

IN THE SUPREME COURT
STATE OF NORTH DAKOTA

ORDER OF ADOPTION

Supreme Court No. 20170230

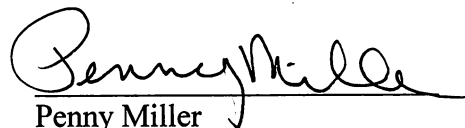
**Proposed Amendments to N.D. Sup. Ct. Admin. R. 41,
Access to Court Records; N.D.R.Ct. 8.3, Case Management
(Divorce Cases), Appendix E - Property and Debt Listing Form**

[¶1] On June 12, 2017, the Joint Procedure Committee filed a Petition with the Supreme Court requesting amendments to North Dakota Supreme Court Administrative Rule 41, North Dakota Rules of Court 8.3 and Appendix E to Rule 8.3 to reconcile the rules with legislative amendments adopted to N.D.C.C. § 14-05-24.3 and § N.D.C.C. 50-06-05.1 making information on property and debt listings confidential and protecting reports requested from social services by a court in a juvenile or criminal case. The legislative amendments become effective August 1, 2017. The proposed amendments are available at <http://www.ndcourts.gov/Court/Notices/Notices.htm>. Individuals who do not have internet access may contact the Office of the Clerk of the Supreme Court to obtain a copy of the proposal. The Court considered the matter, and

[¶2] ORDERED, that the amendments to Supreme Court Administrative Rule 41, North Dakota Rules of Court 8.3 and Appendix E to North Dakota Rules of Court 8.3 are ADOPTED effective August 1, 2017, subject to a 21-day comment period.

[¶3] IT IS FURTHER ORDERED, any person wishing to comment on the amendments may do so in writing before **Wednesday, July 12, 2017**. Written comments may be e-mailed to Penny Miller, Clerk of the Supreme Court, at supclerkofcourt@ndcourts.gov, or addressed to 600 E. Boulevard Ave., Bismarck, ND 58505-0530.

[¶4] The Supreme Court of the State of North Dakota convened the 21st day of June, 2017, with the Honorable Gerald W. VandeWalle, Chief Justice, the Honorable Carol Ronning Kapsner, the Honorable Daniel J. Crothers, the Honorable Lisa Fair McEvers and the Honorable Jerod E. Tufte, Justices, directing the Clerk of the Supreme Court to enter the above order.



Penny Miller
Clerk
North Dakota Supreme Court

RULE 41. ACCESS TO COURT RECORDS

1 Section 1. Purpose.

2 The purpose of this rule is to provide a comprehensive framework for
3 public access to court records. Every member of the public will have access to
4 court records as provided in this rule.

5 Section 2. Definitions.

6 (a) "Court record," regardless of the form, includes:

7 (1) any document, information, or other thing that is collected, received, or
8 maintained by court personnel in connection with a judicial proceeding;

9 (2) any index, calendar, docket, register of actions, official record of the
10 proceedings, order, decree, judgment, minute, and any information in a case
11 management system created by or prepared by court personnel that is related to a
12 judicial proceeding; and

13 (3) information maintained by court personnel pertaining to the
14 administration of the court or clerk of court office and not associated with any
15 particular case.

16 (b) "Court record" does not include:

17 (1) other records maintained by the public official who also serves as clerk
18 of court;

19 (2) information gathered, maintained or stored by a governmental agency or

20 other entity to which the court has access but which is not part of the court record
21 as defined in this rule; and

22 (3) a record that has been disposed of under court records management
23 rules.

24 (c) "Public access" means that the public may inspect and obtain a copy of
25 the information in a court record.

26 (d) "Remote access" means the ability to electronically search, inspect, or
27 copy information in a court record without the need to physically visit the court
28 facility where the court record is maintained.

29 (e) "Bulk distribution" means the distribution of all, or a significant subset,
30 of the information in court records, as is and without modification or compilation.

