This also tells the other parties in the civil action that they may request a hearing on this motion. If no party requests a hearing on this motion, the motion will be decided on the documents filed with the court.

Date and Signature: Complete the date and signature block.

- Fill in the date you sign this document.
- Sign the signature line.
- Fill in the address lines. If you have a physical address and a mailing address, type or write both addresses using the lines provided, and the space next to the address lines.
- Fill in the telephone number line.

MOTION TO APPEAR BY RELIABLE ELECTRONIC MEANS FORM

Top of Form (Caption): Fill in the caption exactly as you filled in the caption of the notice of motion form.

Paragraph 1: Type or write your full, legal name. Tell the court if you are the Plaintiff or the Defendant. Put a checkmark (✓) on the appropriate line. Choose only one.

Paragraph 2: Tell the court if you are requesting to appear by reliable electronic means or if you are requesting that someone else (i.e. a witness) appear by reliable electronic means. Put a checkmark (✓) on the appropriate line.

If you are requesting that someone else appear by reliable electronic means, fill in the name of that person. Fill in the hearing date, time and location.

Paragraph 3: Tell the court if you are requesting to appear by reliable electronic means or if you are requesting that someone else (i.e. a witness) appear by reliable electronic means. Put a checkmark (✓) on the appropriate line.

If you are requesting that someone else appear by reliable electronic means, fill in the name of that person.

Put a checkmark (✓) on the line next to the way you are requesting to appear at the hearing. Provide specific details, including but limited to, telephone number, physical address, etc.

Paragraph 4: Tell the court why you are requesting to appear by reliable electronic means. Put a checkmark (✓) on the appropriate line(s). Fill out any additional information as indicated.

Paragraphs 5 and 6: Read the paragraphs. You will swear the statements are accurate when you sign this form in the presence of a notary public or clerk of court.

Date and Signature: Complete the date and signature block.

- Fill in the date you sign this document.
- Sign the signature line.
- Fill in the address lines. If you have a physical address and a mailing address, type or write both addresses using the lines provided, and the space next to the address lines.
- Fill in the telephone number line.

Signature and Notarization: Do not fill out or sign until you are in the presence of a Notary Public or a Clerk of Court. Make sure to bring identification to show to the Notary Public or Clerk of Court.

WARNING: By signing your name you are telling the Court that you are telling the truth and that you have a good faith reason for your requests. If you are not telling the truth or if you are misleading the Court, or if you are serving or filing this document for an improper purpose, the Court could find you in contempt or you may be prosecuted for perjury.

ORDER ON MOTION TO APPEAR BY RELIABLE ELECTRONIC MEANS FORM (PROPOSED)

This is your proposed order. If the judge or judicial referee grants your motion, and uses your proposed order, the judge or judicial referee will complete and sign the order.

Top of Form (Caption): Fill in the caption exactly as you filled in the caption of the notice of motion form..

Paragraph 1: If you are the Plaintiff in the case, put a checkmark (✓) in the box next to “Plaintiff.” If you are the Defendant in the case, put a checkmark (✓) in the box next to “Defendant.”

DO NOT fill in the date. If the judge or judicial referee uses your proposed order, the judge or judicial referee will fill in this information.

Paragraph 2: Type or write the full, legal name of the individual who you are requesting appear by reliable electronic means.

Type or write the name of the hearing, trial, or other proceeding for which you are requesting appearance by reliable electronic means.

Type or write the date of the hearing, trial, or other proceeding for which you are requesting appearance by reliable electronic means.

DO NOT fill in any of the remaining information for Paragraph 2. If the judge or judicial referee uses your proposed order, the judge or judicial referee will fill in this information.

Date and Signature: DO NOT date or sign this form. If the judge or judicial referee uses your proposed order, the judge or judicial referee will date and sign the form.

STEP TWO: Serve the Forms on Other Parties

Make at least two copies of the following completed forms:

- Notice of Motion to Appear by Reliable Electronic Means;
- Motion to Appear by Reliable Electronic Means; and
- Order on Motion Appear by Reliable Electronic Means (Proposed).

Keep one copy for your records. You will serve the other copy or copies on the other party or parties. You will file the original with the Clerk of Court.

Serve the copies on all other parties. See service by mail instructions and an affidavit of service by mail form below.

File the original, completed forms with the Clerk of Court. File the completed affidavit(s) of service of the copies.

