

Instructions to Make a Motion to Limit Non-Party Access or Availability to Audio Recordings of Court Proceedings

Important! Read Before Using this Packet of Forms.

ND Legal Self Help Center staff and court employees can't help you fill out the form(s). 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 and judges and courts aren't required to accept them. There's no guarantee Center forms will be accepted.

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 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.

A glossary with definitions of legal terms is available at 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 for an order limiting access or availability of audio recordings of court proceedings in civil and criminal cases. 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.

What is a Court Proceeding?

In general, a court proceeding is a hearing or trial held in a civil or criminal court case. Many court proceedings are recorded.

Who May Use These Forms?

This form set is a formal, written request to the judge or judicial referee for an order limiting non-party access to or availability of audio recordings of court proceedings in the case.

[Rule 40, Section 2\(c\) of the North Dakota Supreme Court Administrative Rules](#) allows a person to make a motion for an order to limit non-party access to or availability of audio recordings of a court proceeding.

You may use these forms if:

- **You're a self-represented party in the case** and you believe non-party access or availability to audio recordings of court proceedings in your case would materially interfere with the right to a fair trial;
or
- **You're a self-represented witness or victim in the case** and you object to non-party access or availability to audio recordings of court proceedings in the case, **and** you can show there's good cause the recordings shouldn't be available.

Why am I Required to Make a Motion?

A motion is the way to ask a judge or judicial referee for an order in a court case. Only the judge or judicial referee can decide whether to grant the motion and issue the order.

If your request for an order isn't made in person at a hearing or trial, your request must be made as a formal, written motion.

- This form set includes the documents that are generally required when you make a formal, written motion.

See [Rule 3.2 of the North Dakota Rules of Court](#) for the requirements for making a motion.

Who are the Parties in this Motion?

Plaintiff/Petitioner: The party (or parties) listed as the Plaintiff or Petitioner in the civil or criminal case.

Defendant/Respondent: The party (or parties) listed as the Defendant or Respondent in the civil or criminal case.

Moving Party: The self-represented Plaintiff/Petitioner, Defendant/Respondent, witness, or victim making the Motion to Limit Access or Availability to Audio Recording Form 1: Notice of Motion.

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

Three Steps to Make a Motion for an Order to Limit Access or Availability to Audio Recording

Step 1 – Complete Form 1, Form 2, Form 3, Form 4 and Form 5.

Complete the following forms in the packet:

- Form 1: Notice of Motion to Limit Access or Availability to Audio Recording;
- Form 2: Motion to Limit Access or Availability to Audio Recording;
- Form 3: Brief in Support of Motion to Limit Access or Availability to Audio Recording;
- Form 4: Declaration in Support of Motion to Limit Access or Availability to Audio Recording; and
- Form 5: Findings of Fact and Order on Motion to Limit Access or Availability to Audio Recording (Proposed).

You must complete all 5 forms.

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Form 1: Notice of Motion to Limit Access or Availability to Audio Recording

This form is your required written notice to all other parties in the case.

Top of Form (Caption): Fill in the County, Judicial District, Plaintiff (or Petitioner) name(s), Defendant (or Respondent) name(s) and case number of the case for which you're asking the court to limit non-party access or availability to audio recordings of court proceedings.

Use the District Court Case Search at ndcourts.gov/public-access to find the information for the Caption.

Review Paragraphs 1 and 2.

Date and Signature: Complete the date and signature block.

- Fill in the date 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: Motion to Limit Access or Availability to Audio Recording

This form is your required written request to the judge or judicial referee for an order.

Top of Form (Caption): Fill in the caption exactly as it appears in Form 1: Notice of Motion.

Complete Paragraph 1 of the form.

Review Paragraphs 2 and 3.

Date and Signature: Complete the date and signature block.

- Fill in the date 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 3: Brief in Support of Motion to Limit Access or Availability to Audio Recording

This form is your required written explanation of why you, the moving party, should have your motion granted. The brief takes the relevant laws or rules and applies them to the facts of your situation.

Top of Form (Caption): Fill in the caption exactly as it appears in Form 1: Notice of Motion.

Review and complete all Paragraphs of the form.

- Paragraphs 2 through 4, and Paragraph 9 must be completed.
- You must checkmark at least one box in Paragraph 9.

Date and Signature: Complete the date and signature block.

- Fill in the date 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 4: Declaration in Support of Motion to Limit Access or Availability to Audio Recording

This form is your required written statement of fact. The declaration must be dated and signed by you, the moving party.

Top of Form (Caption): Fill in the caption exactly as it appears in Form 1: Notice of Motion.

- Fill in your full name in the first sentence directly below the Caption.

Complete Paragraphs 1 through 3.

Review Paragraph 4 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 5: Findings of Fact and Order on Motion to Limit Access or Availability to Audio Recording (Proposed)

This form is your proposed findings of fact and 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.

Findings of Fact are the judge's or judicial referee's determination of the facts they found to be true.

