

Instructions For Answer Brief To Motion Form

ND Legal Self Help Center Staff and Court employees can't help you fill out forms, or create documents for you. If you're unsure how to proceed, consult a lawyer.

ND Legal Self Help Forms aren't official forms. Judges and courts aren't required to accept them. There's no guarantee Center forms will be accepted. Use at your own risk.

Don't include these instruction sheets when you serve or file the completed form.

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

Use the [Answering a Motion in a Civil Action, or Civil Case Checklist](#) to help you answer the Motion.

An Answer Brief to a Motion is **ONE** of a set of required documents that make up a written Answer to a Motion:

- **Answer Brief to Motion;**
- Affidavit in Support of Answer Brief, or Declaration in Support of Answer Brief;
- Other supporting documents; and
- Notice of Hearing on Motion (*if you, the opposing party, request a hearing*).

An Answer Brief to a Motion is your required written response to the Motion made by the moving party. (*You're the opposing party to the motion.*)

An Answer Brief responds to the facts and arguments in the Brief in support of the Motion.

An Answer Brief takes the rules and laws that support your response to the moving party's request and explains how your version of the facts applies to the situation that led to the Motion.

Facts referred to in your Answer Brief should also appear in your Affidavit in support of your Answer Brief, or Declaration in support of your Answer Brief.

Calculate the Due Date for Your Answer Brief, Affidavit or Declaration, and Supporting Documents:

If the Motion was served by handing it to the opposing party, leaving it at the opposing party's office or residence, you, the opposing party, have fourteen (14) calendar days after service of the Motion documents to serve and file your Answer to the Motion in writing.

If the Motion is served by mail or third party commercial carrier, you, the opposing party, have seventeen (17) calendar days after service of the Motion documents to serve and file your Answer to the Motion in writing.

Review the laws and rules from the Motion documents to determine if the timeframe to Answer the Motion is different.

- Date the Motion documents were served on you, the opposing party: _____
(Review [Rule 5 of the North Dakota Rules of Civil Procedure](#) for service of Motions.)
- Using calendar days, **calculate** the date your written Answer to Motion must be served on the moving party and any other opposing parties: _____

Research the Laws and Rules in the Motion and Brief in support of the Motion carefully! A Motion must include the legal authority that supports the Motion request. Any Motions to the court must refer to the laws, North Dakota Supreme Court case law, and court rules, or a combination of all three, upon which the Motion is filed. The Brief in Support of the Motion explains how and why the law, case law, or court rule supports the moving party's request.

Research the laws, North Dakota Supreme Court case law, and court rules the moving party used to make their arguments. Decide if the laws and rules stand for what the moving party says they do.

Conduct your own research to decide if there are other laws, North Dakota Supreme Court case law, and court rules that support your argument.

- The [North Dakota Century Code](#) contains laws enacted by the legislative process
- [North Dakota Supreme Court case law](#). 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.
- [North Dakota Court rules](#) govern how a dispute makes its way to court and how the dispute is conducted.

(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.)

This form isn't a fillable form. To create your legal document using this form, you have at least two options:

Option One: Print this form on 8 ½" x 11" paper and hand-write your Answer Brief. Your hand-writing must be easily readable. Black ink is preferred.

Option Two: Copy and paste the Answer Brief to Motion sections into a word processing program, for example, Microsoft Word, WordPerfect, Google Docs, or OpenOffice. Use this form and these instructions as your guide to format your Answer Brief.

Caption (Top of Form):

- If you copied and pasted the caption section into a word processing program, format your caption as close as you can to the caption section of the form.
- Fill in the caption exactly as it appears in the Plaintiff's Complaint.
- Fill in the case number. You **can't** answer a Motion without a case number.
- Fill in the title of the type of Motion you're answering.

Paragraph Numbering:

- Each paragraph of your written or typed Answer Brief must be numbered.

Statement of Facts:

- List your version of the facts. List only the facts that are relevant to your Answer Brief.
- These facts must also be included in your Affidavit in Support of the Answer, or Declaration in Support of the Answer. You create a separate legal document as your Affidavit in Support of the Answer, or Declaration in Support of the Answer.

Law and Argument:

- Respond to each argument in the moving party's Brief in Support of Motion.
- From your legal research, explain how the law, case law, or court rule supports your argument.
- Apply each law, case law, or court rule to the facts you listed in your Statement of Facts.
- If you identified laws, case laws, or court rules that don't support your argument, explain why the court rule, law or case law doesn't apply.

Conclusion:

- Summarize your arguments and what you want the court to do. This is generally a short paragraph.

Date and Signature:

- The date and signature are at the end of your Answer Brief.
- If you copied and pasted the signature section into a word processing program, format your signature section as close as you can to the signature section of the form.
- You, the opposing party, must date and sign the Answer Brief.

Warning: By signing your name you're telling the Court that you're telling the truth and that you have a good faith reason for your requests. If you aren't telling the truth, if you're misleading the Court, or if you're serving or filing this document for an improper purpose, the Court could find you in contempt or you may be prosecuted for perjury.

- Fill in your printed name, address, telephone number, and email address.

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.

Page Numbering:

Each page of a document prepared for a civil case must be numbered.

- Number each page of your completed Answer Brief.
- The last page of your Answer Brief is the date and signature page.

Service:

In general, copies of documents filed, or intended to be filed, with the court must be provided to the other parties in the civil case. This is called service.

There are specific requirements for serving documents after a civil case has started. [Rule 5](#) of the North Dakota Rules of Civil Procedure gives the requirements for service after a civil case has started.

Proof of service is an important step in the legal process. The court **won't act** on papers filed with the court until proof of service is filed.

For information about service and proof of service in a civil case, go to the [Service](#) link on the ND Legal Self Help Center website.

****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.****

State Of North Dakota

In District Court

County Of _____

_____ Judicial District

Plaintiff,)

Vs)

Defendant.)

Case No. _____

Answer Brief To Motion For

Statement of Facts

[List your version of the facts. List only the facts that are relevant to your Answer.]

1.

Law and Argument

[Respond to each argument in the moving party's Brief. Explain how each law, case law, or court rule supports your argument. Apply the law, case law, or court rule to the facts you listed in the Statement of Facts. If you identified laws, case laws, or court rules that don't support your argument, explain why the court rule, law or case law doesn't apply.]

Conclusion

[Summarize your answer and what you want the Court to do. This is generally a short paragraph.]

Dated _____.

Signature

Printed Name

Address

City, State, Zip Code

Telephone Number

Email Address