

Divorce When the Spouses Don't Agree Instructions for Witness and Exhibit List

These are the instructions for the **Witness and Exhibit List**.

Review Your Orders! Review your Scheduling Order and any other orders you receive to determine if you're required to file a Witness and Exhibit List. Review any orders for a filing deadline for the Witness and Exhibit List.

This Witness and Exhibit List is designed for common, uncomplicated divorces. If this form doesn't fit your circumstances, you may use this as a template to create your own document. If you need help, contact a lawyer to assist you.

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.

Witness and Exhibit List Form Must be Filled Out Completely!! Don't leave any of the paragraphs within the form unanswered.

If a section of the form doesn't apply to you, type or write "N/A" or "Not Applicable."

If a section of the form asks for information you don't know and are unable to find, write "Unknown."

If the section of the form asks for a dollar amount and there is none, type or write \$0.00 in the space.

If a form isn't completely filled out, it could result in the clerk not accepting your form for filing, or the court may send the form back to you to complete.

Follow and Carefully Read All Instructions! There are boxes () before each step. Check each box as you finish the step. Don't go on to the next step **until** the previous step is completed.

Complete the Witness and Exhibit List

Fill in the Top of the Form:

The information to fill out the top part of the form (“the caption”) is the same as on the Pretrial Conference Statement.

Paragraph A:

- Put a checkmark in the box to indicate whether you’re the Plaintiff or Defendant.
- Fill in the date of the trial.

Paragraph B1 through B8: List of Witnesses. For each number:

- List the name of the person you want to call as a witness at the trial.
- State their relationship to your divorce case.
- Cross out all lines you don’t use.

Paragraph B9: Review. You’re stating you reserve the right to add to the list of witnesses.

Paragraph C1 through C20: List of Exhibits. For each number:

- List the title or name of the exhibit.
- If applicable, include dates and/or the last 4 digits of account numbers.
- Cross out all line you don’t use.

Paragraph C21: Review. You’re stating you reserve the right to add to the list of exhibits.

Date and Signature: You, the spouse who completed this form:

- Date the document.
- Sign the signature line and put a checkmark in the correct box indicating whether you’re the Plaintiff or Defendant.
- 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 and email address.

Make 2 Copies of the Witness and Exhibit List

- Make two copies: one for you, one for your spouse.

Serve the Witness and Exhibit List

Caution Regarding Domestic Violence

If there is a domestic violence protection order or disorderly conduct restraining order in effect, review the order to see if you are allowed to contact or serve your spouse! **Be careful not to violate the order!** Violating the order could have legal consequences for you and/or your spouse.

Before serving your spouse, consult a lawyer or a domestic violence intervention center in your area to help you navigate your situation. **Only follow the steps below once you know you can serve your spouse.**

- Serve the Witness and Exhibit List on your spouse.**
 - The person serving by mail must be at least 18 years old.
 - Put the copy in an envelope.
 - Address the envelope with your spouse's last known address.
 - **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 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.)

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.

Prepare the Declaration of Service by Mail

- Fill in the Top Part of the Form:** The information to fill out the top part of the form (“the caption”) is the same as on the Rule 8.3, N.D.R.Ct., Pretrial Conference Statement.
- Paragraph 1:** Fill in your name.
- Paragraph 2:** The Witness and Exhibit List must be listed as the document served.
- Paragraph 3:** Review.
- Paragraph 4:** Fill in the date you served the documents by mail.
- Paragraph 5:** List the name of the person served (your spouse or their attorney) and the mailing address.
- Paragraph 6:** Review carefully.
- Date and Signature:**
 - 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.

File the Witness and Exhibit List

Once service has been completed, file the following documents with the Clerk of Court:

- Witness and Exhibit List;
- Declaration of Service by Mail.

STATE OF NORTH DAKOTA

IN DISTRICT COURT

COUNTY OF _____

_____ JUDICIAL DISTRICT

_____)
 _____)
 PLAINTIFF,)
 vs _____)
 _____)
 DEFENDANT.)

Case No. _____

Witness and Exhibit List

(If your divorce goes to trial, you may be required to prepare, serve, and file a list of witnesses and exhibits you plan to try to introduce as evidence at the trial. (Review the [Evidence](#) research guide and the information on the [Subpoenas](#) webpage.)

Make sure your list is as complete as possible. The judge may not allow you to introduce witnesses or exhibits during the trial that you don't include here.

If you have questions about the witnesses or exhibits you should include, [retain a lawyer](#) for legal advice. Ask the lawyer if they offer limited legal representation.)

A. I am the (choose one) Plaintiff (OR) Defendant in this divorce case. The trial is scheduled on (trial date(s)) _____.

B. **My List of Witnesses:** This is the list of people I want to call as witnesses at the trial to tell the judge what they know about my divorce case (for each witness, list their name and relationship to your divorce case. Cross out all lines you don't use).

1. _____
2. _____
3. _____
4. _____
5. _____
6. _____
7. _____
8. _____

9. I reserve the right to add to the list of witnesses if I learn about a witness that I did not know about when I filed this Witness and Exhibit List.

C. My List of Exhibits: This is the list of documents I want the judge to consider at the trial *(for each exhibit, list the title or name. If applicable, include dates and/or the last 4 digits of account numbers. Cross out all lines you don't use).*

1. _____
2. _____
3. _____
4. _____
5. _____
6. _____
7. _____
8. _____
9. _____
10. _____
11. _____
12. _____
13. _____
14. _____
15. _____
16. _____
17. _____
18. _____
19. _____
20. _____

21. I reserve the right to add to the list of exhibits if I learn about the existence of an exhibit after I file this list of Witness and Exhibit Lit.

(Date)

_____, Plaintiff (OR) Defendant
(Signature)

(Printed Name)

(Address, City, State, Zip Code)

(Telephone Number/Email)

STATE OF NORTH DAKOTA
COUNTY OF _____

IN DISTRICT COURT
_____ JUDICIAL DISTRICT

_____))
_____))
PLAINTIFF,)
))
vs))
))
_____))
DEFENDANT.)

Case No. _____

DECLARATION OF SERVICE BY MAIL

The person serving court documents by mail states:

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

2. List of Court Documents Served:

- Witness and Exhibit List

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