

Making a Motion in a Civil Action, or Civil Case Checklist

This is a basic checklist for making a Motion in a civil action, or civil case, in North Dakota State District Court. There may be additional documents and procedures for your particular type of Motion. If you're unsure how to proceed, [consult a lawyer](#) licensed to practice in North Dakota.

A Motion is a written request to the court for an order. Motions may be made **after** the Summons and Complaint are filed with the court.

A written Motion in a civil case is made up of a set of documents, including:

1. Notice of Motion;
2. Motion;
3. Brief in Support of Motion;
4. Affidavit in Support of Motion or Declaration in Support of Motion; and
5. Other Supporting Documents.

Other documents may be required, depending on the court rule and/or law that apply to the type of Motion you make.

The "Motions" section of the [Guide to a Civil Action, or Civil Case](#) on the ND Legal Self Help Center webpage has additional information and resources.

Parties in a Motion

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

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

Moving party: The party bringing the motion, in other words, the party who completes and signs the Notice of Motion, Motion, Brief in Support of Motion, and Affidavit in Support of Motion or Declaration in Support of Motion. The moving party in a motion may be either the Plaintiff or the Defendant.

Non-moving party: (Also called the **Opposing 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.

Is the Summons and Complaint (or Petition), Filed with the North Dakota State District Court?

- Yes.** The case number is _____.
- No. Don't Continue!** You **can't** make a motion until the Summons and Complaint (or Petition) and proof of service of the Summons and Complaint are filed with the North Dakota State District Court. Review the [Guide to a Civil Action or Civil Case](#) on the ND Legal Self Help Center webpage to decide how to proceed.

Research North Dakota Laws and Court Rules:

A Motion to the court must include the legal authority that supports the Motion request. The moving party must explain how and why the law, case law, and/or court rule supports the request.

- Do any laws enacted by the North Dakota Legislative process support the Motion request?

The [North Dakota Century Code](#) contains laws enacted by the legislative process. List any specific laws that support the request: _____

_____.

- Does any [North Dakota Supreme Court case law](#) support the Motion request?

When the decision of a case is appealed from a North Dakota state district court to the North Dakota Supreme Court, the Supreme Court writes their opinion to explain how and why they interpreted the laws or rules to decide the case the way they did. The opinions are case law and are followed by North Dakota courts deciding later cases with similar facts and issues. List the specific case law that supports the request:

_____.

- Do any court rules support the Motion request?

[North Dakota Court rules](#) govern how a dispute makes its way to court and how the dispute is conducted. List the specific court rules that support the request:

_____.

(The North Dakota Century Code, and North Dakota Supreme Court case law, and North Dakota court rules are also found in print in many North Dakota public and academic libraries.)

Create the Documents to Make a Motion in a Civil Case:

The following General-Use forms are available at [Making a Motion](#).

[Notice of Motion](#)

- Complete the caption (top of document) exactly as it appears in the Plaintiff's complaint (or the Petitioner's petition)
- Fill in the case number
- Signed and dated by you, the moving party
- Make a copy for each opposing party, plus one copy to keep as a record

[Motion](#)

- Complete the caption exactly as it appears in the Notice of Motion
- Fill in the title with the type of motion
- List the North Dakota rules and/or laws that support the request(s)
- List what you would like the court to order
- Signed and dated by you, the moving party
- Make a copy for each opposing party, plus one copy to keep as a record

[Brief in Support of Motion](#)

- Complete the caption exactly as it appears in the Notice of Motion
- Fill in the title with the type of Motion
- Statement of Facts Section:** List the facts that caused you to decide to file a Motion in the civil case
- Law and Argument Section:** Explain how each law, case law, or court rule you have identified supports the Motion. Apply each law, case law, or court rule you've identified to the facts listed in the Statement of Facts.
- Conclusion Section:** Summarize what you're asking the court to do and why the court should grant the Motion
- Signed and dated by you, the moving party
- Make a copy for each opposing party, plus one copy to keep as a record

[Affidavit in Support of Motion](#) or [Declaration in Support of Motion](#)

- Complete the caption exactly as it appears in the Notice of Motion
- Fill in the title with the type of Motion
- List the facts that caused you to decide to file a Motion in the civil case
- Signed and dated by you, the moving party
 - For an Affidavit, **signed in the presence** of a notary public, clerk of court, or other notarial officer
 - For a Declaration, it **doesn't need to be signed in the presence** of a notary public, clerk of court, or other notarial officer
- Make a copy for each opposing party, plus one copy to keep as a record

Gather Other Supporting Documents:

A Motion may include other supporting documents, such as Affidavits or Declarations, or exhibits.