The Order is the judge's or judicial referee's decision on whether to limit access or availability to audio recordings of court proceedings in the case.

Top of Form (Caption): Fill in the caption exactly as it appears in Form 1: Notice of Motion.

Paragraph 1: Choose the same option as Paragraph 1 of Form 2: Motion.

Paragraph 2: Choose the same option(s) as Paragraph 9 of Form 3: Brief. Leave the rest of Paragraph 2 blank.

Paragraph 3: Leave blank.

Don't Date or Sign the Form.

If the judge or judicial referee uses your proposed order, the judge or judicial referee completes the rest of the form.

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

Service is providing copies of your completed motion documents to all other parties in the case.

The court won't act on your motion until you file proof of service with the court. A declaration of service gives the court proof of service.

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Make at least two copies of the following completed forms:

- Form 1: Notice of Motion to Limit Access or Availability to Audio Recording;
- Form 2: Motion to Limit Access or Availability to Audio Recording;
- Form 3: Brief in Support of Motion to Limit Access or Availability to Audio Recording;
- Form 4: Declaration in Support of Motion to Limit Access or Availability to Audio Recording; and
- Form 5: Findings of Fact and Order on Motion to Limit Access or Availability to Audio Recording (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.
- Service by mail is complete upon mailing.

Form 6: Declaration of Service by Mail

The person who mailed the envelope must complete Form 6: Declaration of Service by Mail.

- If the envelope is mailed at a United States Post Office, the United States Post Office employee **doesn't** complete Form 6: Declaration of Service by Mail.

Complete the Caption exactly as it appears in Form 1: Notice of Motion.

- 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 the review other service options, go to 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: Notice of Motion to Limit Access or Availability to Audio Recording;
- Form 2: Motion to Limit Access or Availability to Audio Recording;
- Form 3: Brief in Support of Motion to Limit Access or Availability to Audio Recording;
- Form 4: Declaration in Support of Motion to Limit Access or Availability to Audio Recording;
- Form 5: Findings of Fact and Order on Motion to Limit Access or Availability to Audio Recording (Proposed); and
- Form 6: 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’ll be notified in writing by the court if your motion is granted or denied.

STATE OF NORTH DAKOTA

IN DISTRICT COURT

COUNTY OF _____

_____ JUDICIAL DISTRICT

 Plaintiff/Petitioner,
 vs

 Defendant/Respondent.

)
) Case No. _____
)
) **Notice of Motion to Limit Access**
) **or Availability to Audio Recording**
)
)

1. **YOU ARE HEREBY GIVEN NOTICE** that the Motion to Prohibit Public Access in the above-captioned matter is submitted to the Court pursuant to [N.D.R.Ct. 3.2](#). The motion will be decided on the documents filed with the court unless oral argument or the taking of testimony is timely requested by a party or required by the Court.

2. **PLEASE TAKE FURTHER NOTICE** that you have 14 days after service of this Motion within which to serve and file a response or objection to the Court granting the attached motion.

Upon the filing of an answer, or upon expiration of the time for filing, the Motion is considered submitted to the Court, unless a party timely requests oral argument or the taking of testimony.

Dated _____.

 Signature

 Printed Name

 Address

 City, State, Zip Code

 Telephone Number

 Email Address

STATE OF NORTH DAKOTA

IN DISTRICT COURT

COUNTY OF _____

_____ JUDICIAL DISTRICT

Plaintiff/Petitioner,

vs

Defendant/Respondent.

)
)
)
)
)
)

Case No. _____

**Motion to Limit Access or
Availability to Audio Recording**

1. The moving party, the (*choose one*) Plaintiff/Petitioner Defendant/Respondent Victim Witness, in the above-named case moves to limit access or availability to non-parties of an audio recording of the court proceeding(s) in this case under [N.D.Sup.Ct.Admin.R. 40, Section 2\(c\)](#).

2. This motion is based on the brief and declaration in support of this motion, which are served and filed with the motion.

3. The moving party respectfully requests that this motion be decided on briefs under [N.D.R.Ct. 3.2](#).

Dated _____.

Signature

Printed Name

Address

City, State, Zip Code

Telephone Number

Email Address

STATE OF NORTH DAKOTA

IN DISTRICT COURT

COUNTY OF _____

_____ JUDICIAL DISTRICT

_____)
)
 Plaintiff/Petitioner,)
 vs)
)
 _____)
 Defendant/Respondent.)
)

Case No. _____
**Brief in Support of Motion to
 Limit Access or Availability to
 Audio Recording**

1. The moving party brings this motion under [N.D.Sup.Ct.Admin.R. 40, Section 2\(c\)](#) to ask the Court to enter an Order limiting access or availability to non-parties of an audio recording of the court proceeding(s) in this case.

