

Answer to Motion for Default Parenting Responsibility Judgment

Instructions for Form OP3: Answer and Counterclaim (Contested Parenting Responsibility)

(Form OP3: Answer and Counterclaim (Contested Parenting Responsibility) is part of the Answer to Motion for Default Parenting Responsibility Judgment. [Review the instructions for the packet of forms.](#))

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

An Answer and Counterclaim is one of a set of required documents that make up a written Answer to Motion for Default Parenting Responsibility Judgment.

Important! If you already served an answer, or answer and counterclaim, to the summons and complaint, don't fill out, copy, or serve this form.

Skip this form and go to the next form – Form OP4: Confidential Information Form.

Form OP3: Answer and Counterclaim (Contested Parenting Responsibility) is your, the Defendant's, proposed answer and counterclaim to the Plaintiff's summons and complaint.

Form OP3: Answer and Counterclaim (Contested Parenting Responsibility) is your, the Defendant's, written response to the Plaintiff's Complaint. The Answer must state defenses to each of the claims in short, plain statements. The Counterclaim is your written demand to the court for judgment granting the relief you're seeking in the contested parenting responsibility case.

You, the Defendant, arrange to serve the Answer and Counterclaim with all of the other documents listed on **Page 6**.

You, the Defendant, Complete and Sign This Form.

- Top of Form (Caption):** Fill in the caption exactly as the caption on your Form OP1: Answer Brief is filled in.
- First Sentence:** Fill in your name.
- Paragraph 1:** Read carefully. This paragraph states you disagree with every paragraph of the Plaintiff's Complaint, except as specifically stated in Paragraphs 2 through 4 of the Answer.
- Paragraph 2:** If you agree completely with a paragraph of the Plaintiff's Complaint, type or print the paragraph number from the Complaint.
- Paragraph 3:** If you both agree and disagree with a paragraph of the Plaintiff's Complaint, use Paragraph 3 to respond. For each paragraph of the Plaintiff's Complaint that falls into this category, explain what part of the paragraph is admitted and what part is denied.
- Paragraph 4:** If you don't have enough information to agree or disagree with a paragraph of the Plaintiff's Complaint, type or print the paragraph number of the Paragraph.

Affirmative Defenses – An affirmative defense is a legal reason the Plaintiff should lose, even if the Plaintiff's claims are true. Some common affirmative defenses are listed in Paragraph 5. You may have other defenses that aren't listed. You may not have any affirmative defenses.

- Paragraph 5:** Put a checkmark in the box indicating if you **don't** or **do** have an affirmative case. **Don't** check both.
 - If you put a checkmark in the **second box** indicating you have an affirmative defense, check any or all boxes that apply. You're required to prove all affirmative defenses you select later during the case. (*Fill in all information required in the blanks for each affirmative defense you select.*)

Counterclaim – The Defendant's written demand or request to the judge or judicial referee for judgment granting the relief the Defendant is seeking. A counterclaim allows the Defendant to bring their own claims related to the parenting responsibility case.

- Paragraph 6:** Fill in all information regarding the other parent, the Plaintiff.
- Paragraph 7:** Fill in all information regarding you, the Defendant.
- Paragraph 8: Review.** **If** this statement isn't true, you **can't** use this form.

Deploying or deployed parent – a deploying or deployed parent is a uniformed service member who has been notified of orders of movement or mobilization for more than ninety days but less than eighteen months **and** the orders are designated as unaccompanied, not authorized for dependent travel, or don't permit family members to move to the deployment locations.

- Paragraph 9: Paragraph 9:** Put a checkmark (✓) next to the correct statement. If you choose the second statement, put a checkmark (✓) to any or all that apply.
- Paragraph 10:** For **each** minor child of the Plaintiff and Defendant, fill in the following (*a minor child is less than 18 years old*):
- Minor child's **initials** and **year** of birth;
 - **Last** four digits of minor child's social security number (*If the minor child doesn't have a social security number, type or write "N/A"*); and
 - Minor child's **full address**.

If you have more than three minor children together, attach a sheet that lists the information for each child.

- Put a checkmark in the box at the end of Paragraph 10.
- Type or write "Answer & Counterclaim Paragraph 10" on the top of the additional sheet(s).

