

## Instructions for Motion for Continuance (Less Than 21 Days before Hearing or Trial)

### Important! Read Before Using this Packet of Forms.

**ND Legal Self Help staff and court employees can't help you fill out the form(s).** If you're unsure if these forms and instructions suit your circumstances, 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.

**If you need legal advice or legal representation, consult a lawyer licensed to practice in North Dakota.** Go to [ndcourts.gov/legal-self-help/finding-a-lawyer](https://ndcourts.gov/legal-self-help/finding-a-lawyer) for information about finding a lawyer to represent you.

**When you represent yourself, you're expected to know and follow the law, including:**

- State or federal laws that apply to your case;
- Case law, also called court opinions, that applies to your case; and
- Court rules that apply to your case, which may include:
  - North Dakota Rules of Civil Procedure;
  - North Dakota Rules of Court;
  - North Dakota Rules of Evidence;
  - North Dakota Administrative Rules and Orders; and
  - Any local court rules.

Links to the state laws, case law, and court rules are available at [ndcourts.gov](https://ndcourts.gov).

A glossary with definitions of legal terms is available at [ndcourts.gov/legal-self-help](https://ndcourts.gov/legal-self-help).

**When you represent yourself, you're held to the same requirements and responsibilities as a lawyer, even if you don't understand the rules or procedures.**

*These instructions and forms aren't a complete statement of the law. They cover the basic procedure for asking a North Dakota state court to grant a continuance of a hearing or trial when there's less than 21 days before the hearing or trial date. There's no guarantee that all judges and courts will accept forms available through the ND Legal Self Help Center. The Center isn't responsible for any consequences that may result from the forms or information provided.*

***Use these forms and instructions at your own risk.***

## What is a Continuance?

A continuance is you asking the judge or judicial referee to schedule the hearing or trial to a different date and time.

## What is a Motion for Continuance Pursuant to Rule 6.1(b) of the North Dakota Rules of Court?

A Motion for Continuance under [Rule 6.1\(b\) of the North Dakota Rules of Court](#) gives the requirements for making a Motion to ask a court for a continuance filed less than 21 days before the trial or hearing.

- Review Rule 6.1(b) carefully! Effective March 1, 2024, Rule 6.1(b) **doesn't** require you to follow the rules that usually apply to Motions.

## Before You Start, You Must Try to Contact the Other Parties!

**Before you serve or file the Motion For Continuance**, you **must** attempt to contact the other party (or parties) in the civil case to find out if they agree or object to your Motion.

**You can still make your Motion even if you're unable to contact the other party (or parties), or they object to your Motion.** You'll use Form 1: Motion to tell the court if you were able to contact the other party (or parties) and, if so, whether they agree or disagree.

## Who are the Parties in this Motion?

**Plaintiff/Petitioner:** The party (or parties) listed as the Plaintiff/Petitioner in the civil case.

**Defendant/Respondent:** The party (or parties) listed as the Defendant/Respondent in the civil case.

**Moving Party:** The party making the Motion for Continuance. In other words, the party who completes and signs Form 1: Motion.

- The Moving Party may be either the Plaintiff/Petitioner or the Defendant/Respondent in the civil case.

**Opposing Party:** (Also called the **Non-moving Party**.) The other party (or other parties). In other words, the party or parties who didn't bring the Motion. The Opposing Party may answer the Motion.

- The Opposing Party may be either the Plaintiff/Petitioner or the Defendant/Respondent in the civil case.

## Three Steps to Make a Motion for Continuance Under Rule 6.1(b) of the North Dakota Rules of Court

### Step 1 – Complete Form 1 and Form 2.

Complete the following forms in the packet:

- Form 1: Motion For Continuance; and
- Form 2: Order on Motion for Continuance (Proposed).

#### Form 1: Motion For Continuance

**Top of Form (Caption):** Fill in the caption exactly as it appears in the Summons.

**Paragraph 1:** Tell the court if you're listed as the Plaintiff, Petitioner, Defendant or Respondent in the caption for the Summons. Put a checkmark ☒ in the appropriate box. **Choose only one.**

**Paragraph 2:** This paragraph tells the court you're asking for a continuance of the hearing or trial.

- Fill in the date of the trial or hearing; and
- Fill in the number of days you're requesting the trial or hearing to be continued.

**Paragraph 3:** This paragraph tells the court you, the moving party, realize the Motion is being filed less than 21 days before the trial or hearing. It also tells the court that pursuant to Rule 6.1(b), the requirements of Rule 3.2 don't apply.

**Paragraph 4:** Tell the court who you attempted to contact before filling out the forms for this Motion. Put a checkmark ☒ in the appropriate box. **Select all that apply.**

- You're **required** to attempt to contact the other party (or parties) in the civil case to find out if they agree or object to your Motion.