2. The audio recording(s) of the court proceeding(s) to which the moving party requests limited access or availability to non-parties is/are *(write or type the date(s) and time(s) of the hearing(s) or trial(s); write or type N/A on any unused lines)*:

_____ (date) at _____ (time)
 _____ (date) at _____ (time)
 _____ (date) at _____ (time)

FACTS

3. The above-named case is one for *(state type of case)* _____.

4. The moving party is the *(choose the same option as Paragraph 1 of your Motion)*

Plaintiff/Petitioner Defendant/Respondent Victim Witness in this case.

5. The facts that led the moving party to bring this motion are stated in the Declaration in Support of Motion to Limit Access or Availability to Audio Recording.

LAW AND ARGUMENT

6. [Administrative Rule 40, Section 2\(c\)](#) states that “[a] person seeking to limit access to or availability of an audio recording under subsection 2(b)(1) or (2) must submit a written motion to the Court.”

7. Under subsection 2(b)(1) of Administrative Rule 40, a judge may limit access to or availability of an audio recording to a non-party if the recording of the court proceeding “would materially interfere with a party’s right to fair trial.”

8. Under subsection 2(b)(2) of Administrative Rule 40, a judge may limit access to or availability to a non-party of an audio recording of a court proceeding if “a witness or party has objected and shown good cause why it should not be available.”

9. Non-party access to or availability of an audio recording of the court proceeding(s) listed in Paragraph 2 should be limited because *(select all that apply)*:

- Access or availability would materially interfere with a party’s right to fair trial in this case.
- The moving party objects and has shown good cause why access to the audio recordings should not be available.

10. As stated in the Declaration in Support of Motion to Limit Access or Availability to Audio Recording, for all reasons selected in Paragraph 9 the moving party meets the requirements for limiting non-party access to or availability of an audio recording.

11. The moving party respectfully requests that the Court enter an Order limiting access to or availability to a non-party of an audio recording of the court proceeding(s) listed in Paragraph 2.

Dated _____.

Signature

Printed Name

Address

City, State, Zip Code

Telephone Number

Email Address

STATE OF NORTH DAKOTA

IN DISTRICT COURT

COUNTY OF _____

_____ JUDICIAL DISTRICT

 Plaintiff/Petitioner,
 vs

 Defendant/Respondent.

)
) Case No. _____
)
) **Declaration in Support of Motion to**
) **Limit Access or Availability to**
) **Audio Recording**
)

My name is _____. I understand that I must tell the truth.

1. I am the (*choose the same option as Paragraph 1 of your Motion*) Plaintiff/Petitioner
 Defendant/Respondent Victim Witness in this case.

2. I am asking the Court to issue an Order limiting access or availability to non-parties of an audio recording of the court proceeding(s) in this case because (*select the same options as Paragraph 9 of your Brief in Support of Motion*):

- Access or availability would materially interfere with a party's right to fair trial in this case.
- The moving party objects and has shown good cause why access to the audio recordings should not be available.

3. I provide the following facts to support each reason I selected in Paragraph 2 of my Declaration (*if you checkmarked the 1st box in Paragraph 2, explain how access or availability of the recording(s) to non-parties materially interfere with the right to a fair trial. if you checkmarked the 2nd box in Paragraph 2, explain how there's good cause not to make the audio recording(s) available to non-parties. Paragraph 3 continues on next pages*):

(Paragraph 3 continued.)

(Paragraph 3 continued.)

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

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

Signature

Printed Name

Address

City, State, Zip Code

Telephone Number

Email Address

STATE OF NORTH DAKOTA

IN DISTRICT COURT

COUNTY OF _____

_____ JUDICIAL DISTRICT

 Plaintiff/Petitioner,
 vs

 Defendant/Respondent.

)
) Case No. _____
)
) **Findings of Fact and Order**
) **on Motion to Limit Access or**
) **Availability to Audio Recording**
)
)

1. The moving party, the (*choose one*) Plaintiff/Petitioner Defendant/Respondent
 Victim Witness, submitted a Motion to Prohibit Limit Access or Availability to Audio
 Recording under [N.D.Sup.Ct.Admin.R. 40, Section 2\(c\)](#). The Court considered the motion and
 decided it on briefs under Rule 3.2 of the North Dakota Rules of Court.

FINDINGS OF FACT

2. The Court finds access to or availability of a copy to a non-party of an audio recording of
 the court proceeding(s) should be limited because (*select all that apply*):

- Access or availability would materially interfere with a party's right to fair trial in this case
- The moving party objects and has shown good cause why access to the audio recordings
 should not be available

based on the following specific facts:

ORDER

3. Based on the above, the Clerk of Court is ordered to promptly limit access or availability to the following audio recordings in this case:

as follows:

District Judge

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

Date Court Documents Were Served by Mail: _____

5. **Person(s) Served by Mail:**

Name of Person Served: _____

Mailing Address: _____

City, State, Zip Code: _____

Name of Person Served: _____

Mailing Address: _____

City, State, Zip Code: _____

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)

(Address) (City, State, Zip Code)

(Telephone Number) (Email Address)