Parenting Time – (*also called visitation*) the time when the child is to be in the care of a parent.

Residential Responsibility – (*also called custody*) a parent's responsibility to provide a home for the child.

- Paragraph 11:** Put a checkmark in the box next to the residential responsibility option you're requesting from the Court. **Don't** put a checkmark in more than one box.

This form **doesn't** include an option for split residential responsibility (dividing the minor children between the parents). If you want the court to establish split residential responsibility, **Stop!** You can't use this form.

- Paragraph 12:** Put a checkmark in the box next to the statement that's true for your situation. If neither statement is true, **Stop!** You can't use this form.

Jurisdiction – The power of the judge or judicial referee to inquire into the facts, apply the law, and determine and pronounce judgment. There are two types of jurisdiction: 1) Subject matter jurisdiction is the court’s power to hear and determine the type of case or controversy; and 2) Personal jurisdiction is the court’s power over the parties in a civil action. The court must have both types of jurisdiction.

Paragraph 13: Choose and complete **one** () statement about North Dakota’s jurisdiction of this parenting responsibility case. If your circumstances don’t fit in either option, **Stop!** You can’t use this form.

• **If you believe the court has jurisdiction**, put a checkmark in the box next to that statement. **(Only complete the section below if you stated the court has jurisdiction.)**

Pick **one of the two** options below and put a checkmark in the box next to the statement.

- Fill in the full, legal name of the parent.
- Fill in the relationship to the child(ren).

• **If you believe the court doesn’t have jurisdiction**, put a checkmark in the box next to that statement. **(Only complete the section below if you stated the court doesn’t have jurisdiction.)**

Pick **one of the two** options and put a checkmark in the box next to the statement that applies to your situation.

Paragraph 14: Complete all 5 parts of Paragraph 14 (a-e).

• **Paragraph 14(a):** Fill in the information for each minor child listed in Paragraph 10. (Initials **only**)

• **Paragraph 14(b):** Fill in the information for each minor child listed in Paragraph 10. (Initials **only**)

• **Paragraph 14(c):** Put a checkmark in the box next to the statement that’s true for your situation. **If you select the second option, fill in the additional information.**

• **Paragraph 14(d):** Put a checkmark in the box next to the statement that’s true for your situation. **If you select the second option, fill in the additional information.**

- **Paragraph 14(e):** Put a checkmark in the box next to the statement that's true for your situation. **If you select the second option, fill in the additional information.**
- If you need more space to answer any of Paragraph 14, attach a sheet or sheets with the additional information. Type or write on one side only.
 - Type or write "Answer & Counterclaim Paragraph 14" on top of the additional sheet(s).

Paragraph 15: Put a checkmark in the box next to the statement that's true for your situation. **If you select the second option, fill in the case number of the child support order.**

- If you already have a child support order, make sure you have a copy so you can write or type the correct case number in Paragraph 15.

Paragraph 16: Choose and put a checkmark in the one box next that you believe is true for your case. If you put a checkmark in the box asking the Complaint be dismissed, explain why.

Paragraphs 17 through 20: Read the statements carefully. This tells the court what you're asking for from the court.

Paragraph 21: This is your verified statement, under penalty of perjury.

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

Date and Signature: Complete the date and signature block.

- Fill in the date, city, county, state, and country on the "Signed on" line.
- Sign the signature line.
- Fill in all the lines under the signature line. *(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.)*

What do I do next?

- Set aside your completed Form OP3: Answer and Counterclaim. (You make copies later.)
- Complete the next form in the set. (Form OP4: Confidential Information is the next form.)
- Once you've completed all of the forms listed on Page 3, you serve this Form OP3: Answer and Counterclaim.
- The originals are filed with the court in **Step 5**. Make sure to also file the Declaration of Service by Mail.

For Default Parenting Responsibility Judgment the following forms are required:

- OP1: Answer Brief in Opposition to Motion for Default Parenting Responsibility Judgment;
- OP2: Declaration in Opposition to Motion for Default Parenting Responsibility Judgment;
- **OP3a: Answer and Counterclaim (Contested Parenting Responsibility);**
 - **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.
- OP4: Confidential Information Form; and
- OP5: Declaration of Service by Mail.

