

## Instructions to Make a Motion to Hold a Hearing by Reliable Electronic Means or Appear at the Hearing by Reliable Electronic Means

### Important! Read Before Using These Forms and Instructions!

ND Legal Self Help Center staff and court employees **can't** help you fill out forms. If you're unsure if these forms and instructions suit your circumstances, consult a lawyer.

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

If you need legal advice or legal representation, consult a lawyer licensed to practice in North Dakota. Go to [ndcourts.gov/legal-self-help/finding-a-lawyer](https://ndcourts.gov/legal-self-help/finding-a-lawyer) for information about finding a lawyer to represent you.

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

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

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

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

**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.**

*These instructions and forms aren't a complete statement of the law. They cover the basic procedure for asking a North Dakota state court to hold a hearing in a civil case by reliable electronic means, or to allow you, another party, or a witness to appear at a hearing by reliable electronic means. There's no guarantee that all judges and courts will accept forms available through the ND Legal Self Help Center. The Center isn't responsible for any consequences that may result from the forms or information provided.*

***Use these forms and instructions at your own risk.***

[Rule 52 of the North Dakota Supreme Court Administrative Rules](#) gives the requirements for making a Motion to ask a court to hold a hearing by reliable electronic means, or to allow you or another party or witness to appear at the hearing by reliable electronic means, instead of in person.

- Review Rule 52 carefully! Rule 52 **doesn't** require a Notice of Motion or a supporting Brief.

### **Before You Start, You Must Try to Contact the Other Parties!**

**Before you serve or file the Motion to Conduct Hearing or Appear by Reliable Electronic Means**, you **must** attempt to contact the other party (or parties) in the civil case to find out if they agree or object to your Motion.

**You can still make your Motion even if you're unable to contact the other party (or parties), or they object to your Motion.** You use the Motion to tell the court if you were able to contact the other party (or parties) and, if so, whether they agree or disagree.

### **What is a Motion to Conduct a Hearing or Appear by Reliable Electronic Means?**

Often, hearings and trials in civil cases are held in a courthouse. This means that all parties and witnesses must go to the courthouse in person for the hearing or trial.

However, when any party has a reason (or reasons) they, or their witness(es), can't go to the courthouse in person, they may ask the court for permission to:

1. Hold the hearing, trial, or other proceeding by reliable electronic means, instead of in person at the courthouse; or
2. Allow you, another party, or witness to appear at the hearing, trial, or other proceeding by reliable electronic means, instead of in person at the courthouse.

Examples of reliable electronic means include, but aren't limited to, Zoom, telephone, or Interactive Video Network (IVN).

The court decides whether to hold the hearing, trial, or other proceeding by reliable electronic means, or to allow the party or their witness(es) to appear by reliable electronic means.

**You may use this set of forms to ask the court for both options and to explain your preference.**

## Who are the Parties in this Motion?

**Plaintiff:** The party (or parties) listed as the Plaintiff in the civil case.

**Defendant:** The party (or parties) listed as the Defendant in the civil case.

**Moving Party:** The party making the Motion to Conduct Hearing or Appear by Reliable Electronic Means. In other words, the party who completes and signs Form 1: Motion.

- The Moving Party may be either the Plaintiff or the Defendant in the civil case.

**Opposing Party:** (Also called the **Non-moving Party**.) The other party (or other parties). In other words, the party or parties who didn't bring the Motion and must answer the Motion.

- The Opposing Party may be either the Plaintiff or the Defendant in the civil case.

## What Are the Deadlines for this Motion?

The Moving Party, must serve the motion documents on all other parties **at least seven (7) days before the hearing, trial, or other proceeding.**

- See Step 2 on Pages 6-7 for instructions on service.

If the Opposing Party chooses to respond, **they must serve their written response to the Motion at least four (4) days before the hearing, trial, or other proceeding.**

- The Opposing Party may choose not to respond. The court makes a decision based on the documents filed by the Moving Party.

**These time requirements may be shortened by the court if you have a good reason.** This is also referred to as having good cause.

If a Moving Party wants to make a request to shorten the time requirements, Form 1: Motion includes the option to make this request.

*(This space left intentionally blank.)*

## Three Steps to Make a Motion to Conduct a Hearing or Appear by Reliable Electronic Means

### Step 1 – Complete Form 1 and Form 2.

Complete the following forms in the packet:

- Form 1: Motion to Conduct Hearing or Appear by Reliable Electronic Means; and
- Form 2: Order on Motion to Conduct Hearing or Appear by Reliable Electronic Means (Proposed).

