

STATE OF NORTH DAKOTA

IN DISTRICT COURT

COUNTY OF _____

_____ JUDICIAL DISTRICT

IN THE MATTER OF THE GUARDIANSHIP OF

_____.

Case No. _____

NOTICE OF MOTION FOR _____

TO: _____

(List names of parties to receive notice of motion)

1. *(Choose one checkbox (✓) for Paragraph 1.)*

YOU ARE HEREBY GIVEN NOTICE that a hearing *(select all checkboxes (✓) below that apply. You must select at least one checkbox):*

to present evidence

for oral arguments

will be held on the Motion for _____

before the Court pursuant to Rule 3.2 of the North Dakota Rules of Court, the Honorable

_____ presiding, on the _____ *(date*

of hearing), at _____ (am/ pm) or as soon thereafter as the matter may be heard.

OR

YOU ARE HEREBY GIVEN NOTICE that the Motion for _____

_____ will be heard by the Court pursuant to Rule 3.2

of the North Dakota Rules of Court and that the same will be decided on briefs unless a hearing

is timely requested by a party or required by the Court.

2. **PLEASE TAKE FURTHER NOTICE** that you shall have fourteen (14) days after service of a brief supporting the enclosed motion within which to serve and file an answer brief and other supporting papers and that upon the filing of briefs, or upon expiration of the time for filing, the motion is deemed submitted to the Court, unless a party timely requests a hearing.

3. **PLEASE TAKE FURTHER NOTICE** that a request for a hearing must be made not later than seven (7) days after expiration of the time for filing the answer brief and that the party requesting a hearing shall secure a time for the hearing and shall serve notice of the time for the hearing upon all other parties.

Dated _____

(Moving Party Signature)

(Moving Party Printed Name)

(Address)

(City, State, Zip Code)

(Telephone Number)

(Email)

INSTRUCTIONS FOR NOTICE OF MOTION

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.

Don't include these instruction sheets when you serve or file the completed form.

THE "MOTION" SECTION OF THE [GUIDE TO A CIVIL ACTION](#) on the [ND Legal Self Help Center website](#) has additional information and resources.

A Notice of Motion document is **one of a set** of required documents that make up a written motion:

1. **Notice of Motion**;
2. Motion;
3. Brief in Support of Motion;
4. Declaration in Support of Motion; and
5. Other supporting documents.

A Notice of Motion is a written advisory that tells all parties that a request for an order will be made to the court. The Notice of Motion tells all parties whether the motion will be decided on the documents alone, or if a hearing is requested.

If a hearing is requested, the Notice of Motion includes the date, time, and location, and whether the hearing is to present evidence, to present oral arguments, or both.

- Presenting evidence, also called an evidentiary hearing, involves each party giving evidence, such as witness testimony and documents, to the court during the hearing.
- Oral arguments are spoken statements by each party to either defend their legal position, or to rebut the opposing party's legal position. Oral arguments are limited to the legal reasons each party included in their written motion or answer to motion briefs.

The party making a motion to the court, or the "moving party," must serve a notice of motion on all other parties. The notice of motion is served with the motion, brief in support of motion, declaration in support of motion, and any other supporting documents.

If the moving party schedules a hearing to present evidence, also called an evidentiary hearing, all parties must be served 21 days before the date of the hearing.

Top of Form:

- Complete the top of the Notice of Motion exactly as it appears in the petition that started the case.
- Fill in the type of motion on the lines under “NOTICE OF MOTION FOR.”
- List the names of all the other parties on the “TO:” line. If a party is represented by a lawyer, list the name of the lawyer.

Paragraph 1: Notice of Oral Arguments OR Notice of Decision on Briefs

Motions may be decided after a hearing, OR decided entirely on the documents submitted by the parties. The moving party must choose if they want a hearing or a decision based on the documents for Paragraph 1.

- If the moving party scheduled a hearing on the motion, put a checkmark (✓) in the first checkbox in Paragraph 1.

Contact the clerk of court where the guardianship case is filed to schedule a date and time for the hearing.

Indicate with a checkmark (✓) whether the scheduled hearing is:

- To present evidence;
- To present oral arguments; or
- To present both (checkmark (✓) both boxes).

Fill in the hearing time, date and location information.

- If the moving party requests that the court decide the motion based on briefs and other documents filed with the motion, put a checkmark (✓) on the line next to the second paragraph.

If the moving party requests a decision based on briefs, the opposing party can still request an oral argument or an evidentiary hearing on the motion.

Sign and Date the Notice of Motion:

- The self-represented party making the motion must date and sign the Notice 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 making 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.

Serve and File the Notice of Motion, Motion, Brief in Support of Motion, Declaration in Support of Motion, and any Other Supporting Documents:

- A copy of the Notice of Motion must be served on all other parties. A copy of the motion, brief in support of motion, declaration in support of motion, and any other supporting documents must be served with the Notice of Motion.

The [Service](#) link on the ND Legal Self Help Center website has information about service after a civil action has been started.

- The original Notice of Motion must be filed with the clerk of court where the existing guardianship case is filed. The original motion, brief in support of motion, declaration in support of motion, any other supporting documents, and proof of service must be filed with the Notice of Motion.

The "Filing Documents with the District Court" Section of the [Guide to a Civil Action](#) on the ND Legal Self Help Center website has additional information and resources.

Don't include these instruction sheets when you serve or file the completed form.

****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 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.****