

Instructions to Answer a Parenting Responsibility Case (Custody & Visitation) When the Parents Don't Agree

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 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 can be found at ndcourts.gov.

A glossary with definitions of legal terms is available at 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 to answer a summons and complaint in a North Dakota state district court parenting responsibility (custody and visitation) case when the parents **don't agree** to all issues related to the case. 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.***

Warning!

Don't Ignore the Summons and Complaint for Parenting Responsibility (Custody and Visitation)!

You have only 21 days to respond. If you don't answer the Summons and Complaint in writing, the judge or judicial referee is allowed to grant a default parenting responsibility judgment without your input!

See 1(a) of these instructions to calculate the deadline to serve your Answer & Counterclaim.

If you have any doubts about whether it's proper for the Plaintiff parent to serve you parenting responsibility papers in North Dakota, consult a lawyer immediately and before you serve or file any written response, answer, counterclaim, or any other court paper.

What is a Contested Parenting Responsibility Action, or Case?

Parents who have never been married to each other may ask a North Dakota state district court to establish parenting responsibilities (custody and visitation) to their children. (When parents are married to each other, parenting responsibilities are handled as part of the divorce or legal separation case.)

Contested parenting responsibilities means that the parents can't agree on every issue, or one parent can't be found. One parent may start the parenting responsibility case on their own. The other parent answers in writing, if they want to take part in the case. If, after the case starts, the parents don't reach an agreement on all issues, the judge or judicial referee decides the unresolved issues at trial.

If you and the other parent aren't in agreement in writing on every absolutely every issue in the parenting responsibility case, you have a contested case.

Why Doesn't the Summons and Complaint Have a Case Number?

In North Dakota, service of the Summons and Complaint on you, the Defendant, starts the parenting responsibility case. Filing with the Clerk of Court doesn't start a parenting responsibility case and isn't required to start a parenting responsibility case. A case number is only assigned by the Clerk of Court after the parenting responsibility case is filed with proof you, the Defendant, were served.

How Do I Know the Summons and Complaint are Real (Valid)?

If the Summons is signed by a lawyer, to be valid, the lawyer **must** be currently licensed to practice in North Dakota. To check if that lawyer is allowed to sign the Summons, go to the [lawyer search](#) on the North Dakota Court System website. Enter the lawyer's Bar ID number (below their signature on the Summons) or their name.

If the Plaintiff parent isn't represented by a lawyer, the Summons **must** be signed by a clerk of district court or deputy clerk of district court. If it's signed by just the Plaintiff, the Summons isn't valid.

The Clerk of Court Told Me Nothing is Filed. Why?

Again, in North Dakota, service starts the parenting responsibility case. Filing **doesn't** start the parenting responsibility case. If the Summons and Complaint haven't been filed yet, the Clerk of Court won't have a copy or a record of the documents.

What If I Want to File my Answer & Counterclaim Even Though the Summons & Complaint Aren't filed?

Go to **Step 6b** for more information about your options.

Who are the Parties in a Parenting Responsibility Case?

Plaintiff (or Petitioner) – The parent who starts the contested parenting responsibility case by serving a summons and complaint on the other parent.

Defendant (or Respondent) – The parent who is served the summons and complaint to establish parenting responsibility.

Real Party in Interest (*also called the Statutory Real Party in Interest*) – a person or entity who has the right bring a case, even though someone else benefits if the case is successful.

The State of North Dakota is added as a real party in interest to parenting responsibility cases **only when:**

1. Child support will be established or modified **and** a minor child receives assistance through programs administered by the North Dakota Department of Health and Human Services, such as temporary assistance to needy families, Medicaid, and foster care; **or**

2. Child support will be established or modified **and** an application was made and accepted for services provided by the Child Support Division of the North Dakota Department of Health and Human Services; **or**
3. Child support will be established or modified **and** North Dakota or the Child Support Division of the North Dakota Department of Health and Human Services is required to be involved in proceedings related to support orders of other states or countries under the [Uniform Interstate Family Support Act](#).

How is Paternity Established?