#### Form 1: Motion to Conduct Hearing or Appear by Reliable Electronic Means

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

**Paragraph 1:** Tell the court if you're listed as the Plaintiff or the Defendant in the caption for the Summons. Put a checkmark ☒ in the appropriate box. Choose only one.

**Paragraph 2:** You have the option of asking the court to shorten the time requirement for making your Motion. (*See the Deadlines section on Page 3.*) Put a checkmark ☒ in the appropriate box. Choose only one.

If you're asking the court to shorten the time the requirement, state the reasons why.

**Paragraph 3:** This paragraph allows you to request to have the hearing held by reliable electronic means, or to request you or someone else (i.e. a witness) to appear at an in-person hearing by reliable electronic means.

Put a checkmark ☒ in one or both boxes. If you select both boxes, you tell the court your preference in Paragraph 6.

Fill in all of the information for the option, or options, you select.

**Paragraph 4:** Tell the court who you attempted to contact before you filling out the forms for this Motion. Put a checkmark ☒ in the appropriate box. Choose only one.

- You're required to attempt to contact the other party (or parties) in the civil case to find out if they agree or object to your Motion.

**Paragraph 5:** Tell the court if you were able or unable to contact the Plaintiff, Defendant, Plaintiff's attorney, or Defendant's attorney. Put a checkmark ☒ in the appropriate box. Choose only one.

If you were able to contact the other party, tell the court who you contacted by putting a checkmark ☒ in the appropriate box. Choose only one.

If you were able to contact the other party, tell the court if the party you contacted agrees or disagrees to your motion. Put a checkmark ☒ in the appropriate box. Choose only one.

**Paragraph 6:** State the reason(s) you're making this Motion. If you selected both options in Paragraph 3, tell the court which option you prefer and why.

**Paragraphs 7 and 8:** Read carefully. If the court approves your Motion, Paragraphs 7 and 8 list your responsibilities.

**Paragraph 9:** Read carefully. You're stating under penalty of perjury that everything you stated in the Motion is true and correct.

**Date and Signature:** Complete the date and signature block.

- Fill in the date you signed this document.
- Fill in the city, county, state, and country where you signed this document.
- Sign the signature line.
- Print your name.
- 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 below the address lines.
- Fill in the telephone number and email address.

## **Form 2: Order on Motion to Conduct Hearing or Appear by Reliable Electronic Means (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 completes and signs the Order.

**Top of Form (Caption):** Fill in the caption exactly as you filled in the caption of Form 1: Motion.

**Paragraph 1:** Put a checkmark ☒ in the same box you selected in Paragraph 1 of Form 1: Motion.

**Paragraph 2:** Fill in the date of the hearing, trial, or other proceeding for which you're making this Motion.

- **Don't** 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.

**Signature:** **DON'T sign this form.** If the judge or judicial referee uses your proposed Order, the judge or judicial referee dates and signs the form.

## **Step 2 – Serve Completed Form 1 and Form 2 on All Other Parties.**

Service is providing copies of your completed Motion documents on all other parties. The judge or judicial referee won't act on your Motion documents until you file proof of service with the clerk of court. A Declaration of Service is your proof of service.

**Make at least two copies of the following completed forms:**

- Form 1: Motion to Conduct Hearing or Appear by Reliable Electronic Means; and
- Form 2: Order on Motion to Conduct Hearing or Appear by Reliable Electronic Means (Proposed).

Keep one copy for your records. You arrange to serve the other copy or copies on the other party or parties. You file the originals with the Clerk of Court in Step 3.

**Arrange to serve the copies on all other parties by mail:**

- Put the copies in an envelope.
- Address the envelope with the other party's last known address.
- If you know the other party is currently represented by a lawyer, address the envelope with the lawyer's address.
- List your address as the return address on the envelope.
- Put the correct first class postage on the envelope.
  - Postage must be prepaid.
  - **It's very important to put the correct postage on the envelope.** If you don't, the envelope may be returned to you causing you to miss the service deadline.
- Service by mail is complete upon mailing.

**The person who mailed the envelope(s) completes the following form:**

- Form 3: Declaration of Service by Mail.

The person who mailed the envelope **must** complete the Declaration of Service by Mail form. (If the envelope is mailed at a United States Post Office, the United States Post Office employee **doesn't** complete Declaration of Service by Mail form.)

Complete the Caption exactly as the Caption of the Motion form is filled out.

- Follow the directions on the form.
- Make **one copy** of the completed, dated, and signed Declaration of Service by Mail form for your records.

You file the original Declaration of Service by Mail with the Clerk of District Court in Step 3.

