



ANSWER TO MOTION FOR DEFAULT PARENTING RESPONSIBILITY (CUSTODY & VISITATION) JUDGMENT

An Informational Guide to a North Dakota State Civil Court Process

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 in this informational guide is not intended for legal advice but only as a general guide to a civil court process. **If you decide to represent yourself, you will need to do additional research to prepare.**

When you represent yourself, you must abide by the following:

- 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;
 - Any local court rules.

Links to the laws, case law, and court rules can be found at www.ndcourts.gov.

A glossary with definitions of legal terms is available at www.ndcourts.gov/legal-self-help/glossary.

When you represent yourself, you are held to the same requirements and responsibilities as a lawyer, even if you don't understand the rules or procedures. If you are unsure if this information suits your circumstances, consult a lawyer.

***This information is not a complete statement of the law.** This covers basic information about the process of answering a motion for a default parenting responsibility judgment in a North Dakota state district court case. The Center is not responsible for any consequences that may result from the information provided. The information cannot replace the advice of competent legal counsel licensed in the state of North Dakota. Use at your own risk.*

WARNING! DO NOT IGNORE the Motion for Default Parenting Responsibility Judgment!

You have a 14 or 17 day deadline to respond. If you fail to answer the motion, the district court is allowed to grant a default judgment without your input.

This informational guide is made up of three sections:

First Section: General information about responding to a motion for default parenting responsibility judgment. (Pages 4-14)

Second Section: The **basic** answer to motion for default parenting responsibility judgment process from beginning to end. (Pages 15-22)

Third Section: Appendix of formatting examples of common answer to motion for default parenting responsibility judgment documents. (Page 23)

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INFORMATION ABOUT ANSWERING MOTIONS FOR DEFAULT PARENTING RESPONSIBILITY JUDGMENTS

WHAT IS A PARENTING RESPONSIBILITY ACTION?

Parents who have never been married to each other may ask a North Dakota state district court to establish parenting rights and responsibilities to their children.

The district court case is called a Parenting Responsibility action.

Parenting rights and responsibilities are all the rights and responsibilities a parent has concerning the parent's minor child. This includes, but is not limited to:

- Residential responsibility (custody);
- Parenting time (visitation);
- Decision-making responsibility;
- Child support;
- Tax deductions; and
- Medical coverage.

(Generally, establishing parenting rights and responsibilities between parents who are or were married to each other are part of divorce or legal separation proceedings.)

What if paternity HAS NOT been established?

If a father-child relationship has not been established, you may need to bring a different type of civil action to establish paternity. Residential responsibility (custody) and parenting time (visitation) may be established as part of a paternity action.

The father-child relationship is established by:

- An acknowledgment of paternity.
 - A process that occurs 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 to establish paternity.
 - A civil action that establishes the father of a child that may involve genetic testing. A court issues an order establishing paternity so that the father'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 court issues an adoption order so that the new birth certificate is issued for the child. The new birth certificate lists the adoptive parent's name, or names.

If the father-child relationship has not been established, email the ND Legal Self Help Center at ndselfhelp@ndcourts.gov and request information on the civil action to establish paternity.

WHAT IS A MOTION FOR DEFAULT PARENTING RESPONSIBILITY JUDGMENT?

Service of the Summons and Complaint to Establish Parenting Responsibility Starts the Parenting Responsibility Case:

The parent starting the action to establish parenting responsibility, the Plaintiff, must arrange for a summons and complaint to be served on the other parent, the Defendant.

The Defendant has 21 days from the date they were served to answer the summons and complaint in writing.

If the Defendant **does not answer** the summons and complaint to establish parenting responsibility within the 21 day deadline, the Plaintiff may ask the court, in writing, to grant the parenting responsibility judgment without the Defendant's involvement.

