

Answer to Motion for Default Divorce Judgment

Instructions for Form OP5a: Declaration of Service by Mail (With Children)

(Form OP5a: Declaration of Service by Mail (With Children) is part of the Answer to Motion for Default Divorce Judgment. [Review the instructions for the packet of forms](#)).

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.

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.

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

Form OP5a: Declaration of Service by Mail (With Children) is your proof of service. Service is providing copies of your completed Answer to Motion for Default Divorce Judgment forms on the Plaintiff. The clerk of court won't file your Answer to Motion forms until you file proof of service with the court. A Declaration of Service by Mail gives the court proof of service.

Keep one copy for your records. You arrange to serve the other copy on the Plaintiff, or the Plaintiff's lawyer. You file the originals with the Clerk of Court with all other Answer Motion for Default Judgment forms in **Step 5**.

Serve the Plaintiff with your Answer to Motion forms by mail.

☐ **Serve the following documents:**

- Form OP1: Answer Brief in Opposition to Motion for Default Divorce Judgment
- Form OP2: Declaration in Support of Answer Brief in Opposition to Motion for Default Divorce Judgment;
- Form OP3a: Answer and Counterclaim (*With Children*); and
 - If you already served an answer or answer and counterclaim to the summons and complaint, you don't fill out, copy, or serve this form.
- Copies of any documents you referenced in your Answer Brief, Declaration in Support of Answer Brief, and/or Answer and Counterclaim.

Information on how to serve the Plaintiff, or the Plaintiff's lawyer:

- The person serving by mail must be at least 18 years old.
- Put the copies in an envelope.
- Address the envelope with the address listed below the signature on the Summons.
 - If you know your spouse is currently represented by a lawyer, address the envelope with the lawyer's address, **not** your spouse's.
- 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.
- Put the envelope in the U.S. mail.
- Service by mail is complete upon mailing.

☐ The person who mailed the envelope completes the following form:

- Form OP5a: Declaration of Service by Mail (*With Children*).

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.)

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. Scroll to the "Service After a District Court Civil Action Has Started" section of the webpage.

Prepare the Declaration of Service by Mail form.

Remember: The person who served the forms is the person who must fill out and sign this form!

- ☐ **Top of the Form (Caption):** The Caption is filled in exactly the same as you filled out the caption of your Answer Brief.
- ☐ **Paragraph 1:** Fill in the name of the person who served the forms.
- ☐ **Paragraph 2:** Review to make sure you have listed all forms that were served.
- ☐ **Paragraph 3:** Review.
- ☐ **Paragraph 4:** Fill in the date the documents were served by mail.

☐ **Paragraph 5:** List the name of the person served (the Plaintiff, or the Plaintiff's lawyer) and the address where the copies of the forms were mailed.

☐ **Paragraph 6:** Review carefully.

☐ **Date and Signature (by the person who served the documents):**

☐ Fill in the date, city, county, state, and country where you signed this document.

☐ Sign the signature line.

☐ Type or 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 next to the address lines.*)

☐ Fill in your phone number.

☐ Fill in your email address.

What do I do next?

☐ Make a copy of the completed Declaration of Service by Mail form for your records.

☐ See **Step 7** for instructions on filing your forms with the Clerk of Court.

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

State of North Dakota

In District Court

County of _____

_____ Judicial District

Plaintiff,
vs

Defendant.

)
)
)
)
)
)

Case No. _____

Declaration of Service by Mail
(With Children)

The person serving court documents by mail states:

1. My name is _____ (*name of person who mailed documents in Paragraph 2*). I am at least 18 years of age.

2. **List of Court Documents Served** (*you must serve the first 2 documents; checkmark (✓) "Answer and Counterclaim" if you served Form OP3a: Answer and Counterclaim; if you served other documents that you referred to in your Answer Brief, Declaration, and/or Answer and Counterclaim, checkmark (✓) the "Other" box(es) and write the title of each document*):

☒ Answer Brief in Opposition to Motion for Default Divorce Judgment

☒ Declaration in Support of Answer Brief in Opposition to Motion for Default Divorce Judgment

☐ Answer and Counterclaim (*With Children*)

☐ Other: _____

☐ Other: _____

3. **Service by Mail:** 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 document(s) 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 5.

4. Date of 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 of Person Who Mailed Documents

Printed Name of Person Who Mailed Documents

Address

City, State, Zip Code

Telephone Number

Email Address