The father-child relationship is established by:

- **An acknowledgment of paternity**
 - A process that happens shortly after birth that requires signatures on a form from the mother, father, and, if the mother is married, the husband. Then, the father's name is added to the birth certificate.
- **A civil action, or case to establish paternity**
 - A civil case that establishes the father of a child that may involve genetic testing. A district court judge issues an order establishing paternity so the father's name can be added to the birth certificate.
- **Adoption**
 - A civil case that terminates the parental rights of a parent, or parents, of a child and establishes another individual, or individuals, as the parent(s). A district court judge issues an adoption order so a new birth certificate is issued for the child. The new birth certificate lists the adoptive parent's name, or names.

If a father-child relationship isn't established, the judge or judicial referee decides whether to establish paternity as part of this parenting responsibility case. The judge or judicial referee may decide to dismiss this case and require the parents to start a case to [establish paternity](#).

How is Maternity Established?

The mother-child relationship is established by:

- **Giving birth to the child**
- **A civil action to establish maternity**
 - A civil case that establishes the mother of a child. A district court judge issues an order establishing maternity so the mother's name can be added to the birth certificate.

- **Adoption**

- A civil action that terminates the parental rights of a parent, or parents, of a child and establishes another individual, or individuals, as the parent. A district court judge issues an adoption order so a new birth certificate is issued for the child. The new birth certificate lists the adoptive parent's name, or names.

If a mother-child relationship isn't established, the judge or judicial referee decides whether to establish maternity as part of this parenting responsibility case. The judge or judicial referee may decide to dismiss this case and require the parents to start a case to establish maternity.

Do the Parents & Children Need to Live in North Dakota to Establish Parenting Responsibility (Custody and Visitation)?

[Chapter 14-14.1 of the North Dakota Century Code](#) governs when a North Dakota state district judge or judicial referee can make decisions about child custody issues and enforce child custody orders. This is called jurisdiction and includes parenting responsibility cases.

Home state – the state where a child lived with a parent for at least six consecutive months immediately before the start of a child custody proceeding. In the case of a child less than six months old, home state means the state where the child lived from birth with a parent. A period of temporary absence of any of the mentioned persons is part of the period.

A North Dakota District Court can establish parenting responsibility to a minor child when:

1. North Dakota is the home state of the child on the date the parenting responsibility case starts with service of the summons and complaint; **or**
2. North Dakota was the home state of the child within six months before the date the parenting responsibility case started with service of the summons and complaint, **and** the child is absent from North Dakota but a parent or person acting as a parent continues to live in North Dakota; **or**
3. North Dakota **isn't** the home state, **but** a court of the child's home state declined jurisdiction because North Dakota is the more appropriate forum, **and**:
 - The child and the child's parents, or the child and at least one parent or a person acting as a parent, have a significant connection with North Dakota other than mere physical presence; **and**
 - Substantial evidence is available in North Dakota concerning the child's care, protection, training, and personal relationships.

You may use these forms if you meet the "Home State" residency requirements of option #1 or #2. If not, you create your own documents, or retain a lawyer to create your documents.

What are the Laws and Rules for Parenting Responsibility Cases?

Interpreting what the law means for a specific set of circumstances is a fundamental part of legal representation. North Dakota Legal Self Help Center staff can't provide legal representation of any kind under any circumstances. Legal representation can only be provided to you by a lawyer who agrees to represent you.

Chapter 14-09 of the North Dakota Century Code at ndlegis.gov/cencode/t14c09.html

Chapter 14-14.1 of the North Dakota Century Code at ndlegis.gov/cencode/t14c14-1.html

The North Dakota Rules of Civil Procedure at ndcourts.gov/legal-resources/rules/ndrcivp.

The North Dakota Rules of Court at ndcourts.gov/legal-resources/rules/ndrct.

See particularly:

- Rule 8.2 (Interim Orders),
- Rule 8.3.1 (Case Management), and
- Rule 8.4 (Summons).

The North Dakota Rules of Evidence at ndcourts.gov/legal-resources/rules/ndrev.

North Dakota Case Law (Court Opinions) at ndcourts.gov/supreme-court/opinions. Use the "Topic" drop down menu to find topics that correspond to your legal issue.

