

FAMILY COURT MATTER

RESPONSIVE NOTICE OF MOTION AND MOTION AFFIDAVIT IN RESPONSE TO MOTION AND AFFIDAVIT OF SERVICE



IMPORTANT NOTICES

The Court expects every person who appears in court without an attorney to know and follow the law. If you act as your own attorney, you must do what an attorney would do.

You should see an attorney if you don't know how to answer the questions on these forms.

As you fill out the form(s) in this packet you must follow the instructions.

Type your answers or print neatly using dark ink.

Step 1

Fill out the “Responsive Notice of Motion and Motion” form

Fill out the Responsive Notice of Motion and Motion form included in this packet. This form tells the Court and the other party your response to the other party’s Motion.

FILL IN THE TOP PART OF THE FORM (this is known as the “caption”):

NOTE: The information to fill in the top part of the form can be found at the top of any existing document/order from your file. Be sure to copy the information EXACTLY as it is in your existing file.

- Print the name of the county where your case is located, the number of the judicial district for that county, and the case number which is also called the “court file number”.
- On the line marked “Petitioner” print the name of the Petitioner as listed on your current order or family court papers (such as your dissolution/divorce, paternity, custody).
- On the line marked “Respondent” print the name of the Respondent as listed on your current order or (such as your dissolution/divorce, paternity, custody).
- On the “To” line, print the full name and street address of the other party (or their attorney’s name and address if the other party is represented by an attorney)
- On the line marked “Please Take Notice,” print in the date, time and location of the hearing the same as in the other party’s Notice of Motion and Motion.

FILL OUT THE REST OF THE FORM:

The form provides for you to make two requests for relief. If you are making more than two requests for relief, please include additional pages.

You must date and sign the Responsive Notice of Motion and Motion on the 2nd page, including address and telephone number.

Step 2

Fill out “Affidavit in Response to Notice of Motion” form

Fill out your “Affidavit in Response to Notice of Motion” form which tells the Court and the other party what you are asking for from the court and WHY you are asking for it.

- Fill in the top part of the form (caption) the same way you did on the Response to Notice of Motion and Motion form.
- Fill in your name
- Write your response to the changes the other party is requesting and why you think the changes are not in the best interests of the child(ren).
- DO NOT date and sign the Affidavit in Response to Motion until you are in the presence of a notary public or court administration. Make sure to bring identification to show to the notary public or court administration. A notary public can usually be found at a bank or courthouse.

By signing your name you are telling the court that you are telling the truth and that you have a good faith reason for your requests. If you are filing these documents just to harass the other party or without good legal reason, or if you mislead the court, the court can make you pay money to the other party.

Step 3

Make copies of forms and serve the other party

- Make copies of the “Responsive Notice of Motion and Motion” and your “Affidavit in Response to Motion” forms and all attachments for all parties.
- Keep one copy of each form for yourself (make sure to bring your copies with you to court on the day of your hearing)
- The other copies will be for the other parties.
- You will file the originals of each form with Court Administration.

Step 4
**Serve copies on other party and
Filling out the “Affidavit of Service”**

You must arrange for the other party to receive copies of all the documents you have prepared. You may NOT serve the papers. This must be done by a person who is not a party to the case and is at least 18 years old or older. Papers may be served either personally or by mail.

To serve the papers by mail, follow these instructions:

- Copies of all the forms must be mailed to the other party (not by you) by first class mail at their last known address **at least eight (8) days before the hearing date**. If the other party has retained an attorney, the copies must be mailed to the attorney. Note: If your Responsive Motion raises new issues not addressed in the other party’s Notice of Motion and Motion, the responsive papers must be mailed at **least 13 days before** the hearing.
- After the forms have been mailed, the person who mailed the documents must fill out the Affidavit of Service by Mail.
- They must fill out the State and County of their residence, their name, and complete all spaces in the form.
- They CAN NOT date and sign the “Affidavit of Service by Mail” until they are in the presence of a notary public or court administration. Make sure they bring identification to show to the notary public or court administration. A notary public can usually be found at a bank or courthouse.
- After it has been completed and signed, make one copy of the Affidavit of Service by Mail for your records.

To serve the papers personally, follow these instructions:

- The server (not you) hands to the other party (attorney if there is one) a copy of all the forms you completed.
- The server must give the papers to the other party **at least five (5) days before the hearing date**. Papers cannot be served on a Sunday or a legal holiday. For example, if the hearing date is January 15, the server must give the papers to the other party on or before January 10. Note: If your Responsive Motion raises new issues not addressed in the other party’s Notice of Motion and Motion, the responsive papers must be served **at least ten (10) days** before the hearing.