31 (f) "Compiled information" means information that is derived from the
32 selection, aggregation or reformulation by the court of some of the information
33 from more than one individual court record.

34 (g) "Electronic form" means information in a court record that exists as:

35 (1) electronic representations of text or graphic documents;

36 (2) an electronic image, including a video image, of a document, exhibit or
37 other thing;

38 (3) data in the fields or files of an electronic database; or

39 (4) an audio or video recording, analog or digital, of an event or notes in an
40 electronic file from which a transcript of an event can be prepared.

41 Section 3. General Access Rule.

42 (a) Public Access to Court Records.

43 (1) Court records are accessible to the public except as prohibited by this
44 rule.

45 (2) There must be a publicly accessible indication of the existence of
46 information in a court record to which access has been prohibited, which
47 indication may not disclose the nature of the information protected.

48 (3) A court may not adopt a more restrictive access policy or otherwise
49 restrict access beyond that provided for in this rule, nor provide greater access than
50 that provided for in this rule.

51 (b) When Court Records May Be Accessed.

52 (1) Court records in a court facility must be available for public access
53 during normal business hours. Court records in electronic form to which the court
54 allows remote access will be available for access subject to technical systems
55 availability.

56 (2) Upon receiving a request for access to a court record, the clerk of court
57 must respond as promptly as practical. If a request cannot be granted promptly, or
58 at all, an explanation must be given to the requestor as soon as possible. The
59 requestor has a right to at least the following information: the nature of any
60 problem preventing access and the specific statute, federal law, or court or
61 administrative rule that is the basis of the denial. The explanation must be in

62 writing if desired by the requestor.

63 (3) The clerk of court is not required to search within a court record for
64 specific information that may be sought by a requestor.

65 (c) Access to Court Records Filed Before March 1, 2009. Court records
66 filed before the adoption of N.D.R.Ct. 3.4 may contain protected information listed
67 under N.D.R.Ct. 3.4(a). This rule does not require the review and redaction of
68 protected information from a court record that was filed before the adoption of
69 N.D.R.Ct. 3.4 on March 1, 2009.

70 (d) Fees for Access. The court may charge a fee for access to court records
71 in electronic form, for remote access, for bulk distribution or for compiled
72 information. To the extent that public access to information is provided exclusively
73 through a vendor, the court will ensure that any fee imposed by the vendor for the
74 cost of providing access is reasonable.

75 Section 4. Methods of Access to Court Records.

76 (a) Access to Court Records at Court Facility.

77 (1) Request for Access. Any person desiring to inspect, examine, or copy a
78 court record must make an oral or written request to the clerk of court. If the
79 request is oral, the clerk may require a written request if the clerk determines that
80 the disclosure of the record is questionable or the request is so involved or lengthy
81 as to need further definition. The request must clearly identify the record requested
82 so that the clerk can locate the record without doing extensive research.

83 Continuing requests for a document not yet in existence may not be considered.

84 (2) Response to Request. The clerk of court is not required to allow access
85 to more than ten files per day per requestor but may do so in the exercise of the
86 clerk's discretion if the access will not disrupt the clerk's primary function. If the
87 request for access and inspection is granted, the clerk may set reasonable time and
88 manner of inspection requirements that ensure timely access while protecting the
89 integrity of the records and preserving the affected office from undue disruption.
90 The inspection area must be within full view of court personnel whenever possible.
91 The person inspecting the records may not leave the court facility until the records
92 are returned and examined for completeness.

93 (3) Response by Court. If a clerk of court determines there is a question
94 about whether a record may be disclosed, or if a written request is made under
95 Section 6(b) for a ruling by the court after the clerk denies or grants an access
96 request, the clerk must refer the request to the court for determination. The court
97 must use the standards listed in Section 6 to determine whether to grant or deny the
98 access request.

99 (b) Remote Access to Court Records.