You Must Calculate Child Support.

Warning! You Must calculate your child support amount as part of your case, unless a North Dakota state district court, an out of state court, or tribal court already ordered child support.

Child support is based on guidelines set by the North Dakota Department of Health and Human Services. If a parent can show a different ability to earn income than the guidelines show, the judge may order a higher or lower child support payment.

The North Dakota Department of Health and Human Services created and provides support for the Child Support Guidelines Calculator. Go to childsupport.dhs.nd.gov/partners/lawyers/child-support-guidelines/current-child-support-guidelines for the Calculator.

You may be able to apply for services with [North Dakota Child Support](#). If your application for full services is approved by North Dakota Child Support, they can help to establish an order for child support and medical support in a separate child support case.

Court personnel and staff of the ND Legal Self Help Center **can't** help you with your child support calculations.

Warning! If you plan to ask the judge to allow a parent to pay a different amount of child support than the Child Support Guidelines Calculator amount, [consult a lawyer](#) for advice. The Calculator amount is presumed to be the correct amount of child support. The parent asking for a deviation from the Calculator amount must prove they meet one of the **limited exceptions** for deviation, and the deviation is in the best interests of the child(ren). See [North Dakota Century Code Section 14-09-09.7](#) and [North Dakota Administrative Code Section 75-02-04.1-09](#).

Documents to Answer a Parenting Responsibility Case When the Parents Don't Agree

2 Forms You, the Defendant, Must Complete:

Form Title	Description
Answer & Counterclaim (Contested Parenting Responsibility)	The Answer is your written response to the Complaint. The Counterclaim is a written demand to the judge or judicial referee for judgment granting the relief you're seeking.
Confidential Information Form	Lists the full confidential information that isn't allowed to appear in other documents filed with the court. This form is a part of the court record that isn't seen by the public.

All of the Forms Must be Filled out Completely!! Don't leave any of the paragraphs within the forms unanswered.

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

If a form(s) isn't completely filled out, it could result in the clerk not accepting your form(s) for filing, or the court may send the form(s) 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.

Forms for Common & Uncomplicated Circumstances Only

Forms are available **only** for parenting responsibility cases involving common and uncomplicated circumstances. If these forms don't work for your situation, you need to create your own documents, or [retain a lawyer](#) to create the documents for you.

Caution Regarding Domestic Violence

Domestic violence protection orders and disorderly conduct restraining orders generally don't allow communication between the party protected by the order and the party the order is against.

If there's a domestic violence protection order or disorderly conduct restraining order in effect, review the order to see if you're allowed to contact or serve the other parent.

Be careful not to violate the order! Violating the order could have legal consequences for you and/or the other parent.

Before serving the other parent, 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 the other parent.**

Contact North Dakota Domestic & Sexual Violence Coalition for information about domestic violence/sexual assault (DA/SA) victim advocacy centers across North Dakota staffed with professionals who can help you with safety planning, finding shelter, obtaining a protection order, and more.

North Dakota Domestic & Sexual Violence Coalition
521 E Main Ave, Suite 320
Bismarck, ND 58501
(701) 255-6240, Ext. 1016
(888) 255-6240

ndsvc.org/FIND-HELP

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1a: Calculate the Deadline to Serve Your Answer & Counterclaim

You, the Defendant, must serve a copy of your Answer and Counterclaim on the Plaintiff parent within twenty-one (21) days after service of the Summons and Complaint. If you don't, the Plaintiff may ask the court for a default parenting responsibility judgment **without** your input.

1. Don't include the day you were served the Summons and Complaint. (See the examples below):
 - a. **Service by Sheriff** – start your count the day after you were served.
 - b. **Personal Service** – start your count the day after you were served.
 - c. **Service by Mail** – start your count the day after you signed the green receipt card for the Summons and Complaint.
 - d. **Service by Publication** – You're served fifteen (15) days after the first publication of the Summons in the newspaper. Start your count the day after the 15th day.
2. Count every day, including Saturdays, Sundays, and North Dakota state holidays.
3. Include the last day of the deadline, but if the last day falls on a Saturday, Sunday, or North Dakota state holiday, the deadline continues to run until the end of the next day that isn't a Saturday, Sunday, or North Dakota state holiday.
 - a. For example, if the last day of the 21 day deadline lands on a Sunday, the deadline extends until the end of the next day, which is Monday.

Service – Copies of documents filed with the court **must** be given to the other parties in the parenting responsibility case.

Proof of service is an important step in the legal process. A Declaration of Service completed by the individual who served the copies of documents on the Plaintiff is proof that service occurred. The court won't act on papers filed with the court until proof of service is filed.

1b: Calculate the Deadline for Completing the Informational Statement (N.D.R.Ct. Rule 8.3.1)

Important: Before you begin working on the Informational Statement (N.D.R.Ct. Rule 8.3.1), it's very important that you complete the Answer and Counterclaim and serve the other parent, the Plaintiff. Missing the deadline to serve your Answer and Counterclaim could cause the parenting responsibility case to be decided by the judge or judicial referee by default.

The parents must meet after the Plaintiff served the Summons and Complaint. You and the other parent have **37 calendar** days after the date of service of the Summons and Complaint to complete and file the Informational Statement (N.D.R.Ct. Rule 8.3.1).

***Why 37 days?** Within 30 days after service of the Summons and Complaint, the parents must meet to prepare the Informational Statement. The Summons, Complaint and Information Statement must be filed no later than 7 days after the compulsory meeting.

See the instructions in Step 1a to assist you in calculating the deadline.

You and the Plaintiff meet in Step 9 (Page 21).

2: Fill Out the “Answer & Counterclaim” Form

Parental Rights and Responsibilities – All the rights and responsibilities a parent has concerning the parent’s child.

***You, the Defendant, complete, date, and sign this form.**

Answer and Counterclaim – A written response by the Defendant to the Complaint. The Answer must also state defenses to each of the claims in short, plain statements.

Fill in the Top Part of the Form (Caption):

Note: the top part of each form is known as the “Caption,” and the information is the same on every form you fill out.

- Complete the top of the Answer & Counterclaim exactly as it appears in the Plaintiff parent’s Summons.
- Don’t** fill in the “Case No.” The Clerk of Court assigns a case number after the Plaintiff files the Summons and Complaint.
- _____: Fill in your name.
- Paragraph 1: Review.** This paragraph states you, the Defendant, 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.
- 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.

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.*)

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 your spouse, 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 or the *Contested Parenting Responsibility* packet of forms.

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.

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 10: Fill in the information for each minor child of the Plaintiff and Defendant. For each minor child, fill in the following:

- 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 additional child. Type or write “Answer & Counterclaim Paragraph 10” on the top of the additional sheet(s). Type or write on one side **only**.

- Put a checkmark (✓) in the box at the end of Paragraph 10.

Paragraph 11: Put a checkmark (✓) next to the residential responsibility and parenting time option that you request from the Court. **Don't** put a checkmark in more than one box.

The *Contested Parenting Responsibility* packet of forms **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 or the *Contested Parenting Responsibility* packet of forms.

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

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

Paragraph 12: Put a checkmark (✓) next to the statement that is true for your situation. If neither statement is true, **Stop!** You can't use this form or the *Contested Parenting Responsibility* packet of forms.

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 or the *Contested Parenting Responsibility* packet of forms.

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 19: Read the statements carefully. This tells the court what you're asking for from the court. 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.*)

You make copies of the completed Answer & Counterclaim on Page 15 of these instructions.

3: Fill Out the "Confidential Information Form"

Court records are generally available to the public, and anyone can request to look in almost any court file. However, certain information is required to remain confidential, even if it's part of a public court record.

Only you are responsible for making sure confidential information doesn't appear in your completed forms documents.

Confidential information includes:

- Full names of minor children
- Social security numbers
- Taxpayer identification numbers
- Birthdates
- Financial-account numbers.

Documents filed with the Court with references to confidential information must include only:

- Initials of minor children
- The last four (4) digits of the social security number and taxpayer identification number
- The year of birth
- The last four (4) digits of the financial-account number

Since the forms in this packet include references to confidential information, you must prepare a Confidential Information form. The form must contain the full confidential information that's referenced in your completed forms.