State of North Dakota

In District Court

County of _____

_____ Judicial District

_____)

Plaintiff,)

Case No. _____

vs)

Answer & Counterclaim

(Contested Parenting Responsibility)

_____)

Defendant.)

Answer

_____ (*Defendant's name*), the Defendant

in this action to establish parenting responsibility, submits this Answer to the allegations in the Plaintiff's Complaint:

1. Defendant denies each and every allegation in the Plaintiff's Complaint unless specifically admitted to in Paragraphs 2 and 3 below.

2. Defendant admits to the allegations in the following paragraphs in the Plaintiff's Complaint (*list each paragraph number with which you completely agree*): _____
_____.

3. Defendant admits part and denies part of the allegations in the following paragraphs in the Plaintiff's Complaint (*list the paragraph number and explain the part of the paragraph with which you agree and the part with which you disagree; Paragraph 3 continues on next page*):

a. Paragraph #____: _____

b. Paragraph #____: _____

c. Paragraph # ____: _____

d. Paragraph # ____: _____

4. Defendant does not have sufficient knowledge to either admit or deny the allegations in the following paragraphs in the Plaintiff's Complaint (*list each paragraph number you don't have enough information with which to agree or disagree*): _____
_____.

Affirmative Defenses (N.D.R.C.P. Rule 8)

5. (*Choose one.*)

Defendant does not have any affirmative defenses.

Defendant has the following affirmative defenses (*select all that apply. You'll be required to prove all affirmative defenses you select*):

Defendant was not served a copy of the Summons and Complaint.

Defendant received a copy of the Summons and Complaint, but was not properly served because _____
_____.

A case to establish parenting responsibility has already started in _____
_____ (*State and name of Court*),
Case Number: _____.

This court does not have jurisdiction because _____
_____.

Other _____
_____.

Counterclaim

The Defendant in this action to establish parenting responsibility, submits this Counterclaim to the Plaintiff's Complaint:

6. Plaintiff's identifying information is as follows:

Plaintiff's full legal name is: _____.

Plaintiff's address is: _____
_____.

Plaintiff's employer's name and address: _____
_____.

Plaintiff's birth year: _____

Last 4 digits of Plaintiff's social security number: XXX-XX-_____

7. Defendant's identifying information is as follows:

Defendant's full legal name is: _____.

Defendant's address is: _____
_____.

Defendant's employer's name and address: _____
_____.

Defendant's birth year: _____

Last 4 digits Defendant's social security number: XXX-XX-_____

8. Plaintiff and Defendant are not husband and wife and have never been married to each other, but were involved in a relationship with each other that resulted in the birth of their minor child(ren).

9. *(Choose one; Paragraph 9 continues on next page)*

Neither Plaintiff nor Defendant is currently in the Armed Services of the United States of America or its allies.

(Select all that apply) Plaintiff/ Defendant is/are currently in the Armed Services of the United States of America or its allies but is not/are not currently deployed or notified of deployment.

10. Plaintiff and Defendant have minor children together, namely:

a. Minor Child's Initials: _____ Year of Birth: _____
Last 4 Digits of Social Security Number: XXX-XX-_____
Address: _____

b. Minor Child's Initials: _____ Year of Birth: _____
Last 4 Digits of Social Security Number: XXX-XX-_____
Address: _____

c. Minor Child's Initials: _____ Year of Birth: _____
Last 4 Digits of Social Security Number: XXX-XX-_____
Address: _____

(Choose if applicable). Additional sheets are attached for Paragraph 10.

11. It is in the best interests of the minor child(ren) that residential responsibility is granted as follows (choose one):

Shared equally between the Plaintiff and the Defendant.

Primary residential responsibility granted to the Plaintiff, subject to the Defendant's reasonable parenting time.

Primary residential responsibility granted to the Defendant, subject to the Plaintiff's reasonable parenting time.

12. (Choose one. Paragraph 12 continues on next page.)

Neither Plaintiff nor Defendant is pregnant.

(Choose one) Plaintiff/ Defendant is pregnant. However, the Plaintiff/ Defendant is not the father, and the child is not at issue in this proceeding.

13. (Choose and complete one .)