100 (1) In General. The following information in court records must be made
101 remotely accessible to the public if it exists in electronic form, unless public access
102 is restricted under this rule:

103 (A) litigant/party indexes to cases filed with the court;

104 (B) listings of new case filings, including the names of the parties;
105 (C) register of actions showing what documents have been filed in a case;
106 (D) calendars or dockets of court proceedings, including the case number
107 and caption, date and time of hearing, and location of hearing; and
108 (E) reports specifically developed for electronic transfer approved by the
109 state court administrator and reports generated in the normal course of business, if
110 the report does not contain information that is excluded from public access under
111 Section 5 or 6.

112 (2) Access Regulation.

113 (A) The Supreme Court may adopt and implement policies to regulate
114 remote access to court records. These policies must be posted publicly on the
115 Court's website.

116 (B) Attorneys licensed in North Dakota may remotely access court records
117 through the secure public access system.

118 (C) A record of a closed criminal case for which there is no conviction may
119 not be remotely accessed through a name search except through the secure public
120 access system.

121 (c) Requests for Bulk Distribution of Court Records.

122 (1) Bulk distribution of information in the court record is permitted for
123 court records that are publicly accessible under Section 3(a).

124 (2) A request for bulk distribution of information not publicly accessible

125 can be made to the court for scholarly, journalistic, political, governmental,
126 research, evaluation or statistical purposes when the identification of specific
127 individuals is ancillary to the purpose of the inquiry. Prior to the release of
128 information under this subsection the requestor must comply with the provisions of
129 Section 6.

130 (3) A court may allow a party to a bulk distribution agreement access to
131 birth date, street address, and social security number information if the party
132 certifies that it will use the data for legitimate purposes as permitted by law.

133 (d) Access to Compiled Information From Court Records.

134 (1) Any member of the public may request compiled information that
135 consists solely of information that is publicly accessible and that is not already in
136 an existing report. The court may compile and provide the information if it
137 determines, in its discretion, that providing the information meets criteria
138 established by the court, that the resources are available to compile the information
139 and that it is an appropriate use of public resources. The court may delegate to its
140 staff or the clerk of court the authority to make the initial determination to provide
141 compiled information.

142 (2) Requesting compiled restricted information.

143 (A) Compiled information that includes information to which public access
144 has been restricted may be requested by any member of the public only for
145 scholarly, journalistic, political, governmental, research, evaluation, or statistical

146 purposes.

147 (B) The request must:

148 (i) identify what information is sought,

149 (ii) describe the purpose for requesting the information and explain how the
150 information will benefit the public interest or public education, and

151 (iii) explain provisions for the secure protection of any information
152 requested to which public access is restricted or prohibited.

153 (C) The court may grant the request and compile the information if it
154 determines that doing so meets criteria established by the court and is consistent
155 with the purposes of this rule, the resources are available to compile the
156 information, and that it is an appropriate use of public resources.

157 (D) If the request is granted, the court may require the requestor to sign a
158 declaration that:

159 (i) the data will not be sold or otherwise distributed, directly or indirectly, to
160 third parties, except for journalistic purposes,

161 (ii) the information will not be used directly or indirectly to sell a product or
162 service to an individual or the general public, except for journalistic purposes, and

163 (iii) there will be no copying or duplication of information or data provided
164 other than for the stated scholarly, journalistic, political, governmental, research,
165 evaluation, or statistical purpose.

166 The court may make such additional orders as may be needed to protect

167 information to which access has been restricted or prohibited.