The written request is called a Motion for Default Parenting Responsibility Judgment. In order for the court to grant a default parenting responsibility judgment, the Plaintiff must prove the following, in writing:

1. Proof of service of the summons and complaint to establish parenting responsibility;
2. The deadline for the Defendant to answer the summons and complaint has passed and the Defendant did not respond;
3. The North Dakota District Court has the authority (jurisdiction) to grant a parenting responsibility judgment; and
4. The Plaintiff has provided all other necessary information and proof for the North Dakota District Court to grant a default parenting responsibility judgment.

Contested Parenting Responsibility Informational Guide; Service Information and Affidavits (Proof) of Service Forms:

[An Informational Guide to Contested Parenting Rights and Responsibilities](http://www.ndcourts.gov/legal-self-help/establishing-custody-and-visitation) is available at www.ndcourts.gov/legal-self-help/establishing-custody-and-visitation. The guide includes the basic steps through the contested parenting responsibility process in North Dakota.

[Information about the type of service required to start an action to establish parenting responsibility](http://www.ndcourts.gov/legal-self-help/service-in-a-civil-action) and the proof of service that must be filed with the district court are available at www.ndcourts.gov/legal-self-help/service-in-a-civil-action. See the “Service to Start a District Court Civil Action” section.

Protections for Active Military Service Members Against Default Judgments:

Under Federal law, active duty military service members have protections against default judgments.

Before a North Dakota state district court may grant a Motion for Default Parenting responsibility Judgment, the Plaintiff must prove that the Defendant **is not** on active duty with any branch of the United States military.

The Plaintiff **must** attempt to find out if the Defendant is an active duty service member and include the steps the Plaintiff took and the outcome in the Motion for Default Parenting responsibility Judgment documents.

WHAT IS AN ANSWER TO A MOTION FOR DEFAULT PARENTING RESPONSIBILITY JUDGMENT?

When the parent listed as Defendant in a parenting responsibility case is served a Motion for Default Parenting Responsibility Judgment, if the Defendant does not agree with the motion, the Defendant must prepare, serve and file a written answer to the motion.

The Defendant has either a 14 or 17 day deadline to serve and file the written answer to the motion.

If the Defendant does not serve and file a written answer to the motion, the court may consider the failure an admission that the Defendant believes the Plaintiff’s Motion for Default Parenting Responsibility Judgment has merit.

If the Defendant was served by personal delivery or at their office, the Defendant has 14 days to serve and file their written answer to the motion.

- The date of service is the date the motion was personally delivered or left at the office.

If the Defendant was served by mail or third-party commercial carrier, the Defendant has 17 days to serve and file their written answer to the motion.

- The date of service is the date the motion was mailed.

WHAT IF I MISSED THE DEADLINE TO ANSWER TO A MOTION FOR DEFAULT PARENTING RESPONSIBILITY JUDGMENT?

If the Defendant missed the deadline to answer a motion for default parenting responsibility judgment AND the Judge grants the default parenting responsibility judgment, the Defendant may make a motion for relief from the default parenting responsibility judgment.

A motion for relief from the default parenting responsibility judgment asks the Judge to re-open the parenting responsibility case and void the default judgment.

This informational guide does not provide process information for making a motion for relief from a default parenting responsibility judgment.

If you missed the deadline to answer a motion for default parenting responsibility judgment and you want to make a motion for relief from a default parenting responsibility judgment, email the ND Legal Self Help Center at ndselfhelp@ndcourts.gov for information about the process.

DOES THE ND LEGAL SELF HELP CENTER HAVE ANSWER TO MOTION FOR DEFAULT PARENTING RESPONSIBILITY JUDGMENT FORMS?

No, the ND Legal Self Help Center does not have a packet of forms for answering a motion for default parenting responsibility judgment. If you decide to represent yourself, you will need to create and prepare your own legal documents.

Names and descriptions of the documents you will need to create and prepare are found throughout this guide. Formatting examples of common answer to motion for default parenting responsibility judgment documents are found at the end of this guide.

Although the ND Legal Self Help Center does not have forms or instructions, a variety of General-Use forms are available as a starting point for creating your own legal documents.