**Service by mail is a common way to serve Motion documents. However, there are other ways to serve your documents.**

To review other service options, go to [ndcourts.gov/legal-self-help/service-in-a-civil-action](https://ndcourts.gov/legal-self-help/service-in-a-civil-action). Scroll to the “Service After a District Court Civil Action Has Started” section of the webpage.

### **Step 3 – File the Original Forms with the Clerk of Court.**

File the following original, completed forms with the Clerk of Court.

- Form 1: Motion to Conduct Hearing or Appear by Reliable Electronic Means;
- Form 2: Order on Motion to Conduct Hearing or Appear by Reliable Electronic Means (Proposed); and
- Form 3: Declaration of Service for each party served.

If the other parties choose to respond in writing, you’ll be served a written response to your Motion.

You’re notified by the court if your Motion is granted or denied.

**If your Motion is granted, you must work with the court to get everything arranged for you to appear by reliable electronic means.**

State Of North Dakota

County Of \_\_\_\_\_

In District Court

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

\_\_\_\_\_  
Plaintiff,  
vs  
\_\_\_\_\_  
Defendant.

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

**Motion To Conduct Hearing Or  
Appear By Reliable Electronic  
Means**

1. I am the (*choose one*) ☐ Plaintiff ☐ Defendant in this case and I make this Motion to the court for an Order under Rule 52 of the North Dakota Supreme Court Administrative Rules and Rule 3.2 of the North Dakota Rules of Court as follows:

2. (*Choose one*):

☐ I am **not** asking the court to shorten the time requirements of Rule 52 of the North Dakota Supreme Court Administrative Rules.

☐ I am asking the court to shorten the time requirements of Rule 52 of the North Dakota Supreme Court Administrative Rules because:

3. (*Select all that apply; Paragraph 3 continues on next page*)

☐ I am asking the court to conduct the hearing/trial scheduled on (*date and time*)

\_\_\_\_\_ by reliable electronic means.



☐ I am asking the court to allow (*select all that apply*) ☐ me / ☐ other \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_ (*name(s) of other person(s) you request  
to appear by reliable electronic means*) to appear by reliable electronic means for the  
hearing/trial scheduled on (*date and time*) \_\_\_\_\_ at the  
\_\_\_\_\_ County Courthouse in (*city*) \_\_\_\_\_, North Dakota.

4. Before I served or filed this Motion to Conduct Hearing or Appear by Reliable Electronic Means, I attempted to contact the (*choose one*) ☐ Plaintiff ☐ Defendant ☐ Plaintiff's attorney ☐ Defendant's attorney to find out if they agree or object to this motion.

5. I was (*choose one*) ☐ able ☐ unable to contact the (*choose the same checkbox as Paragraph 4*) ☐ Plaintiff ☐ Defendant ☐ Plaintiff's attorney ☐ Defendant's attorney. If I was able to contact them, they indicated that they (*choose one*) ☐ agree ☐ do not agree to my motion to appear by reliable electronic means.

6. I am making this Motion because (*state the reasons you're making the request. If you selected both options in Paragraph 3, explain your preference*):

*(Paragraph 6, continued.)*

7. I understand that, if my Motion is approved, the parties must coordinate with the court to facilitate scheduling and managing the technical aspects of the hearing/trial, including arranging for confidential attorney-client communication.

8. I agree to be responsible for the costs and arrangements of conducting the hearing/ appearing by reliable electronic means as required.

9. I declare, under penalty of perjury under the law of North Dakota, that everything I stated in this Motion to Conduct Hearing or Appear by Reliable Electronic Means is true and correct.

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

\_\_\_\_\_  
(Signature of Moving Party)

\_\_\_\_\_  
(Printed Name of Moving Party)

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

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

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

\_\_\_\_\_  
(Email Address)

State Of North Dakota

County Of \_\_\_\_\_

In District Court

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

\_\_\_\_\_  
Plaintiff,  
vs  
\_\_\_\_\_  
Defendant.

)  
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)  
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)

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

**Order On Motion To Conduct  
Hearing Or Appear By Reliable  
Electronic Means**

1. The ☐ Plaintiff ☐ Defendant filed a Motion to Conduct Hearing or Appear by Reliable Electronic Means. The Court having considered the Motion **Hereby Orders:**

2. The Motion to Conduct Hearing or Appear by Reliable Electronic Means at the hearing, trial, or other proceeding set for \_\_\_\_\_ is:

☐ **Denied.**

☐ **Granted** as follows:

**By the Court:**

\_\_\_\_\_  
(District Judge or Judicial Referee Signature)

## In District Court

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

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

### Declaration Of Service By Mail

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

☐ Other:

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 documents 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 6.

**4. 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)

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

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

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

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

\_\_\_\_\_  
(Email Address)