168 Section 5. Court Records Excluded From Public Access.

169 The following information in a court record is not accessible to the public:

170 (a) information that is not accessible to the public under federal law;

171 (b) information that is not accessible to the public under state law, court
172 rule, case law or court order, including:

173 (1) affidavits or sworn testimony and records of proceedings in support of
174 the issuance of a search or arrest warrant pending the return of the warrant;

175 (2) information in a complaint and associated arrest or search warrant to the
176 extent confidentiality is ordered by the court under N.D.C.C. §§ 29-05-32 or
177 29-29-22;

178 (3) documents filed with the court for in-camera examination pending
179 disclosure;

180 (4) case information and documents in Child Relinquishment to Identified
181 Adoptive Parent cases brought under N.D.C.C. ch. 14-15.1;

182 (5) domestic violence protection order files and disorderly conduct
183 restraining order files when the restraining order is sought due to domestic
184 violence, except for orders of the court;

185 (6) documents in domestic violence protection order and disorderly conduct
186 restraining order cases in which the initial petition was dismissed summarily by the
187 court without a contested hearing;

188 (7) names of qualified or summoned jurors and contents of jury qualification forms
189 if disclosure is prohibited or restricted by order of the court;

190 (8) records of voir dire of jurors, unless disclosure is permitted by court
191 order or rule;

192 (9) records of deferred impositions of sentences resulting in dismissal;

193 (10) records of a case in which the magistrate finds no probable cause for
194 the issuance of a complaint;

195 (11) unless exempted from redaction by N.D.R.Ct. 3.4(c), protected
196 information:

197 (A) except for the last four digits, social security numbers, taxpayer
198 identification numbers, and financial account numbers,

199 (B) except for the year, birth dates, and

200 (C) except for the initials, the name of an individual known to be a minor,
201 unless the minor is a party, and there is no statute, regulation, or rule mandating
202 nondisclosure;

203 (12) judge and court personnel work material, including personal calendars,
204 communications from law clerks, bench memoranda, notes, work in progress, draft
205 documents and non-finalized documents;

206 (13) party, witness and crime victim contact information gathered and
207 recorded by the court for administrative purposes, including telephone numbers
208 and e-mail, street and postal addresses;

209 (14) the name of a patron of the North Dakota Legal Self Help Center or
210 information sufficient to identify a patron or the subject about which a patron
211 requested information.

212 (15) The property and debt listing of the parties to a divorce as provided by
213 N.D.C.C. § 14-05-24.3.

214 (c) This rule does not preclude access to court records by the following
215 persons in the following situations:

216 (1) federal, state, and local officials, or their agents, examining a court
217 record in the exercise of their official duties and powers;

218 (2) parties to an action and their attorneys examining the court file of the
219 action, unless restricted by order of the court, but parties and attorneys may not
220 access judge and court personnel work material in the court file.

221 (d) A member of the public may request the court to allow access to
222 information excluded under Section 5 as provided in Section 6.

223 Section 6. Requests to Prohibit Public Access to Information in Court
224 Records or to Obtain Access to Restricted Information.

225 (a) Request to Prohibit Access.

226 (1) A request to the court to prohibit public access to information in a court
227 record may be made by any party to a case, by the individual about whom
228 information is present in the court record, or on the court's own motion on notice
229 as provided in Section 6(c).

230 (2) The court must decide whether there are sufficient grounds to overcome the
231 presumption of openness of court records and prohibit access according to
232 applicable constitutional, statutory and case law.

233 (3) In deciding whether to prohibit access the court must consider that the
234 presumption of openness may only be overcome by an overriding interest. The
235 court must articulate this interest along with specific findings sufficient to allow a
236 reviewing court to determine whether the closure order was properly entered.

237 (4) The closure of the records must be no broader than necessary to protect
238 the articulated interest. The court must consider reasonable alternatives to closure,
239 such as redaction or partial closure, and the court must make findings adequate to
240 support the closure. The court may not deny access only on the ground that the
241 record contains confidential or closed information.

242 (5) In restricting access the court must use the least restrictive means that
243 will achieve the purposes of this rule and the needs of the requestor.

244 (6) If a victim requests, all victim contact information in a criminal court
245 record must be redacted;

246 (7) If the court concludes, after conducting the balancing analysis and
247 making findings as required by paragraphs (1) through (5), that the interest of
248 justice will be served, it may prohibit public Internet access to an individual
249 defendant's electronic court record in a criminal case:

250 (A) if the charges against the defendant are dismissed; or

251 (B) if the defendant is acquitted.