All of the General-Use forms available through the ND Legal Self Help Center are available at www.ndcourts.gov/legal-self-help. Scroll to the “District Court Civil” section.

You may find the forms in the Legal Services of North Dakota Family Law Manual of interest. The Legal Services of North Dakota Family Law Manual contains a variety of family law forms that were created for lawyers to use as examples in family law cases. The Legal Services of North Dakota website is www.legalassist.org.

(References to the Legal Services of North Dakota Family Law Manual are for your convenience only. The ND Legal Self Help Center does not endorse, warrant, or accept responsibility for the content or uses of the Family Law Manual. You must independently determine the legal sufficiency of the forms in the Family Law Manual. Use at your own risk.)

IS THERE HELP AVAILABLE FOR CREATING LEGAL DOCUMENTS?

If you would like assistance creating your legal documents, consult a lawyer licensed to practice in North Dakota.

Ask the lawyer about Limited Legal Representation. Lawyers licensed to practice in North Dakota may agree to help you with part of your civil action, such as preparing legal documents, while you handle the rest of your civil action.

You and the lawyer must agree in writing to Limited Legal Representation.

WHAT ARE NORTH DAKOTA LAWS AND RULES RELATED TO MOTIONS AND ANSWER TO MOTIONS FOR DEFAULT PARENTING RESPONSIBILITY JUDGMENTS?

Chapter 14-09 of the North Dakota Century Code governs parenting rights and responsibilities, such as custody, visitation, and child support. www.legis.nd.gov/cencode/t14c09.html

Chapter 14-12.2 of the North Dakota Century Code governs enforcement and modification of child support and spousal support orders issued by other states or countries. www.legis.nd.gov/cencode/t14c12-2.html

Chapter 14-14.1 of the North Dakota Century Code governs child custody and visitation jurisdiction. www.legis.nd.gov/cencode/t14c14-1.pdf

Chapters 14-05, 14-09, 14-12.2, AND 14-14.1 are Chapters within Title 14 of the North Dakota Century Code. There are many other laws related to families in Title 14. You may find them of interest. www.legis.nd.gov/cencode/t14.html

The North Dakota Rules of Civil Procedure apply to civil matters in North Dakota state district courts. The rules are found at www.ndcourts.gov/legal-resources/rules/ndrcivp. See particularly:

- Rule 55 (Default; Default Judgment).

The North Dakota Rules of Court apply to civil matters in North Dakota state district courts. The rules are found at www.ndcourts.gov/legal-resources/rules/ndrct. See particularly:

- Rule 3.2 (Motions).

The North Dakota Rules of Evidence apply to civil matters in North Dakota state district courts. The rules are found at www.ndcourts.gov/legal-resources/rules/ndrev.

North Dakota case law (court decisions) is useful for interpreting what the law means for your individual circumstances.

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 appeal the way they did. The opinions are case law and are followed by North Dakota courts deciding later cases with similar facts and issues.

One way to research case law related to motions for default judgments, is to use the print version of the North Dakota Century Code to find the short summaries of case law after each Section of the Century Code. Case law summaries directly follow the text of the Century Code Section. To view the full text of the opinion, go to www.ndcourts.gov and click on “Supreme Court Opinions.”

Laws constantly change through legislation, administrative rulings and case law (court decisions). To determine how a law applies to your situation, review the applicable law or laws, administrative rulings and case law (court decisions). Notes of case law (court decisions) related to North Dakota law can be found in the print editions of the North Dakota Century Code. Print editions of the North Dakota Century Code are found in many North Dakota public and academic libraries.

Only a lawyer licensed to practice in North Dakota who has agreed to represent you can give you legal advice. Legal advice includes interpreting how the laws and rules apply to your situation.

WHAT ARE THE DEFINITIONS OF SOME OF THE COMMONLY USED TERMS IN MOTIONS AND ANSWER TO MOTIONS FOR DEFAULT PARENTING RESPONSIBILITY JUDGMENT?