**Paragraph 5:** Tell the court who you contacted by listing their name (Plaintiff, Plaintiff's attorney, Petitioner, Petitioner's attorney, Defendant, Defendant's attorney, Respondent, or Respondent's attorney).

- If you were able to contact the other party, tell the court if the party you contacted agrees or disagrees to your motion. Put a checkmark ☒ in the appropriate box. **Choose only one.**
- If you **weren't** able to contact the other party, tell the court by putting a checkmark ☒ in the "Unable to Contact" box and explain in Paragraph 6 what you did to try to contact that person.
- If you don't use all the blanks, write "Not Applicable" in that blank.

**Paragraph 6:** State the person you were unable to contact and explain what you did to try to contact that person. If this paragraph doesn't apply to you, write "Not Applicable."

**Paragraph 7:** State the reason(s) you're making this Motion **and** why you're making this Motion less than 21 days before the trial or hearing.

**Paragraph 8: Read carefully.** You're stating under penalty of perjury that everything you stated in the Motion is true and correct.

**Date and Signature:** Complete the date and signature block.

- Fill in the date you signed this document.
- Fill in the city, county, state, and country where you signed this document.
- Sign the signature line.
- 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 below the address lines.
- Fill in the telephone number and email address.

## **Form 2: Order on Motion for Continuance (Proposed)**

This is your proposed Order. If the judge or judicial referee grants your Motion, and uses your proposed Order, the judge or judicial referee will complete and sign the Order.

**Top of Form (Caption):** Fill in the caption exactly as you filled in the caption of Form 1: Motion.

**Paragraph 1:** Put a checkmark ☒ in the same box you selected in Paragraph 1 of Form 1: Motion.

**Paragraph 2:** Fill in the date of the hearing, trial, or other proceeding for which you're making this motion.

- **Don't** fill in any of the remaining information for Paragraph 2. If the judge or judicial referee uses your proposed Order, the judge or judicial referee will fill in this information.

**Signature:** **Don't sign this form!** If the judge or judicial referee uses your proposed Order, the judge or judicial referee will date and sign the form.

## Step 2 – Serve Completed Form 1 and Form 2 on All Other Parties.

Service is providing copies of your completed Motion documents on all other parties. The judge or judicial referee won't act on your Motion documents until you file proof of service with the court. A Declaration of Service gives the court proof of service.

**Make at least two copies of the following completed forms:**

- Form 1: Motion For Continuance; and
- Form 2: Order on Motion For Continuance (Proposed).

Keep one copy for your records. You'll arrange to serve the other copy or copies on the other party or parties. You file the original with the Clerk of Court in Step 3.

**Arrange to serve the copies on all other parties by mail:**

- Put the copies in an envelope.
- Address the envelope with the other party's last known address.
  - If you know the other party is currently **represented by a lawyer, address the envelope with the lawyer's address.**
- 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.
- Service by mail is complete upon mailing.

**The person who mailed the envelope(s) 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 the Declaration of Service by Mail form.)

Complete the Caption exactly as the Caption of the Motion form is filled out.

- Follow the directions on the form.
- Make **One Copy** of the completed, dated, and signed Declaration of Service by Mail form for your records.

You file the original Declaration of Service by Mail with the Clerk of District Court in Step 3.

**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](https://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.

### **Step 3 – File the Original Forms with the Clerk of Court.**

File the following original, completed forms with the Clerk of Court.

- Form 1: Motion For Continuance;
- Form 2: Order on Motion for Continuance (Proposed); and
- Form 3: Declaration of Service for each party served.

If the other parties choose to respond in writing, you'll be served a written response to your Motion.

You'll be notified by the court if your Motion is granted or denied.

If your Motion is granted, the Order will give you the new date and time of the hearing or trial.

State Of North Dakota

County Of \_\_\_\_\_

In District Court

\_\_\_\_\_ Judicial District

\_\_\_\_\_  
Plaintiff/Petitioner,  
vs  
\_\_\_\_\_  
Defendant/Respondent.

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

**Motion For Continuance**

*(Less Than 21 Days Before Hearing or Trial)*

1. I am the (*choose one*) ☐ Plaintiff/☐ Petitioner/☐ Defendant/☐ Respondent in this case and I make this Motion to the court for an Order in accordance with Rule 6.1 of the North Dakota Rules of Court.

2. I request a continuance of the hearing or trial scheduled in this matter under Rule 6.1(b) of the North Dakota Rules of Court. The hearing or trial is currently scheduled for \_\_\_\_\_ (*fill in date and time*). I request that the hearing or trial be continued for \_\_\_\_\_ days.

3. I am filing this Motion for Continuance less than 21 days before the hearing or trial. Under Rule 6.1(b) of the North Dakota Rules of Court, the requirements of Rule 3.2 do not apply to Motions filed less than 21 days before the trial or hearing.