This Court **has** jurisdiction to determine parenting rights and responsibilities (*custody and visitation*) and decision making of the minor child(ren) under North Dakota Century Code Section 14-14.1-12 because (*choose one*):

The child(ren) has/have lived in North Dakota with a parent or person acting as a parent for at least six consecutive months immediately before the start of this proceeding. If a child is less than six months old, the child has lived in North Dakota with a parent or person acting as a parent since their birth.

Name of parent or person acting as a parent: _____

Relationship to child(ren): _____

North Dakota was the home state of the child(ren) within six months of the start of this proceeding, and one parent continues to reside in North Dakota.

Name of parent residing in North Dakota: _____

This Court **does not have** jurisdiction to determine parenting rights and responsibilities (*custody and visitation*) and decision making of the minor child(ren) pursuant to North Dakota Century Code Section 14-14.1-12 because (*choose one; continues on next page*):

The child(ren) **have not** lived in North Dakota with a parent or person acting as a parent for at least six consecutive months immediately before the start of this proceeding. If a child is less than six months old, the child **has not** lived in North Dakota with a parent or person acting as a parent since their birth.

North Dakota **was not** the home state of the child(ren) within six months of the start of this proceeding, and one parent **does not** continue to reside in North Dakota.

14. This parenting responsibility case affects the custody of the minor child(ren). The following information is required by North Dakota Century Code Section 14-14.1-20:

a. Within the past five (5) years, the child(ren) has/have lived at the following addresses:

Child's Initials	Address (street, city, state, zip code)	Date From	Date To

b. The names and current addresses of the persons with whom the child(ren) has/have lived in the past five (5) years are as follows:

Child's Initials	Name of Person(s)	Current Address (street, city, state, zip code)

c. (Choose one; Paragraph 14(c) continues on next page)

Defendant **has not** participated, as a party or witness or in any other capacity, in any other proceeding concerning the custody of or visitation with the child(ren).

Defendant **has** participated in the following proceeding(s) concerning the child(ren) as a party or witness, or in another capacity concerning the custody of or visitation with the child(ren):

Name of Court	State	Case Number	Date of Determination

d. (Choose one)

Defendant **does not** know of any proceeding that could affect this parenting responsibility case, including proceedings for enforcement and proceedings relating to domestic violence, protective orders, termination of parental rights, adoptions, neglect, abuse, deprivation, guardianship, or paternity.

Defendant **knows** of the following proceeding(s) that could affect this parenting responsibility case, including proceedings for enforcement and proceedings relating to domestic violence, protective orders, termination of parental rights, adoptions, neglect, abuse, deprivation, guardianship, or paternity.

Name of Court	State	Case Number	Type of proceeding

e. (Choose one.)

Defendant **does not** know of any person who is not a party to this parenting responsibility case who has physical custody of the child(ren) or claims rights of legal custody or physical custody of, or visitation with, the child(ren).

Defendant **knows** of the following person(s) who is/are not a party to this parenting responsibility case who has physical custody of the child(ren) or claims rights of legal custody of physical custody of, or visitation with, the child(ren).

Name of Person(s)	Address (street, city, state, zip code)

(Choose if applicable). Additional Sheets are attached for Paragraph 14.

15. (Choose one)

(Choose one) Plaintiff/ Defendant is an able-bodied person and is able to contribute toward the support of the minor child(ren).

There is a child support order already in existence. The case number is

_____.

Wherefore, Defendant asks for the following relief on the Answer and Counterclaim:

16. (Choose one) Do not dismiss Plaintiff's Complaint. / Dismiss Plaintiff's Complaint because (explain) _____

_____.

17. For residential responsibility and parenting time that serve the minor child(ren)'s best interests.

18. For child support obligations that serve the minor child(ren)'s best interests, including those related to traditional child support, dependent medical and dental insurance coverage, and contribution to the child(ren)'s uninsured dental and medical expenses.

19. That Plaintiff and Defendant pay their own attorney's fees and costs associated with bringing this action.

20. For such further and additional relief as this Court may deem just and proper.

21. I verify, under penalty of perjury under the law of North Dakota, that I am the Defendant in the above-entitled action; that I have read the Answer and Counterclaim and know the contents thereof and that the same is true and correct, except as to matters stated therein upon information and belief as to those matters I state that I believe them to be true and correct.

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

Signature of Defendant

Typed or Printed Name of Defendant

Address

City State Zip Code

Telephone Number

Email Address