*****The following definitions are intended to be helpful, BUT they are not intended to constitute legal advice OR address every possible meaning of the terms in this section.*****

Active Military Service – Under the Federal Servicemembers Civil Relief Act:

- In the case of a servicemember who is a member of the Army, Navy, Air Force, Marine Corps, or Coast Guard active military service is full-time duty in the active military service of the United States. This includes full-time training duty, annual training duty, and attendance, while in the active military service, at a school designated as a service school by law or by the Secretary of the military department concerned. This does not include full-time National Guard duty.
- In the case of a member of the National Guard active military service includes service under a call to active service authorized by the President or the Secretary of Defense for a period of more than 30 consecutive days under section 502(f) of title 32 for purposes of responding to a national emergency declared by the President and supported by Federal funds.
- In the case of a servicemember who is a commissioned officer of the Public Health Service or the National Oceanic and Atmospheric Administration, active military service is active service.
- Any period during which a servicemember is absent from duty on account of sickness, wounds, leave, or other lawful cause.

Best Interests of the Child – The 13 factors the District Court uses when deciding the residential responsibility and parenting time arrangements that are in the best interests of the child. The 13 factors are listed in North Dakota Century Code Section 14-09-06.2.

www.legis.nd.gov/cencode/t14c09.pdf

Child support – Money paid by a parent for the financial benefit of a child. Child support is based on guidelines set by the North Dakota Department of Human Services. If a parent can show a different ability to earn income than the guidelines show, the court may order a higher or lower child support payment.

The Child Support Division of the North Dakota Department of Human Services created and provides support for the Child Support Guidelines Calculator. The Calculator is available at childsupport.dhs.nd.gov/lawyers/child-support-guidelines.

Custody – See Residential Responsibility.

Decision making responsibility – The responsibility to make decisions concerning the minor child. The term may refer to decisions on all issues or on specific issues, but not child support issues.

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 do not permit family members to move to the deployment location.

Parenting responsibility – The only way to legally end your marriage. In other words, the two married individuals become unmarried once their parenting responsibility is granted by a court.

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

Jurisdiction – The power of a North Dakota state district court to inquire into the facts, apply the law, and determine and pronounce judgment. In general, there are two types of jurisdiction. Both are required for a court to have jurisdiction:

- Subject Matter Jurisdiction: The court's power to hear and determine the type of case or controversy involved in the civil action, which comes from the constitution and laws.
- Personal Jurisdiction: The court's power over the parties in the case.

Obligor – The person ordered by the court to pay child support or spousal support.

Obligee – The person receiving child support or spousal support ordered by the court.

Parental rights and responsibilities – All the rights and responsibilities a parent has concerning the parent's minor child.

Parenting plan – A written plan describing each parent's rights and responsibilities.

Parenting schedule – The schedule of when the minor child is in the care of each parent.

Parenting time – The time when the minor child is to be in the care of a parent. (Also known as visitation.)

Primary residential responsibility – A parent with more than fifty percent of the residential responsibility.

Residential responsibility – A parent's responsibility to provide a home for the child. (Also known as custody.)

Visitation – See Parenting Time.

WHO ARE THE PARTIES IN A MOTION FOR DEFAULT PARENTING RESPONSIBILITY JUDGMENT?

Plaintiff: The parent who is listed as the Plaintiff in the action to establish parenting responsibility. Also, the parent who started the action with service of the summons and complaint on the other parent.

Defendant: The parent who is listed as the Defendant in the action to establish parenting responsibility. Also, the parent who was served the summons and complaint to establish parenting responsibility.

Moving Party: The parent bringing the Motion for Default Parenting Responsibility Judgment. The Moving Party is also the Plaintiff in motions for default parenting responsibility judgments.

Opposing Party: The other parent. The Opposing Party is also the Defendant in motions for default parenting responsibility judgments. (Also called the Non-moving party.)