252 If the court grants a request to prohibit public Internet access to an
253 electronic court record in a criminal case, the search result for the record must
254 display the words "Internet Access Prohibited under N.D.Sup.Ct. Admin.R 41."

255 (b) Request to Obtain Access.

256 (1) A request to obtain access to information in a court record to which
257 access is prohibited under Section 4(a), 5 or 6(a) may be made to the court by any
258 member of the public or on the court's own motion on notice as provided in
259 Section 6(c).

260 (2) In deciding whether to allow access, the court must consider whether
261 there are sufficient grounds to overcome the presumption of openness of court
262 records and continue to prohibit access under applicable constitutional, statutory
263 and case law. In deciding this the court must consider the standards outlined in
264 Section 6(a).

265 (c) Form of Request.

266 (1) The request must be made by a written motion to the court.

267 (2) The requestor must give notice to all parties in the case.

268 (3) The court may require notice to be given by the requestor or another
269 party to any individuals or entities identified in the information that is the subject
270 of the request. When the request is for access to information to which access was
271 previously prohibited under Section 6(a), the court must provide notice to the

272 individual or entity that requested that access be prohibited.

273 Section 7. Obligations Of Vendors Providing Information Technology
274 Support To A Court To Maintain Court Records.

275 (a) If the court contracts with a vendor to provide information technology
276 support to gather, store, or make accessible court records, the contract will require
277 the vendor to comply with the intent and provisions of this rule. For purposes of
278 this section, "vendor" includes a state, county or local governmental agency that
279 provides information technology services to a court.

280 (b) By contract the vendor will be required to notify the court of any
281 requests for compiled information or bulk distribution of information, including
282 the vendor's requests for such information for its own use.

283 EXPLANATORY NOTE

284 Adopted on an emergency basis effective October 1, 1996; Amended and
285 adopted effective November 12, 1997; March 1, 2001; July 1, 2006; March 1,
286 2009; March 15, 2009; March 1, 2010; March 1, 2012; March 1, 2015; March 1,
287 2016; March 1, 2017; May 1, 2017; August 1, 2017.

288 Appendix amended effective August 1, 2001, to reflect the name change of
289 State Bar Board to State Board of Law Examiners. Appendix amended
290 effective August 1, 2017, to add a reference to N.D.C.C. § 14-05-24.3 and to
291 remove a reference to § 50-06-05.1.

292 Section 3(b)(3) was added, effective March 1, 2016, to clarify that the clerk

293 of court is not required to search within a court record for specific information that
294 may be sought by a requestor.

295 Section 3(c) was adopted, effective March 1, 2010, to state that protected
296 information may be contained in court records filed before the adoption of
297 N.D.R.Ct. 3.4.

298 Section 4(b) was amended, effective March 1, 2017, to allow the Supreme
299 Court to enact and implement policies to regulate remote access to court records,
300 to allow attorneys to remotely access court records through the secure public
301 access system, and to limit remote access by name search to pre-conviction records
302 in criminal cases.

303 Section 4(c) was amended, effective March 15, 2009, to allow parties who
304 enter into bulk distribution agreements with the courts to have access to birth date,
305 street address, and social security number information upon certifying compliance
306 with laws governing the security of protected information. Such laws include the
307 Federal Fair Credit Reporting Act, the Gramm Leach Bliley Act, the USA Patriot
308 Act and the Driver's Privacy Protection Act.

309 Section 5(b)(6) was amended, effective March 1, 2015, to clarify that the
310 restriction on public access to documents in domestic violence protection order
311 and disorderly conduct restraining order cases under this paragraph is limited to
312 cases that were dismissed summarily.

313 Section 5(b)(10) was added, effective March 1, 2017, to exclude cases in

314 which a magistrate finds no probable cause for the issuance of a complaint from
315 public access.