The other parties will have fourteen (14) days to serve a written response to your motion.

The other parties may also make a written request for oral arguments or an evidentiary hearing on your motion. The request for oral arguments or an evidentiary hearing must be made within seven (7) days after expiration of the other party's time to provide a written response.

You will be notified by the court if your motion is granted or denied.

Do not include these instruction sheets when you file the completed form.

4. I would like the Court to consider the following information in making its decision whether to allow an appearance by reliable electronic means. *(Select all that apply. The Court can still deny your request, even though boxes are checked.)*

a. I live or work outside of the State of North Dakota in *(specify location)*:

_____.

b. I live in _____ County in North Dakota, which is _____ miles from the above courthouse where the hearing/trial is set.

c. Other *(specify)*: _____

_____.

5. I agree that, if approved, I will coordinate with the Court and the other parties for scheduling and to ensure equipment compatibility before the date of the hearing/trial.

6. I agree to be responsible for the costs and arrangements of this appearance if required by the court.

Dated this _____ day of _____, 20_____.

(Signature of Moving Party)

Printed Name: _____

Address: _____

City, State, Zip: _____

Telephone #: _____

STATE OF NORTH DAKOTA)
) ss.
_____ COUNTY)

being first duly sworn, states as follows:

That I am the moving party in the above document and that I have read the Motion and the facts stated are true to the best of my knowledge.

Signature of Moving Party

Subscribed and sworn before me this _____ day of _____, 20_____.

Notary Public/Clerk of Court
State of North Dakota
My Commission Expires: _____

INSTRUCTIONS FOR AFFIDAVIT OF SERVICE BY MAIL FORM

(The *Affidavit of Service by Mail* form is designed to be used to prove service by mail of a copy of the completed *Notice of Motion to Appear by Reliable Electronic Means*, *Motion to Appear by Reliable Electronic Means* and proposed *Order* forms.)

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Do not include this instruction sheet when you serve or file the completed form.

THE PERSON WHO SERVES A COPY OF THE COMPLETED NOTICE OF MOTION TO APPEAR BY RELIABLE ELECTRONIC MEANS, MOTION TO APPEAR BY RELIABLE ELECTRONIC MEANS, AND THE (PROPOSED) ORDER FORMS COMPLETES THIS AFFIDAVIT OF SERVICE BY MAIL FORM.

A copy of the completed Notice of Motion Appear by Reliable Electronic Means form, Motion to Appear by Reliable Electronic Means form and the completed (Proposed) Order form must be served on every other party in the civil action.

The party making the motion must file proof of service with the Clerk of Court. A completed, signed and notarized affidavit of service is your proof of service.

Top of Form (Caption): Fill in the caption exactly as you filled out the caption of the notice of motion form.

County: Fill in the name of the County.

Person Serving Documents: Fill in the full, legal name of the person serving the document.

Address Block: Fill in the full, legal name of the other party or parties. Fill in the mailing address. This is the address where the copies of the documents were mailed.

Post Office City/State: Fill in the city and state of the U.S. Post Office from which the copies of the documents were mailed.

Date, Signature and Notary Public Block: The person serving the documents completes the Date, Signature or Notary Public lines ONLY when they are in front of a Clerk of Court or a notary public.

Make a copy for your records.

File the original, completed Affidavit of Service by Mail form(s) with the Clerk of Court.

Find more information about service at www.ndcourts.gov/ndlshc under the "Service" link.

STATE OF NORTH DAKOTA

IN DISTRICT COURT

COUNTY OF _____

_____ JUDICIAL DISTRICT

(Plaintiff)

PLAINTIFF,

Vs _____

(Defendant)

DEFENDANT.

AFFIDAVIT OF SERVICE BY MAIL

Case No. _____

STATE OF NORTH DAKOTA COUNTY OF _____

I, _____,
swear that I am at least 18 years of age, and on _____, 20____,
I served the Notice of Motion to Appear by Reliable Electronic Means, the Motion to Appear by
Reliable Electronic Means and the proposed Order, in the above entitled case, on the following
party by placing a true and correct copy of each in an envelope to the last known address of:

and depositing the envelope, with sufficient postage, in the United States mail at the Post
Office located in _____.

Dated: _____, 20____

(Signature of Person Who Mailed Envelope)

Subscribed and sworn to before me this ____ day of _____, 20 ____.

Clerk or Notary Public _____ County, North Dakota

If notary, my commission expires: _____