Real Party in Interest – (Also known as the Statutory Real Party in Interest.) The State of North Dakota is added as a real party in interest to actions to establish parenting responsibility only when:

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

WHAT IS THE NORTH DAKOTA RESIDENCY REQUIREMENT FOR A MOTION FOR DEFAULT PARENTING RESPONSIBILITY JUDGMENT?

The North Dakota residency requirement applies to the action to establish parenting responsibility case that was started by the Plaintiff.

[Chapter 14-14.1 of the North Dakota Century Code](#) governs which state can make decisions about parenting rights and responsibilities issues.

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

1. North Dakota is the home state of the child on the date the parenting responsibility action starts; or
2. North Dakota was the home state of the child within six months before the date the parenting responsibility action started, **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 **is not** 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.

LAWYER RESOURCES AND LIMITED LEGAL REPRESENTATION

You are not required to hire a lawyer to bring a civil action in North Dakota State District Court. If you decide to represent yourself, you must follow all of the rules, laws and procedures that a lawyer is required to follow.

Lawyer Resources

If you decide to find a lawyer to represent you, you may find the following options of interest.

- Legal Services of North Dakota is a non-profit organization, providing free legal assistance to North Dakota residents in a variety of matters based on income. Legal Services of North Dakota can also determine whether an applicant meets the income requirements for the Volunteer Lawyers program that offers low-cost legal assistance based on income. The phone number is (800) 634-5263 and the website is www.legalassist.org.

- The State Bar Association of North Dakota provides a lawyer referral service to match paying clients in need of legal services with lawyers. The phone number is (866) 450-9579 and the website is www.sband.org. The cost is \$30.00 for a 30 minute consultation with a lawyer.
- For a list of all lawyers who are licensed to practice in North Dakota, go to the North Dakota Supreme Court website at www.ndcourts.gov/Lawyers. You can narrow your search by name or location.

Limited Legal Representation

Lawyers licensed to practice in North Dakota may provide Limited Legal Representation in civil actions. Limited Legal Representation (sometimes called “unbundling”) is a way that a lawyer can help you with part of your case while you do the rest of your case. You pay for the part of the case the lawyer handled.

For example:

- You may want an attorney to give you an expert opinion about your options, or your legal rights and responsibilities;
- You can consult with an attorney to prepare or review your legal documents, but attend hearings yourself;
- You can represent yourself through the whole case, and periodically consult with an attorney who can coach you on the law, procedures and strategy;
- You can do the preparation yourself and hire an attorney just to make court appearances for you.

You and the lawyer must agree in writing to Limited Legal Representation.

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THE ANSWER TO MOTION FOR DEFAULT PARENTING RESPONSIBILITY JUDGMENT PROCESS IN NORTH DAKOTA STATE DISTRICT COURT

PART ONE: OPPOSING PARTY CALCULATES DEADLINE TO ANSWER; RESEARCHES THE LAWS & RULES; GATHERS INFORMATION

Read this court process information **carefully**. Review the formatting examples of answer to motion for default parenting responsibility judgment documents at www.ndcourts.gov/legal-self-help/establishing-custody-and-visitation.

If you do not know if you should use this informational guide and the formatting examples of answer to motion for default parenting responsibility judgment documents, consult a lawyer who is licensed to practice in the state of North Dakota.

Calculate your deadline to answer the motion for default parenting responsibility judgment:

If you were served by personal delivery or at your office, you have 14 days to serve and file your written answer to the motion.

- The date of service is the date the motion was personally delivered or left at the office.

If you were served by mail or third-party commercial carrier, you have 17 days to serve and file your written answer to the motion.

- The date of service is the date the motion was mailed.

When calculating days for filing and service:

- Do not include the day of the event that triggers the start of the period;
- Count by calendar days, including Saturdays, Sundays, and legal holidays; and
- Include the last day of the period, but if the last day is a Saturday, Sunday, or legal holiday, the period continues to run until the end of the next day that is not a Saturday, Sunday, or legal holiday.

Research Rule 55 of the North Dakota Rules of Civil Procedure, Rule 3.2 of the North Dakota Rules of Court, & Other Applicable Laws:

Research default judgment requirements in [Rule 55 of the North Dakota Rules of Civil Procedure](#).