316 Section 5(b)(8)(11) was amended, effective March 15, 2009, to list types of
317 protected information open to the public. The term "financial-account number" in
318 Section 5(b)(8)(11) includes any credit, debit or electronic fund transfer card
319 number, and any other financial account number.

320 Section 5(b)(8)(11) was amended, effective March 1, 2010, to incorporate
321 the exemptions from redaction contained in N.D.R.Ct. 3.4(b). A document
322 containing protected information that is exempt from redaction under N.D.R.Ct.
323 3.4(b) is accessible to the public.

324 ~~Section 5(b)(10) was added, effective March 1, 2017, to exclude cases in~~
-325 ~~which a magistrate finds no probable cause for the issuance of a complaint from~~
326 ~~public access.~~

327 Section 5(b)(12)(13) was added, effective March 1, 2016, to exclude party,
328 witness and crime victim contact information gathered and recorded by the court
329 for administrative purposes from public access.

330 Section 5(b)(13)(14) was added, effective March 1, 2017, to exclude
331 information about patrons of the North Dakota Legal Self Help Center from public
332 access.

333 Section 5(b)(15) was added, effective August 1, 2017, to state that the
334 property and debt listing of the parties to a divorce is confidential under N.D.C.C.

335 § 14-05-24.3.

336 Section 6(a)(6) was added, effective May 1, 2017, to require, upon request
337 of the victim, redaction of all victim contact information in a criminal court record.
338 This right is granted by N.D. Const. Art. I, § 25(1)(e). “Victim” is defined in N.D.
339 Const. Art. I, § 25(4).

340 Section 6(a)(7) was added, effective March 1, 2012, to provide a method for
341 the court to prohibit public Internet access to an electronic case record when
342 charges against a defendant are dismissed or the defendant is acquitted. A request
343 under Section 6(a)(1) is required before the court can act to prohibit access under
344 Section 6(a)(6).

345 Nothing in this rule or N.D.R.Ct. 3.4 precludes a clerk of court or the
346 electronic case management system from identifying non-confidential records that
347 match a name and date of birth or a name and social security number.

348 Joint Procedure Committee Minutes of April 27, 2017, pages _____ ;
349 January 26-27, 2017, pages 17-22; September 29-30, 2016, pages 6-9, 28-29; May
350 12-13, 2016, pages 22-25; January 28-29, 2016, pages 2-7; September 24-25,
351 2015, pages 15-16, 20-21; April 23-24, 2015, pages 8-10; April 24-25, 2014, page
352 27; April 28-29, 2011, pages 9-12; September 23-24, 2010, pages 16-20;
353 September 24-25, 2009, pages 8-9; May 21-22, 2009, pages 28-44; January 29-20,
354 2009, pages 3-4; September 25, 2008, pages 2-6; January 24, 2008, pages 9-12;
355 October 11-12, 2007, pages 28-30; April 26-27, 2007, page 31; September 22-23,

356 2005, pages 6-16; April 28-29, 2005, pages 22-25; April 29-30, 2004, pages 6-13,
357 January 29-30, 2004, pages 3-8; September 16-17, 2003, pages 2-11; April 24-25,
358 2003, pages 6-12. Court Technology Committee Minutes of June 18, 2004; March
359 19, 2004; September 12, 2003; Conference of Chief Justices/Conference of State
360 Court Administrators: Guidelines for Public Access to Court Records.

