

Instructions to Make a Motion to Appear by Reliable Electronic Means

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.

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 for requesting to appear by reliable electronic means at a North Dakota state court hearing or trial. 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 at your own risk.

[Rule 52 of the North Dakota Supreme Court Administrative Rules](#) gives the requirements for making a motion to appear by reliable electronic means. Review Rule 52 carefully!

- Effective December 1, 2022, Rule 52 **doesn't** require a notice of motion or a supporting brief.

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

Before you serve or file the Motion to Appear by Reliable Electronic Means, you must attempt to contact the other party (or parties) in the civil action to find out if they agree or object to your motion to appear by reliable electronic means.

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.

What is a Motion to Appear by Reliable Electronic Means?

Often, hearings and trials in civil actions are held in a courthouse. This means that all parties and witnesses must go to the courthouse in person for the hearing or trial.

However, when any party, or their witness(es), has a reason (or reasons) they can't go to the courthouse in person, they may ask the court for permission to appear at the hearing, trial, or other proceeding by reliable electronic means.

Examples of reliable electronic means include, but aren't limited to, Zoom, telephone, or Interactive Video Network (IVN).

The court decides whether allow the party or their witness(es) to appear by reliable electronic means.

Who are the Parties in this Motion?

Plaintiff: The party (or parties) listed as the Plaintiff in the civil action.

Defendant: The party (or parties) listed as the Defendant in the civil action.

Moving Party: The party making the Motion to Appear by Reliable Electronic Means. In other words, the party who completes and signs Form 1: Motion.

- The Moving Party may be either the Plaintiff or the Defendant in the civil action.

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 and must answer the motion.

- The Opposing Party may be either the Plaintiff or the Defendant in the civil action.

What Are the Deadlines for this Motion?

The Moving Party, must serve the motion documents on all other parties at least seven (7) days before the hearing, trial, or other proceeding.

- See Step 2 on Pages 5-6 for information on service.

If the Opposing Party chooses to respond, they must serve their written response to the motion at least four (4) days before the hearing, trial, or other proceeding.

- The Opposing Party may choose not to respond. The court will make a decision based on the documents filed by the Moving Party.

These time requirements may be shortened by the court if you have a good reason. This is also referred to as having good cause.

If a Moving Party wants to make a request to shorten the time requirements, Form 1: Motion includes the option to make this request.

Three Steps to Make a Motion to Appear by Reliable Electronic Means

Step 1 – Complete Form 1 and Form 2.

Complete the following forms in the packet:

- Form 1: Motion to Appear by Reliable Electronic Means; and
- Form 2: Order on Motion to Appear by Reliable Electronic Means (Proposed).

Form 1: Motion to Appear by Reliable Electronic Means

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 or the Defendant in the caption for the summons. Put a checkmark in the appropriate box. Choose only one.

Paragraph 2: Tell the court if you're requesting to appear by reliable electronic means or if you're requesting that someone else (i.e. a witness) appear by reliable electronic means, or both. Put a checkmark in the appropriate box.

If you're requesting that someone else appear by reliable electronic means, fill in the name of that person.

Fill in the type of hearing or trial, the date and time of the scheduled hearing or trial, the name of the courthouse where the hearing or trial will be held, and the name of the city.

Paragraph 3: Tell the court who you attempted to contact before you filling out the forms for this motion. Put a checkmark in the appropriate box. Choose only one.

- You're required to attempt to contact the other party (or parties) in the civil action to find out if they agree or object to your motion to appear by reliable electronic means.

Paragraph 4: Tell the court if you were able or unable to contact the Plaintiff, Defendant, Plaintiff's attorney, or Defendant's attorney. Put a checkmark in the appropriate box. Choose only one.

If you were able to contact the other party, tell the court who you contacted by putting a checkmark in the appropriate box. Choose only one.

If you were able to contact the other party, tell the court if the party you contacted agrees or disagrees to your motion to appear by reliable electronic means. Put a checkmark in the appropriate box. Choose only one.

Paragraph 5: State the reason(s) you're making this request to appear by reliable electronic means.

Paragraph 6: You have the option of asking the court to shorten the time requirement for making your motion. (See the Deadlines section on Page 3.) Put a checkmark in the appropriate box. Choose only one.

If you're asking the court to shorten the time the requirement, state the reasons why.

Paragraphs 7 and 8: Read carefully. If the court approves your motion, Paragraphs 7 and 8 list your responsibilities.

Paragraph 9: 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.

- 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 to Appear by Reliable Electronic Means (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 requesting to appear by reliable electronic means.

- **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 court 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 to Appear by Reliable Electronic Means; and
- Form 2: Order on Motion to Appear by Reliable Electronic Means (Proposed).

Keep one copy for your records. You'll arrange to serve the other copy or copies on the other party or parties. You'll 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 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’ll 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 the review other service options, go to ndcourts.gov/legal-self-help/service-in-a-civil-action. Scroll to the “Service After a District Court Civil Action Has Started” section of the webpage.

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

File the original, completed Form 1: Motion and Form 2: Order with the Clerk of Court. File the completed 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, you must work with the court to get everything arranged for you to appear by reliable electronic means.

STATE OF NORTH DAKOTA
COUNTY OF _____

IN DISTRICT COURT
_____ JUDICIAL DISTRICT

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

Case No. _____

**MOTION TO APPEAR BY
RELIABLE ELECTRONIC MEANS**

1. I am the (*choose one*) Plaintiff Defendant in this case and I make this motion to the court for an Order in accordance with Rule 52 of the North Dakota Supreme Court

Administrative Rules and Rule 3.2 of the North Dakota Rules of Court providing as follows:

2. To allow me (*and/or*) other _____
(*name of other person you request to appear by reliable electronic means*) to appear by reliable electronic means for the hearing/trial for (*type of hearing or trial*) _____
_____ scheduled on (*date and time*) _____
at (*name of courthouse*) _____ in
(*city*) _____, North Dakota.

3. Before I served or filed this Motion to Appear by Reliable Electronic Means, I attempted to contact the (*choose one*) Plaintiff Defendant Plaintiff's attorney Defendant's attorney to find out if they agree or object to this motion.

4. I was (*choose one*) able unable to contact the (*choose the same checkbox as Paragraph 3*) Plaintiff Defendant Plaintiff's attorney Defendant's attorney. If I was able to contact them, they indicated that they (*choose one*) agree do not agree to my motion to appear by reliable electronic means.

5. I'm making this motion to appear by reliable electronic means because (*state the reasons you're making the request*):

6. (*Choose one*):

I am **not** asking the court to shorten the time requirements of Rule 52 of the North Dakota Supreme Court Administrative Rules.

I am asking the court to shorten the time requirements of Rule 52 of the North Dakota Supreme Court Administrative Rules because:

7. I understand that, if my motion is approved, the parties must coordinate with the court to facilitate scheduling and managing the technical aspects of the hearing/trial, including arranging for confidential attorney-client communication.

8. I agree to be responsible for the costs and arrangements of this appearance by reliable electronic means as required.

9. I declare, under penalty of perjury under the law of North Dakota, that everything I stated in this Motion to Appear by Reliable Electronic Means 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,
vs

DEFENDANT.)
)
)
)
)
)
)

Case No. _____

**ORDER ON MOTION TO APPEAR
BY RELIABLE ELECTRONIC MEANS**

1. The Plaintiff Defendant filed a Motion to Appear by Reliable Electronic Means. The Court having considered the Motion **HEREBY ORDERS:**

2. The motion to appear by reliable electronic means at the hearing, trial, or other proceeding set for _____ is:

DENIED.

GRANTED as follows:

BY THE COURT:

(District Judge or Judicial Referee Signature)

STATE OF NORTH DAKOTA

IN DISTRICT COURT

COUNTY OF _____

_____ JUDICIAL DISTRICT

_____)

Case No. _____

PLAINTIFF,)

Vs)

DECLARATION OF SERVICE BY MAIL

DEFENDANT.)

(A separate affidavit 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 to Appear by Reliable Electronic Means

Order on Motion to Appear by Reliable Electronic Means *(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)