

STATE OF NORTH DAKOTA

IN DISTRICT COURT

COUNTY OF \_\_\_\_\_

\_\_\_\_\_ JUDICIAL DISTRICT

**IN THE MATTER OF THE GUARDIANSHIP OF**

\_\_\_\_\_.

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

**ANSWER BRIEF TO MOTION FOR** \_\_\_\_\_

STATEMENT OF FACTS

*[List your version of the facts. List only the facts that are relevant to your answer to the motion.]*

1.

LAW AND ARGUMENT

*[Respond to each argument in the moving party's Brief. Explain how each law, case law, or court rule supports your argument. Apply the law, case law, or court rule to the facts you listed in the Statement of Facts. If you identified laws, case laws, or court rules that don't support your argument, explain why the court rule, law or case law doesn't apply.]*

CONCLUSION

*[Summarize your answer to the motion and what you want the Court to do. This is generally a short paragraph.]*

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

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Address

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

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

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

## INSTRUCTIONS FOR ANSWER BRIEF TO MOTION FORM

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

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

Don't include these instruction sheets when you serve or file your completed Answer Brief.

The "Motion" Section of the [GUIDE TO A CIVIL ACTION](#) on the ND Legal Self Help Center website has additional information and resources.

An Answer Brief to a motion is **one of a set** of required documents that make up a written answer to a motion:

1. **Answer Brief to Motion**;
2. Declaration in Support of Answer Brief;
3. Other supporting documents; and
4. Notice of Hearing on Motion (*if the opposing party requests a hearing*).

An Answer Brief to a motion is your required written response to the motion made by the moving party. (You are the opposing party to the motion.)

An Answer Brief responds to the facts and arguments in the Brief in support of the motion.

An Answer Brief takes the rules and laws that support your response to the moving party's request and explains how your version of the facts applies to the situation that led to the motion.

Facts referred to in the Answer Brief should also appear in your declaration in support of your Answer Brief.

**Calculate the due date for your Answer Brief, Declaration and supporting documents.** If the motion was served by handing it to the opposing party, leaving it at the opposing party's office or residence, the opposing party has fourteen (14) days after service of the motion documents to serve and file their answer to the motion in writing.

If the motion is served by mail or third party commercial carrier, the opposing party has seventeen (17) days after service of the motion documents to serve and file their answer to the motion in writing.

Review the laws and rules from the motion documents to determine if the timeframe to answer the motion is different.

**Research North Dakota court laws and rules.** Information and resources for legal research are available through the North Dakota Legal Self Help Center. Go to [ndcourts.gov/legal-self-help](https://ndcourts.gov/legal-self-help). Scroll to the “Legal Research” section.

Review the motion, brief in support of the motion, declaration in support of the motion, and any other supporting documents carefully!

A motion must include the legal authority that supports the motion request. Any motions to the court must refer to the laws, North Dakota Supreme Court case law, and court rules, or a combination of all three, upon which the motion is filed. The Brief in support of the motion explains how and why the law, case law, or court rule supports the moving party’s request.

Research the laws, North Dakota Supreme Court case law, and court rules the moving party used to make their arguments. Try to determine if the laws and rules stand for what the moving party says they do.

Conduct your own research to determine if there are other laws, North Dakota Supreme Court case law, and court rules that support your argument.

- The North Dakota Century Code** is available at [ndlegis.gov/general-information/north-dakota-century-code](https://ndlegis.gov/general-information/north-dakota-century-code). The Century Code contains the laws enacted by the North Dakota Legislature.
- North Dakota Supreme Court case law** is available at [ndcourts.gov](https://ndcourts.gov). 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 case 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 court rules** are available at [ndcourts.gov/legal-resources/rules](https://ndcourts.gov/legal-resources/rules). Court rules govern how a dispute makes its way to court and how the dispute is conducted.

(The North Dakota Century Code, North Dakota Supreme Court case law, and North Dakota court rules are also found in print in many North Dakota public and academic libraries.)

**This form isn't a fillable form.** To create your legal document using this form, you have at least two options:

**Option One:** Print this form on 8 ½" x 11" paper and hand-write your Answer Brief. Your hand-writing must be easily readable. Black ink is preferred. Don't use pencil.

**Option Two:** Copy and paste the Answer Brief to Motion sections into a word processing program, for example, Microsoft Word, WordPerfect, Google Docs, or OpenOffice. Use this form and these instructions as your guide to format your legal document.

**Caption (Top of Form):**

- If you copied and pasted the Caption section into a word processing program, format your caption as close as you can to the Caption section of this form.
- Complete the caption exactly as it appears in the petition that started the case.
- Fill in the title of the motion exactly as it appears in the petition that started the case.

**Paragraph Numbering:**

- Each paragraph of your written or typed Answer Brief must be numbered.

**Statement of Facts:**

- List your version of the facts. List only the facts that are relevant to your answer.
- These facts must also be included in your Declaration in Support of the Answer. You'll create a separate legal document as your Declaration in Support of the Answer.

**Law and Argument:**

- Respond to each argument in the moving party's Brief in Support of Motion.
- From your legal research, explain how the law, case law, or court rule supports your argument.
- Apply each law, case law, or court rule to the facts you listed in your Statement of Facts.
- If you identified laws, case laws, or court rules that don't support your argument, explain why the court rule, law or case law doesn't apply.

**Conclusion:**

- Summarize your answer and what you want the Court to do. This is generally a short paragraph.

**Date and Signature:**

- The date and signature are at the end of your Answer Brief.
- If you copied and pasted the Signature section into a word processing program, format your signature section as close as you can to the Signature section of this form.
- The self-represented party making the motion must date and sign the Brief in Support of Motion.

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

- The self-represented party answering the motion fills in their printed name, address, telephone number, and email address.

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.

**Page Numbering:**

Each page of a document prepared for a guardianship case must be numbered.

- Number each page of the completed Answer Brief.
- The last page of the Answer Brief is the date and signature page.

**Service:**

In general, copies of documents filed, or intended to be filed, with the Court must be provided to the other parties in the guardianship case. This is called service.

There are specific requirements for serving documents after a guardianship case has started. [Rule 5](#) of the North Dakota Rules of Civil Procedure gives the requirements for service after a civil action has started.

Proof of service is an important step in the legal process. The court won't act on papers filed with the court until proof of service is filed.

For information about service and proof of service in a civil action, go to the [Service](#) link on the ND Legal Self Help Center website.

**Don't include these instruction sheets when you serve or file your completed Answer Brief.**

*\*\*\*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 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.\*\*\**