361 Statutes Affected:

362 Considered: N.D. Const. Art. I, § 25.

363 Cross Reference: N.D.R.Ct. 3.4 (Privacy Protection for Filings Made With
364 the Court).

365 APPENDIX

366 Statutes, court rules and policies, and federal regulations making certain
367 records confidential, in whole or in part, include:

368 ND Century Code

369 12.1-32-07.2(2) Records and papers concerning deferred imposition of
370 sentence when guilty plea is withdrawn or guilty verdict set aside

371 12.1-32-09(3) Notice specifying defendant as a dangerous special offender
372 for sentencing purposes

373 12.1-35-03 Information identifying a child victim of a crime

374 14-02.1-03.1(3), (4), (11) Records involving judicial authorization for
375 abortion for unmarried minor

376 14-05-24.3 Property and debt listing in a divorce case

377 14-09.1-06 Mediation proceedings concerning contested child support,
378 custody, or visitation

379 14-09.2-06 Parent Coordinator proceedings

380 14-15-16(4) Adoption proceedings

381 14-15.1 Child Relinquishment to Identified Adoptive Parent proceedings

382 14-20-54 Paternity proceedings

383 23-07.6-11 Confinement proceedings for those with communicable diseases

384 23-02.1-27 Certain information in birth and death certificates

385 25-03.1-43 Mental health commitments

386 25-03.3-03 Commitment proceedings for sexually dangerous individuals

387 27-20-51 Juvenile court records

388 27-09.1-12(4) Jury selection records

389 29-10.1-30, -31 Grand jury proceedings

390 30.1-11-01 Wills deposited for safekeeping

391 37-01-34 Recorded military discharge papers

392 ~~50-06-05.1(15) Social-psychological evaluations and predisposition reports~~
393 ~~provided by department of human services~~

394 Court Rules and Policies

395 N.D.R,Civ.P. 26(c) Protective orders

396 N.D.R.Crim.P. 32(c) Presentence investigation reports

397 N.D.R.Crim.P. 32.1 Deferred imposition of sentence records

398 N.D.R.Crim.P. 44(b) Ex parte application for financial assistance
399 Administrative Rule 40 Audiotapes of closed or confidential proceedings
400 Administrative Policy 215 Access to computer-based data
401 Administrative Policy 402 Access to Juvenile Court Records
402 Federal Regulations
403 22 C.F.R. Section 51.33 Passport records
404 Boards and commissions governed by rules adopted by the Supreme Court
405 include: Commission for Continuing Legal Education; Disciplinary Board; Judicial
406 Conduct Commission, State Board of Law Examiners.

RULE 8.3 CASE MANAGEMENT (DIVORCE CASES)

1 (a) Compulsory Meeting.

2 (1) Within 30 days after service of the complaint, the parties and their
3 attorneys must meet in person or by electronic means to prepare a joint
4 informational statement (in the form shown in appendix C) and a preliminary
5 property and debt listing. The complaint and joint informational statement must be
6 filed no later than seven days after the compulsory meeting.

7 (2) The parties must exchange information and documentary evidence
8 relating to the existence and valuation of assets and liabilities. At a minimum, the
9 parties must be prepared to exchange current paystubs, employment and income
10 information, tax returns, preliminary pension information, and asset, debt and
11 expense documentation.

12 (3) The parties must determine at the meeting what additional information is
13 necessary in order to complete the case. The parties must decide at the meeting
14 whether alternative dispute resolution methods are appropriate.

15 (b) Scheduling Order. Within 30 days after the informational statement is
16 filed, the court must issue its scheduling order. The court may issue the order after
17 either a telephone or in-court scheduling conference, or without a conference or
18 hearing if none is needed. The scheduling order may establish any of the following
19 deadlines:

- 20 (1) specific dates for the completion of discovery and other pretrial
preparations;
- 21 (2) specific dates for serving, filing, or hearing motions;
- 22 (3) specific dates for completion of mediation/alternative dispute resolution;
- 23 (4) a specific date for the parties to complete parent/divorce education;
- 24 (5) a specific date for filing the property and debt listing;
- 25 (6) specific dates for completion of parenting evaluation;
- 26 (7) a specific date by which the parties will be prepared for the pretrial
27 conference;
- 28 (8) a specific date by which the parties will be prepared for the trial;
- 29 (9) a specific date for identification of witnesses and documents; and
- 30 (10) a specific date by which the parties will submit the parenting plans.