4. Before I served or file this Motion for Continuance, I attempted to contact the (*select all that apply*) ☐ Plaintiff/☐ Plaintiff's attorney/☐ Petitioner/☐ Petitioner's attorney/  
☐ Defendant/☐ Defendant's attorney/☐ Respondent/☐ Respondent's attorney/ to find out if they agree or object to this motion.

5. Following is a list of people I checkmarked in Paragraph 4 and their response to whether they agree or object to this request (*list the name of every person you checkmarked in Paragraph 4 and checkmark ☒ the appropriate box next to their name*):

Name:	Agree/Object/ Unable to Contact:
	<input type="checkbox"/> Agree <input type="checkbox"/> Object <input type="checkbox"/> Unable to Contact ( <i>Explain in Paragraph 6 how you tried to make contact</i> )
	<input type="checkbox"/> Agree <input type="checkbox"/> Object <input type="checkbox"/> Unable to Contact ( <i>Explain in Paragraph 6 how you tried to make contact</i> )
	<input type="checkbox"/> Agree <input type="checkbox"/> Object <input type="checkbox"/> Unable to Contact ( <i>Explain in Paragraph 6 how you tried to make contact</i> )
	<input type="checkbox"/> Agree <input type="checkbox"/> Object <input type="checkbox"/> Unable to Contact ( <i>Explain in Paragraph 6 how you tried to make contact</i> )

☐ Additional sheets are attached. (*Choose if applicable*)

6. I was unable to contact the following people as indicated in Paragraph 5. I did the following to try to contact them (*include the name of the person and explain what you did to try to contact that person. If you were able to contact all the people listed above, write “Not Applicable” in this space*):



7. I am making this Motion because (*State the reasons you're making this request. Explain why you're making this Motion less than 21 days before the trial or hearing*):

8. I declare, under penalty of perjury under the law of North Dakota, that everything I stated in this Motion for Continuance is true and correct.

Signed on \_\_\_\_\_ (*date*) in \_\_\_\_\_ (*city*),  
\_\_\_\_\_ (*county*), \_\_\_\_\_ (*state*), \_\_\_\_\_ (*country*).

\_\_\_\_\_  
(*Signature of Moving Party*)

\_\_\_\_\_  
(*Printed Name of Moving Party*)

\_\_\_\_\_  
(*Address*) (City, State, Zip Code)

\_\_\_\_\_  
(*Telephone Number*) (Email Address)

State Of North Dakota

County Of \_\_\_\_\_

In District Court

\_\_\_\_\_ Judicial District

\_\_\_\_\_  
Plaintiff/Petitioner,  
vs  
\_\_\_\_\_  
Defendant/Respondent.

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

**Order on Motion For Continuance**  
*(Less Than 21 Days Before Hearing or Trial)*

1. The ☐ Plaintiff/☐ Defendant/☐ Petitioner/☐ Respondent filed a Motion for Continuance pursuant to Rule 6.1(b) of the North Dakota Rules of Court. The Court having considered the Motion for Continuance **Hereby Orders:**

2. ☐ The Motion for Continuance of the hearing or trial scheduled for *(fill in date and time)* \_\_\_\_\_ is **granted**. The date is rescheduled as follows: \_\_\_\_\_.

☐ The Motion for Continuance of the hearing or trial scheduled for *(fill in date and time)* \_\_\_\_\_ is **denied**.

**By The Court:**

\_\_\_\_\_  
*(District Judge or Judicial Referee Signature)*

State Of North Dakota

County Of \_\_\_\_\_

In District Court

\_\_\_\_\_ Judicial District

\_\_\_\_\_  
Plaintiff/Petitioner,  
vs  
\_\_\_\_\_  
Defendant/Respondent.

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

**Declaration of Service  
By Mail**

*(A separate Declaration is required for each person served.)*

**The person serving court documents by mail states:**

1. My name is \_\_\_\_\_ (Name  
of person who mailed documents).

2. I am at least 18 years of age.

3. **List of Court Documents Served** (checkmark ☒ next to each document served. Use  
"Other" to write the title of each document served that is not already listed):

☐ Motion For Continuance

☐ Order on Motion For Continuance (*Proposed*)

☐ Other: \_\_\_\_\_

☐ Other: \_\_\_\_\_

**4. 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 documents listed in Paragraph 3 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 6.

**5. Service by Mail:**

Date Court Documents Were Served by Mail: \_\_\_\_\_

**6. Person Served by Mail:**

Name of Person Served: \_\_\_\_\_

Mailing Address: \_\_\_\_\_

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

**7.** 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)

\_\_\_\_\_  
(Printed Name)

\_\_\_\_\_  
(Address)

\_\_\_\_\_  
(City, State, Zip Code)

\_\_\_\_\_  
(Telephone Number)

\_\_\_\_\_  
(Email Address)