Fill in the Top Part of the Form:

***You, the Defendant, complete this form.**

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

Fill in the Plaintiff and Defendant Information:

- Fill in the full information for the other parent, the Plaintiff, and the full information for you, the Defendant.
- Fill in the year of birth and last 4 digits of the social security number for you and Plaintiff.

Fill in each minor child's information:

- Fill in the minor child's full legal name. In the redacted section, fill in **only** the minor child's initials.
- Fill in the minor child's birth date. In the redacted section, fill in **only** the year.
- Fill in the social security number for each minor child. In the redacted section, fill in **only** the last four digits of the social security number.
 - If a minor child doesn't have a social security number, type or write “N/A.”
 - If you have more than three minor children together, attach a sheet that lists the information for each additional child.

You, the Defendant, must sign and date the Confidential Information Form.

You make one copy of the Confidential Information Form for your records in the next step.

4: Sign and Make Copies of Completed Forms

Sign Documents

You, the Defendant, must sign and complete the following forms:

1. Answer & Counterclaim; and
2. Confidential Information Form.

Make Copies

Make 2 copies of the following:

1. Answer & Counterclaim.

One copy is for your records, one copy is to serve on the Plaintiff parent. The original is filed with the Court on **Page 18**.

Make one copy of the following:

1. Confidential Information Form.

One copy is for your records. You don't serve the Confidential Information Form on the Plaintiff. The original is filed with the Court on **Page 18**.

5: Serve Copies of Completed Forms on the Plaintiff

Service is providing copies of your completed Answer & Counterclaim on the Plaintiff parent. The court won't file your Answer & Counterclaim until you file proof of service with the court. A Declaration of Service by Mail gives the court proof of service.

Review the Caution Regarding Domestic Violence on Page 8!

Serve the Plaintiff parent a copy of the Answer & Counterclaim by mail:

- The person serving by mail must be at least 18 years old.
- Put the copy in an envelope.
- Address the envelope with the Plaintiff's last known address.
 - If you know the Plaintiff is currently represented by a lawyer, address the envelope with the lawyer's address, **Not** the Plaintiff'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:

- 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 answer 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

- Fill in the Top Part of the Form:** The information to fill out the top part of the form (Caption) is the same as on the Summons form.
- Paragraph 1:** Fill in your name.
- Paragraph 2:** Make sure the Answer & Counterclaim is 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 and the mailing address.
- Paragraph 6:** Review carefully.
- Date and Signature:**
 - 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.*)

(This space left intentionally blank.)

6a: When a Notice of Filing is Received from the Plaintiff, You File Your Original, Completed, Answer & Counterclaim with the Clerk of Court

- Take the completed **original** of the Answer & Counterclaim, Confidential Information Form, and Declaration of Service by Mail to the Clerk of Court's Office in the North Dakota county where the parenting responsibility case is filed:
 - If You Had the Documents Served by Mail, you file the originals of the following:**
 1. Answer & Counterclaim;
 2. Confidential Information Form; and
 3. Declaration of Service by Mail.
- Pay the filing fee. The filing fee for answering a parenting responsibility case is **\$100**.
 - If you can't afford to pay the filing fee, the judge or judicial referee may waive the filing fee under certain circumstances. The fee waiver forms are found at ndcourts.gov/legal-self-help/fee-waiver.
 - Follow the instructions to complete the form set.
 - File the completed form set at the same time you file your other documents.

6b: If You Haven't Received a Notice of Filing from The Plaintiff and the Clerk of Court Told You the Plaintiff Hasn't Filed the Summons and Complaint

If the Summons and Complaint haven't been filed, you, the Defendant, have two options:

Option 1: You can file your copy of the Summons and Complaint which were served on you and your **original** Answer & Counterclaim, Confidential Information, and Declaration of Service by Mail. You're required to pay the \$160 filing fee for the Plaintiff parent and the \$100 filing fee for your Answer & Counterclaim.

- You must serve a Notice of Filing on the Plaintiff (or Plaintiff's lawyer.)
- After the court makes a judgment in the parenting responsibility case, you may ask the court to award you the cost of the \$160 filing fee.

See Page 29 for instructions on how to prepare and file the Notice of Filing.

Option 2: You can serve a Demand for Filing demanding the Plaintiff parent file their Summons and Complaint within 20 calendar days of being served the Demand for Filing.

- If the Plaintiff misses the 20 day deadline, they can make a motion to the court within 60 calendar days after service of the Demand for Filing. If the court finds excusable neglect, the parenting responsibility case continues.
- If the Plaintiff doesn't file the Summons and Complaint within the deadline, service of the Summons on you is void, meaning the current parenting responsibility case is over.
- If you choose Option 2, see the [Informational Guide](#) which also includes a Demand for Filing form.

7: Complete, Serve, and File the Notice of Filing

After you file your Answer & Counterclaim, you're required to file and serve a Notice of Filing on the Plaintiff parent.

Complete the Notice of Filing

***You, the Defendant, complete this form.**

Fill in the Top Part of the Form:

- The information to fill out the top part of the form ("Caption") is the same as on the Summons form.
- Include the case number.

To: List the Plaintiff's full name.

Paragraph 1:

- The Answer & Counterclaim checkbox is already checked for you, because you always need to file the Answer & Counterclaim.
- If you also filed the Summons and Complaint (see Step 6b of these Instructions) put a checkmark in the second box.
- Fill in the name of the county where your parenting responsibility case was filed **and** the case number assigned by the Clerk of Court.

Paragraph 2: Review.

Date and Signature:

- Fill in the date you signed this document.
- 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.)
- Make two copies of the Notice of Filing**
 - One copy is for your records, one copy is to serve on the Plaintiff.
- Serve the copy of the Notice of Filing**
 - The copy of the Notice of Filing must be served on the Plaintiff, or their lawyer, if the Plaintiff is represented. **Caution: Review the warning regarding service and domestic violence on Page 8.** This can be done by U.S. mail, first-class, postage prepaid.
- 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 ("Caption") is the same as on the Summons form.
 - Include the case number.
 - Paragraph 1:** Fill in your name.
 - Paragraph 2:** Make sure the Notice of Filing is 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 and their 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.
 - 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.)
- File the Following Original Documents with the Court**
 - Notice of Filing; and
 - Declaration of Service by Mail.

What Are the Next Steps?

8: Court-Ordered Mediation

Family Law Mediation Program for Contested Custody and Visitation (Up to 6 hours paid by the Court System)

This is a court system program **only** for resolving **disputed** parental rights and responsibilities matters through mediation. The Family Law Mediation Program provides up to 6 hours of combined pre-mediation orientation and mediation at no cost to the parents. When the summons, complaint, and proof of service are filed with the clerk of court, the case is referred to the Family Law Mediation Program **if** custody or visitation is contested.

Go to the Family Law Mediation Program webpage for more information about the program. Contact information for the program administrator is available at the bottom of the webpage. ndcourts.gov/state-court-administration/family-law-mediation-program.

9: You and the Plaintiff Must Meet to Complete and File the Informational Statement (N.D.R.Ct. Rule 8.3.1) Within 37 Days* After Service of the Summons and Complaint

See the instructions and forms for Informational Statement (N.D.R.Ct. Rule 8.3.1) at ndcourts.gov/legal-self-help/steps-you-must-take-before-the-court-can-establish-parenting-responsibility-case-management.)

***Why 37 days?** Within 30 days after service of the complaint, the parents must meet to prepare the informational statement. The complaint and information statement must be filed no later than 7 days after the compulsory meeting.

What if the Other Parent and I Are Unable to Complete This Form Together?

N.D.R.Ct. Rule 8.3.1 requires the parents to meet to prepare the Rule 8.3 N.D.R.Ct., Informational Statement together. Rule 8.3.1 doesn't say what to do if you're unable to meet with the other parent in person, by text, by email, or some other way.

If you decide to prepare, serve, and file this form on your own, Paragraph 1 includes space for you to explain why. The judge or judicial referee decides whether your Rule 8.3.1 N.D.R.Ct., Informational Statement meets the requirements of N.D.R.Ct. Rule 8.3.1.