- Make a copy of each supporting document, if any, for each opposing party, plus one copy to keep as a record.

Service of Motion Documents:

You, the moving party must serve copies of your Motion documents on the other parties in the civil case. A completed Affidavit of Service or Declaration of Service is proof that service occurred.

- Review service requirements for motions in [Rule 5 of the North Dakota Rules of Civil Procedure](#). For more information about service requirements after a civil case has started, go to the [Service](#) link on the ND Legal Self Help Center webpage.
- Get the address for service for each opposing party. If an opposing party is represented by a lawyer, get the address for service for the lawyer.
- Arrange for service of copies of the following documents on each opposing party. If an opposing party is represented by a lawyer, arrange for service on the lawyer.
 - Notice of Motion;
 - Motion;
 - Brief in Support of Motion;
 - Affidavit in Support of Motion, or Declaration in Support of Motion; and
 - Other supporting documents, if any.

- For each opposing party, get the following:
 - For an Affidavit of Service, a signed **and** notarized Affidavit of Service by the
 - For a Declaration of Service, a signed Declaration of Service by the person who served the Motion documents.

File the Original Motion Documents with the North Dakota State District Court:

The original of each of the Motion documents and the document(s) showing proof of service must be filed with the clerk of court.

*** Filing **doesn't** meet the requirements for service.***

- Contact the clerk of court's office in the County where you, the moving party, will file the Motion for the following information:
 - Amount of the filing fee \$_____, if any, and how to pay
 - Options for submitting Motion documents if you can't file the documents in person
- Gather the originals of the following documents (make copies for your records):
 - Notice of Motion;
 - Motion;
 - Brief in Support of Motion;
 - Affidavit in Support of Motion, or Declaration in Support of Motion;
 - Other supporting documents, if any; and
 - Affidavit(s) of Service or Declaration(s) of Service of a copy of each of the Motion documents on each opposing party
- File the original documents with the clerk of court and pay the filing fee, if any.

Opposing Party's Answer to Motion:

If an opposing party is served by handing the documents to the opposing party, or leaving the documents at the opposing party's office or residence, the opposing party has fourteen (14) days after service of the Motion documents to answer the Motion in writing.

If an opposing party is served by mail or third party commercial carrier, the opposing party has seventeen (17) days after service of the Motion documents to answer the Motion in writing.

- The opposing party served a written answer to the Motion on you, the moving party.

Date the written answer to the Motion was served: _____

(For information about service requirements after a civil case has been started, the [Service](#) link on the ND Legal Self Help Center webpage.)

or

- The opposing party **didn't** serve a written answer to the Motion on you, the moving party

If the opposing party failed to serve a written answer fourteen (14) days or seventeen (17) days after service of the Motion documents, the court decides the Motion on the documents filed, unless a hearing was requested within the hearing-request timelines.

The Court Decides the Motion:

If either you, the moving party, or an opposing party appropriately requested a hearing on the Motion within the hearing-request timelines, the court decides the Motion following the hearing.

If neither you, the moving party, nor an opposing party appropriately requested a hearing on the Motion within the hearing-request timelines, the court decides the Motion on the documents filed with the court.

You're notified in writing of the court's decision on the Motion.

****Disclaimer: The North Dakota Legal Self Help Center provides resources to people who represent themselves in civil matters in the North Dakota state courts. The information provided by the Center isn't intended for legal advice but only a general guide to the civil court process. The Center can't guarantee that all judges and courts will accept forms available through the Legal Self Help Center. The Center isn't responsible for any consequences that may result from the information provided. The information can't replace the advice of competent legal counsel licensed in the state. Use at your own risk.****