Research basic motion and answer to motion requirements in [Rule 3.2 of the North Dakota Rules of Court](#).

Research how the statutes (laws) enacted by the North Dakota Legislature and case law apply to your specific situation.

Gather Information:

Including:

- Your copy of the Summons and Complaint to establish parenting responsibility.
 - If you do not have a copy, you may contact the Clerk of North Dakota District Court in the North Dakota county where the parenting responsibility case is filed.
 - Ask the Clerk how you can get copies of the Summons and Complaint filed in your case.

- Proof of service of the Summons and Complaint on you, the Defendant.
 - Contact the Clerk of North Dakota District Court in the North Dakota county where the parenting responsibility case is filed. Ask how you can get a copy of the proof of service filed in your case.
 - If the Summons and Complaint was served by a sheriff or other law enforcement officer, proof of service is a Certificate of Service.
 - If the Summons and Complaint was served by an individual other than a sheriff or other law enforcement officer, proof of service is an Affidavit of Service.

- If you served a written answer, or an answer and counterclaim, to the Summons and Complaint to establish parenting responsibility on the Plaintiff or the Plaintiff's attorney:
 - Your copy of your written answer, or your answer and counterclaim; and
 - Your copy of proof of service of your written answer on the Plaintiff, or the Plaintiff's attorney.
 - If served by a sheriff or other law enforcement officer, proof of service is a Certificate of Service.
 - If served by an individual other than a sheriff or other law enforcement officer, proof of service is an Affidavit of Service.

- Other supporting documentation that you plan to refer to in your answer to motion documents.
 - Any supporting documentation to which you refer in your answer to motion documents **must** be served on the Moving Party and filed with the Court.

PART TWO: OPPOSING PARTY CREATES THEIR ANSWER TO MOTION FOR DEFAULT PARENTING RESPONSIBILITY JUDGMENT DOCUMENTS

The Opposing Party is required to create, serve and file their answer to motion for default parenting responsibility judgment documents.

Create the Following Documents:

(The Caption, or top, of each document is filled out EXACTLY as the Caption of the Summons for the parenting responsibility case is filled out.)

- **Answer Brief in Opposition to Motion for Default Parenting Responsibility Judgment –**
 - See OP1: Answer Brief in Opposition to Motion for Default Parenting Responsibility Judgment – formatting example at www.ndcourts.gov/legal-self-help/establishing-custody-and-visitation.
 - A written document that explains why the Opposing Party is answering the motion for default parenting responsibility judgment.
 - In other words, why you oppose the motion for default judgment.
 - A list of the Opposing Party's version of the facts related to the motion for default parenting responsibility judgment.
 - The Opposing Party's response to each argument in the Moving Party's brief in support of motion for default judgment.
 - An explanation of each law, case law or court rule that supports the Opposing Party's argument(s) and an application of each to the Opposing Party's specific set of facts.

- **Affidavit in Support of Answer Brief in Opposition to Motion for Default Parenting Responsibility Judgment –**
 - See OP2: Affidavit in Support of Answer Brief in Opposition to Motion for Default Parenting responsibility Judgment – formatting example at www.ndcourts.gov/legal-self-help/establishing-custody-and-visitation.
 - Your, the Opposing Party's, written statement of the facts.
 - Facts that you refer to in the answer brief should also appear in the affidavit.

- **Answer and Counterclaim** (if you did not already serve a written Answer to the Plaintiff's Summons and Complaint to establish parenting responsibility) –
 - See OP3: Answer and Counterclaim – formatting example at www.ndcourts.gov/legal-self-help/establishing-custody-and-visitation.

- This is your proposed answer to the Plaintiff’s Summons and Complaint. You may serve and file your proposed written answer as part of your answer to the motion for default parenting responsibility judgment.
 - If the Court does not grant the motion for default parenting responsibility judgment, and allows the parenting responsibility case to move forward, the Court will decide whether to accept your proposed answer to the Plaintiff’s Summons and Complaint.
- Review the requirements for an Answer and Counterclaim in a civil case. Specifically:
 - www.ndcourts.gov/legal-self-help/answering-a-civil-action; click on the “Answering a Civil Summons and Complaint – Checklist” link.
- Review the requirements and formatting examples of an Answer and Counterclaim in an action to establish parenting responsibility in the Contested Parenting Rights and Responsibilities Informational Guide. Specifically:
 - www.ndcourts.gov/legal-self-help/establishing-custody-and-visitation; click on the “Contested Parenting responsibility for Plaintiff and Defendant” link.
 - The Answer and Counterclaim requirements are in Section Two, Part Two of the Informational Guide.
- **Confidential Information Form –**
 - See OP4: Confidential Information Form – formatting example at www.ndcourts.gov/legal-self-help/establishing-custody-and-visitation.
 - Review [Rule 3.4](#) of the North Dakota Rules of Court. Lists the full confidential information that is not allowed to appear in documents filed with the court. This form is not a part of the public court record.
 - Also available online, in Appendix H of the North Dakota Rules of Court.

Write the case number from the motion for default parenting responsibility judgment documents on the first page of ALL of your answer to motion documents.

Make a copy of each of your motion documents to serve on the Moving Party in Part Three.

Make an additional copy to keep for your records.

PART THREE: OPPOSING PARTY ARRANGES FOR SERVICE OF COPIES OF THE DOCUMENTS ON MOVING PARTY

You, the Opposing Party, are required to serve copies of your answer to motion for default parenting responsibility judgment documents on the Moving Party.

Service is providing copies of your completed answer to motion for default parenting responsibility judgment documents and other supporting documents on the Moving Party.

You, the Opposing Party will also be required to complete and file an Affidavit of Service. An Affidavit of Service is your proof to the District Court that you served the Moving Party.

The District Court **will not** act on your answer to motion documents, unless you file proof of service with the court.

The Opposing Party is required to serve one copy of each of the following documents on the Moving Party:

- Answer Brief in Opposition to Motion for Default Parenting Responsibility Judgment;
- Affidavit in Support of Answer Brief in Opposition to Motion for Default Parenting Responsibility Judgment;
- Answer and Counterclaim (if you **did not** already serve a written answer to the Plaintiff's Summons and Complaint); and
- Any other supporting documentation you referenced in your answer to motion documents.

DO NOT serve a copy of the Confidential Information Form on the Opposing Party.

Service by Mail:

You may arrange for service of the copies of the documents by mail by an individual who is at least 18 years old.

- Put the copies in an envelope;
- **Either:**
 - Address the envelope with the Moving Party's last known address; **OR**
 - If you know the Moving Party is currently represented by a lawyer, address the envelope with the lawyer's address; and
- List your address as the return address on the envelope.

The individual who is at least 18 years old takes the envelope to a United States Post Office and mails the envelope. Postage must be prepaid.

Service by mail is complete upon mailing.

Complete the Affidavit of Service by Mail:

An Affidavit of Service by Mail form is available at www.ndcourts.gov/legal-self-help/service-in-a-civil-action. See the “Service After a Civil Action Has Started” section.

The individual who took the envelope to a United States Post Office and mailed it must complete the Affidavit of Service by Mail.

Caption:

- Complete the Caption exactly as the Caption of the Summons for the parenting responsibility case is filled out.

Paragraphs 1-7:

- Follow the directions on the form.

Date and Signature:

- DO NOT date and sign the form until your signature can be witnessed by a Notary Public or Clerk of Court.
- Fill in the County and State where the form was signed.
- Fill in the printed name, address, and telephone number.

Make ONE COPY of the completed Affidavit of Service by Mail form for your records. You will file the original with the Clerk of District Court in Step Four.

Additional Service Information for Motions:

There are other service options available for motions. Go to www.ndcourts.gov/legal-self-help/service-in-a-civil-action. See the “Service After a Civil Action Has Started” section.

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PART FOUR: OPPOSING PARTY FILES THEIR ANSWER TO MOTION FOR DEFAULT PARENTING RESPONSIBILITY JUDGMENT DOCUMENTS WITH THE CLERK OF COURT

The Opposing Party is required to file their original answer to motion for default parenting responsibility judgment documents and other supporting documents with the Clerk of District Court.

The original, completed documents to file:

- Answer Brief in Opposition to Motion for Default Parenting Responsibility Judgment;
- Affidavit in Support of Answer Brief in Opposition to Motion for Default Parenting Responsibility Judgment;
- Answer and Counterclaim (if you did not already serve a written answer to the Plaintiff's Summons and Complaint);
- Confidential Information Form;
- Affidavit of Service; and
- Any other supporting documentation you referenced in your answer to motion documents.

You will not be required to pay a filing fee.

PART FIVE: THE MOVING PARTY MAY REPLY TO THE OPPOSING PARTY'S ANSWER TO MOTION WITHIN 7 OR 10 DAYS OF SERVICE

The Moving Party may serve and file a written reply brief to your answer to motion for default parenting responsibility judgment. The written reply brief must be served and filed within either 7 or 10 days of service of your answer to motion on the Moving Party.

If you, the Opposing Party, arranged to serve your answer to motion by personal delivery or at their office, the Moving Party has 7 calendar days to serve and file their reply brief.

If you arranged to serve your answer to motion by mail or third-party commercial carrier, the Moving Party has 10 calendar days to serve and file their reply brief.

See Part One for calculating days for filing and service.

PART SIX: THE COURT DECIDES WHETHER TO GRANT A DEFAULT PARENTING RESPONSIBILITY JUDGMENT

After the deadline passes for motion, answer to motion, and reply to answer documents to be served and filed, if neither parent requested a hearing, the judge assigned to your parenting responsibility case will review the motion documents filed by the Moving Party and the Opposing Party.

If the Judge DOES NOT Grant the Motion for Default Parenting Responsibility Judgment:

If the judge does not grant the motion for default parenting responsibility judgment, the parenting responsibility moves forward as a contested matter.

Review the [Informational Guide to Contested Parenting Rights and Responsibilities](#) starting at Part Three for the basic steps in the process of contested parenting responsibility after the Summons and Complaint are served.

- The guide is available at www.ndcourts.gov/legal-self-help/establishing-custody-and-visitation.

If the Judge GRANTS the Motion for Default Parenting responsibility Judgment:

If the judge grants the motion for default parenting responsibility judgment, the judge will sign a findings of fact, conclusions of law and order for default judgment.

After the judge signs the findings of fact, conclusions of law and order for default judgment, the clerk of district court will sign a judgment. The judgment is an exact duplicate of the conclusion of law section of the findings of fact, conclusions of law and order for default judgment document signed by the judge.

Parenting responsibility IS NOT established until a parenting responsibility judgment is dated, signed and filed.

You will receive a copy of the signed judgment.

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APPENDIX OF FORMATTING EXAMPLES OF COMMON MOTION FOR DEFAULT PARENTING RESPONSIBILITY JUDGMENT DOCUMENTS

Formatting examples of the common answer to motion for default parenting responsibility judgment documents listed below are on the [ND Legal Self Help Center website](#). Scroll to the “Family Law” section and click on the “Establishing Custody and Visitation” link.

The documents ARE NOT fillable. You may hand write in blue or black ink. Or, you may copy and paste into word processing software, such as MS Word or Google Docs.

Documents ALL Opposing Parties Will Need:

- **OP1: Answer Brief in Opposition to Motion for Default Parenting Responsibility Judgment**
- **OP2: Affidavit in Support of Answer Brief in Opposition to Motion for Default Parenting Responsibility Judgment**
- **OP4: Confidential Information Form**

Document Opposing Parties MAY Need:

- **OP3a: Answer and Counterclaim**