- After the forms have been personally served, the person who served the documents must fill out the Affidavit of Personal Service.
- They must fill out the State and County of their residence, their name, and complete all spaces in the form.
- They CAN NOT date and sign the “Affidavit of Personal Service” until they are in the presence of a notary public or court administration. Make sure they bring identification to show to the notary public or court administration. A notary public can usually be found at a bank or courthouse.
- After it has been completed and signed, make one copy of the Affidavit of Personal Service for your records.

WARNING: IF YOUR FORMS ARE NOT MAILED TO THE OTHER PARTY (OR HIS/HER ATTORNEY) ON TIME, THE COURT MAY DISREGARD YOUR RESPONSE.

Step 5

Filing the Forms with the Court and Paying the Motion Fee

- At least 5 days before the hearing date, mail or hand deliver the originals of the forms to the Court Administrator’s office.
- You must pay the motion fee of \$100.00 together with your initial filing fee (if not already paid) payable to “Court Administrator”.
- If you cannot afford to pay the filing fee, a Judge may waive it under certain circumstances. In forma Pauperis (IFP) applications are available from Court Administration or download the forms at www.mncourts.gov/forms.

Step 6

Appear in Court

You must go to court on the date set for the hearing. Be sure to be on time. Bring with you to the hearing your copies of the papers and any exhibits/documents relating to your case.

Goodhue County District Court
Justice Center
454 W. 6th Street
Red Wing MN 55066
(651) 267-4800

State of Minnesota

County _____

District Court

Judicial District: _____
Court File Number: _____
Case Type: Family

Petitioner

**RESPONSIVE NOTICE OF
MOTION
AND MOTION**

VS.

Respondent

To: _____
(Name and address of party to be served)

Please take notice that on _____ at _____ o'clock ____m. at
(Date) (Time)

(Courthouse location)

I'm asking the court to deny the petitioner's request to: _____

I will ask the court for the following: _____

3. For such other and further relief as the court deems fair, just and equitable.
4. Verification and acknowledgements:
 - a) The information contained in this document is true and correct to the best of my knowledge.
 - b) I have not been determined by any court to be a frivolous litigant and I am not the subject of an order precluding me from serving or filing this document.
 - c) I am not serving or filing this document for any improper purpose, such as to harass the other party or to cause delay or needless increase in the cost of litigation or to commit a fraud on the court.
 - d) I understand that the court can order me to pay money to the other party, including the reasonable expenses incurred by the other party if the above statements are not true.

Dated: _____

Signature

Address

City & State

Telephone

The information contained in this affidavit is true and correct to the best of my knowledge.

Dated: _____

Sign only in the presence of a Notary Public or Court Admin

Print Name

Address

City & State

Telephone

Subscribed and sworn to before me on

_____ 20__

Notary Public/Court Administration

**STATE OF MINNESOTA
COUNTY OF GOODHUE**

**DISTRICT COURT
FIRST JUDICIAL DISTRICT**

In Re the Matter of:

Case No. _____

Petitioner

vs.

- AFFIDAVIT OF PERSONAL SERVICE**
 AFFIDAVIT OF SERVICE BY MAIL

Respondent

STATE OF MINNESOTA)
COUNTY OF _____)SS
(County where Affidavit signed)

I, _____ being sworn, state that I am at least
(Name of person who hand-delivered documents)

18 years of age having been born on _____, and that on _____
(Date)

I served the **“Responsive Notice of Motion and Motion”** and **“Affidavit in Response to Motion”**
upon (check all that apply):

- Petitioner (Name) _____
 Respondent (Name) _____
 County Office (Name) _____
 Other (Name) _____

By (check method of service used):

Personally handing a true and correct copy of the documents to the person(s) named above
at _____ o'clock ____ .m. at _____
(Time) a.m. or p.m. (Address where documents were delivered)

Mailing a true and correct copy of the documents to the person(s) named above by placing the
documents in an envelope with sufficient postage in the United States mail at the Post Office located
in the City of _____, State of _____, at the person's last known
address of: _____

Signature of Person Who Served Documents
(Sign only in presence of Notary Public)

Print Name: _____

Address: _____

City & State: _____

Telephone: _____
(of person who served documents)

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

Notary Public or Court Clerk