31 (c) Pretrial Conferences.

32 (1) Each party must complete a pretrial conference statement substantially
33 in the form set forth in appendix D which must be served upon all parties and filed
34 with the court at least 14 days prior to the date of the pretrial conference.

35 (2) Unless excused by the court for good cause, the parties and attorneys
36 who will try the proceedings must attend the pretrial conference, prepared to
37 discuss settlement. If a stipulation is reduced to writing prior to the pretrial
38 conference, the case may be heard as a default at the time scheduled for the
39 conference. In that event, only one party need appear. If a party fails to appear at a

40 pretrial conference, the court may dispose of the proceedings without further
41 notice to that party.

42 (3) If the parties are unable to resolve the case, in whole or in part, at the
43 pretrial conference, the court must issue an order concerning any remaining
44 discovery and motions, and identifying the contested issues for trial.

45 (4) Unless otherwise ordered, at least 14 days before trial, the parties must
46 file a joint property and debt listing substantially in the form set forth in appendix
47 E. Each asset or liability must be numbered separately. The joint property and debt
48 listing is confidential.

49 EXPLANATORY NOTE

50 Rule 8.3 was amended, effective March 1, 1986; August 1, 1996; March 1,
51 2008; August 1, 2009; March 1, 2011; August 1, 2017.

52 Subdivision (a) was amended, effective March 1, 2011, to increase the time
53 to file the complaint and joint informational statement from five to seven days
54 after the compulsory meeting.

55 Paragraph (b)(8) was amended, March 1, 2008, to delete a reference to the
56 note of issue and certificate of readiness.

57 Paragraph (c)(1) was amended, effective March 1, 2011, to change the time
58 to serve a pretrial conference statement from 10 to 14 days before the date of the
59 pretrial conference.

60 Paragraph (c)(4) was amended, effective March 1, 2011, to change the time

61 to file a joint property and debt listing from 10 to 14 days before trial.

62 Paragraph (c)(4) was amended, effective August 1, 2017, to state that the joint
63 property and debt listing is confidential.

64 SOURCES: Joint Procedure Committee Minutes of April 27, 2017,
65 pages _____; April 29-30, 2010, page 21; May 21-22, 2009, pages 44-45; April
66 26-27, 2007, pages 14-15; January 25-26, 1996, pages 3-6; September 28-29,
67 1995, pages 3-11; June 22, 1984, page 10.

68 Statutes Affected:

69 Considered: N.D.C.C. § 14-05-24.3.

70 Cross Reference: N.D.Sup.Ct.Admin.R. 41 (Access to Court Records).

APPENDIX E. RULE 8.3 CONFIDENTIAL PROPERTY AND DEBT LISTING

STATE OF NORTH DAKOTA

IN DISTRICT COURT

COUNTY OF _____

CIVIL NO. _____

_____,
Plaintiff,

vs.

RULE 8.3, N.D.R.Ct.
CONFIDENTIAL
PROPERTY AND
DEBT LISTING

_____,
Defendant.

ASSETS

[Husband

Wife

Court]

REAL ESTATE

1.

2.

3.

BUSINESS/FARM ASSETS

4.

5.

6.

FINANCIAL ASSETS

7.

8.

9.

RETIREMENT/PENSION ASSETS

10.

11.

12.

VEHICLES

13.

14.

15.

HOUSEHOLD GOODS

16.

17.

18.

DEBTS

19.

20.

21.

SUMMARY

REAL PROPERTY

BUSINESS/FARM ASSETS

FINANCIAL ASSETS

RETIREMENT/PENSION ASSETS VEHICLES

HOUSEHOLD GOODS

DEBTS _____

TOTAL _____

DATED THIS __ day of _____, _____.

Plaintiff

Defendant

Subscribed and sworn to before me this __ day of _____, _____.

Notary Public

My Commission Expires: