

FAMILY COURT MATTER

RESPONSE TO REQUEST FOR TEMPORARY RELIEF PENDING FINAL HEARING WITHOUT CHILDREN

These instructions are used for the following documents:

Responsive Notice of Motion and Motion for Temporary Relief without Children
(DIV702)

Affidavit in Support of Responsive Motion for Temporary Relief without Children
(DIV703)

Parenting / Financial Disclosure Statement (FAM108)

Affidavit of Personal Service (DIV503)

Affidavit of Service by Mail (DIV504)

IMPORTANT NOTICES

- USE THE RESPONSE TO REQUEST FOR TEMPORARY RELIEF **ONLY** IF YOU AND YOUR SPOUSE **DO NOT HAVE** JOINT CHILDREN TOGETHER.
- COURT PERSONNEL AND THE COUNTY ATTORNEY'S OFFICE **CANNOT** HELP YOU FILL OUT COURT FORMS.
- THE COURT EXPECTS EVERY PERSON WHO APPEARS IN COURT WITHOUT A LAWYER TO KNOW THE LAW. IF YOU ACT AS YOUR OWN LAWYER, YOU MUST DO WHAT A LAWYER WOULD DO.
- YOU SHOULD SEE A LAWYER IF YOU DON'T KNOW HOW TO ANSWER THE QUESTIONS ON THE FORMS OR IF YOU THINK THE OTHER PARTY WILL HIRE A LAWYER.
- YOU **MUST** FILL OUT ALL NECESSARY FORMS LISTED ON THE COVER PAGE OF THESE INSTRUCTIONS AND YOU **MUST** FOLLOW THE INSTRUCTIONS.
- TYPE YOUR ANSWERS OR PRINT NEATLY USING DARK INK.
- IF YOU NEED MORE SPACE TO ANSWER A QUESTION, USE AN ADDITIONAL FULL SHEET OF PAPER.

Helpful materials may be found at your public county law library. For a directory, see <http://mn.gov/law-library/research-links/county-law-libraries.jsp> . For more information, contact your court administrator or call the Minnesota State Law Library at 651-297-7651.

INSTRUCTIONS

You should use the *Response to Request for Temporary Relief* if your spouse has served you with a Motion for Temporary Relief. If you disagree with anything in your spouse's Motion papers, you must prepare your response using the court forms listed on the cover page of these Instructions. It is important to:

1. Fill out all court forms completely. (Steps 1-3)
2. Follow the instructions on how and when to "serve" your spouse. (Step 6) (Serving means getting a copy of all of your papers to your spouse or his/her attorney.)
3. Follow the instructions on when to file your papers with the Court. (Step 8)
4. Go to the court hearing.

Why is it important to follow the instructions? The instructions explain the technical requirements contained in the court rules and laws. If you do not properly serve and file your papers, the judicial officer may deem your spouse's motion unopposed and may issue an order in favor of your spouse without a hearing. Furthermore, even if a hearing is held, the court may refuse to permit you to make an argument at the hearing. The judicial officer may also order you to pay attorney's fees to your spouse or other penalties. If you carefully fill out the forms and follow the rules on serving and filing your papers, you protect your right to have your evidence and point of view considered by the judicial officer.

If you want to respond to anything raised by your spouse in his/her papers you need to act quickly. See Steps 6 and 8 of these Instructions for details on deadlines for serving and filing your written response. Generally, your written response must be **personally served** on your spouse or his/her attorney **at least 7 days** before the hearing date. The hearing date is on the first page of the Motion you received from your spouse. If you want to raise **new** issues at the hearing your spouse has scheduled, your written response must be **personally served** on your spouse **at least 14 days** before the hearing.

Step 1

Fill Out the *Responsive Notice of Motion and Motion for Temporary Relief* Form (DIV702)

Fill out the *Responsive Notice of Motion and Motion for Temporary Relief* form. This form tells the court and your spouse your response to your spouse's request.

FILL IN THE TOP PART OF THE FORM

The information to fill out the top part of the form can be found at the top of the *Petition for Dissolution of Marriage*. This information is known as "the caption," and will be the same on every form you fill out.

- Fill in the "Case No." as found at the top of the *Petition for Dissolution of Marriage*.

- On the line marked “Name of Petitioner,” write the full name of the Petitioner as found on the *Petition for Dissolution of Marriage*.
- On the line marked “Name of Respondent,” write the name of the Respondent as found on the *Petition for Dissolution of Marriage*.
- Check off whether your spouse is listed as the Petitioner or Respondent in this case. Write the full name and street address of your spouse.
- Fill in information about the date, time, and place of the hearing as well as who the judicial officer is. Get this information from your spouse’s *Notice of Motion and Motion* form.

FILL OUT THE REST OF THE FORM

The instructions that follow are numbered the same as the questions on the *Responsive Notice of Motion and Motion* form.

1. Mediation

A mediator is a person outside the court system who helps the parties to reach an agreement to settle their differences, instead of having someone else (the Judicial officer) decide for the parties. **NOTE: The court cannot order you and your spouse to attend mediation if you or your spouse allege domestic violence.** Check off whether you want the court to order you and your spouse to use a mediator to attempt to reach an agreement regarding one or more of the issues listed. If YES, then check off which issue(s) you would like a mediator to help you with.

2. Maintenance

Formerly called “alimony,” maintenance is an amount paid by one person to the other to help cover living costs and personal expenses. Check off how you would like the court to decide the issue of temporary maintenance. Check box (a) if neither you nor your spouse should receive temporary maintenance. Check box (b) if you do not want the court to decide the issue of maintenance at this time. Check box (c) if you want your spouse to pay you a specific amount for temporary maintenance, and then fill in that amount.

3. Attorney’s Fees

Check off how you would like the Court to decide the issue of attorney’s fees. Check box (a) if you want the court to order you and your spouse to each pay your own attorney’s fees. Check box (b) if you want your spouse to pay some or all of your attorney’s fees, and then fill in the amount that your spouse should pay you. Check box (c) if you do not want the court to decide the issue of attorney’s fees at this time.

4. Use of Parties’ Home

Check off how you would like the court to temporarily divide use and possession of the parties’ home and who should pay the mortgage and other expenses for the home:

- Check (a) if you alone want to have sole use and possession of your home until the final decree is issued. Check off who will pay the mortgage and other expenses for the home.
- Check (b) if you want your spouse to have sole use and possession of your home until the final decree is issued. Check off who will pay the mortgage and other expenses for the home.
- Check (c) if both you and your spouse should share use and possession of your home until the final decree is issued. Write in the expenses for the home and who should pay each housing expense.

5. Household Goods, Furniture and Furnishings

Check off how you would like the court to temporarily divide the use and possession of the parties' household goods, furniture and furnishings:

- Check (a) if both you and your spouse should keep the use and possession of the items you each have in your possession until the final decree is issued.
- Check (b) if you should have sole use and possession of certain items until the final decree is issued and then list those items.
- Check (c) if your spouse should have sole use and possession of certain items until the final decree is issued and then list those items.

6. Vehicles

The court may temporarily allow you and your spouse to use and possess certain vehicles. The court may also order one party to make loan payments and insurance payments on a vehicle, even if that party does not have use and possession of the vehicle. If you and your spouse own any vehicles, check box (a) and for each vehicle owned by the parties, list the year, make and model, and then identify to whom use and possession of the vehicle should be temporarily awarded and who should be responsible for the payment of the vehicle's loan and insurance. If you and your spouse do not own any vehicles, check box (b).

7. Debt payments

If you and your spouse have debts, check box (a) and for each debt that you and/or your spouse have, write in the name of the creditor (to whom you owe the money), the account number, the total balance owed, the amount to be paid each month and who should pay the debt each month. If you and your spouse do not have any debts, check box (b). Use Confidential Information Form 11.1 (CON111) to list the creditor's name, account numbers, and balance owed.

To protect the privacy of you and your spouse, all social security numbers, employer identification numbers, and financial account numbers must not be listed on papers you file with the court. You must use Form 11.1 when providing these confidential numbers to the court. Failure to use Form 11.1 means these numbers could be available

to the general public and you could be charged court costs and the court may order other sanctions against you for the failure to keep this information private.

8. Insurance

By law, all currently available insurance coverage must be maintained and continued without change in coverage or beneficiaries. Check off whether you want the court to allow you to change certain insurance policies covering you, your spouse, or minor children. If YES, write in the policy and the changes that you wish to make. Use Confidential Information Form 11.1 (CON111) to list any policy numbers, if necessary.

9. Reinstate insurance

Check off whether you want the court to order your spouse to reinstate insurance that (s)he allowed to lapse. If YES, write in the insurance that should be reinstated. Use Confidential Information Form 11.1 (CON111) to list any insurance numbers, if necessary.

10. Income changes

Check off whether you want the court to order your spouse to notify you immediately notify you of any income raises, bonuses, or other extra income, including tax returns.

11. Spend income

Check off whether you want the court to order your spouse to not spend any income raises, bonuses, or other extra income, including tax returns.

12. Restraints

By law, you and your spouse are not allowed to dispose of any assets except for the necessities of life, by a written agreement, or to pay for an attorney. Paragraph 12 does not require you to write anything.

13. Check off whether you want the court to allow you to sell, give away, or discard property that may belong to you, your spouse, or to both you and your spouse and explain why.

14. Harassing behavior

By law, you and your spouse cannot harass each other. You do not need to write anything for this paragraph/question.

15. Check off whether you want the court to grant additional relief. If YES, write in the specific additional requests.

16. You do not need to write anything for paragraph/question 16.

- **Read the Acknowledgment and sign it. Minnesota law requires the attorneys and parties proceeding pro se to sign the acknowledgment. By signing this, you are verifying that your legal papers are not being presented for any improper purpose (such as to harass your spouse or to delay the proceeding), that the law allows you to take this action, your statements are true and supported by evidence. If you are denying your spouse's statements, your denial also must be supported by evidence.**

- Sign the *Responsive Notice of Motion and Motion for Temporary Relief* form. Fill in the date, your address and telephone number.

Step 2 Fill Out the <i>Affidavit</i> form (DIV703)

Fill out the *Affidavit* form. This form gives the court the information it needs to make a decision.

FILL OUT THE TOP PART OF THE FORM:

- Fill out the top part of the form the same way you did on your *Responsive Notice of Motion and Motion for Temporary Relief* form in Step 1 above.
- Write your name on the line above the first numbered paragraph.

FILL OUT THE REST OF THE FORM:

The instructions that follow are numbered the same as the questions on the *Affidavit* form.

1. Check off whether you are the Petitioner or Respondent in this case as listed in the top part of the form (caption) the same way you did on the *Responsive Notice of Motion and Motion for Temporary Relief without Children*.
2. Check your request regarding temporary spousal maintenance the same as you did on the *Responsive Notice of Motion and Motion for Temporary Relief without Children*. If you are asking for temporary spousal maintenance, fill in the amount you need each month from your spouse and explain why you are not able to support yourself. Tell the court about your work history, whether you earn more or less now than you did before, whether you have any medical, physical or psychological problems that limit your ability to work and any other facts that make it difficult or impossible to support yourself.
3. Check whether you are asking the court to order your spouse to pay your attorney's fees the same as you did in your *Responsive Notice of Motion and Motion for Temporary Relief without Children*. Explain why you need your spouse to pay your attorney's fees.
4. Check who should temporarily live in your house the same as you did in your *Responsive Notice of Motion and Motion for Temporary Relief without Children*. Explain your reasons why the Court should grant your request. Be specific.
5. Check whether you and your spouse have divided your personal property, household goods and furniture the same as you did in your *Responsive Notice of Motion and Motion for Temporary Relief without Children*. If you and your spouse have not divided the personal property, explain the specific terms that you want and why you should have them. Explain the specific items your spouse should have and why (s)he should have them.
6. Check whether you or your spouse own motor vehicle(s) the same as you did in your *Responsive Notice of Motion and Motion for Temporary Relief without Children*. If you

or your spouse own motor vehicle(s), write in the motor vehicle(s) you want and the reason(s) you should have the vehicle(s). Then, write in the motor vehicle(s) your spouse may have and the reason(s) your spouse should have the vehicle(s).

Check if you are going to make the payments and the insurance costs for your motor vehicle(s) the same way you did in your *Responsive Notice of Motion and Motion for Temporary Relief without Children*. If you want your spouse to make these payments, write in why your spouse should be ordered to do this. Check if your spouse is going to make the payments and the insurance costs for his or her motor vehicle(s). If not, explain who will make these payments and why.

7. Check whether you and your spouse have debts. If there are debts, explain in detail who should pay the debt and why that person should be ordered to pay that debt.
8. Check whether you want to change any insurance policies the same way you did on your *Responsive Notice of Motion and Motion for Temporary Relief without Children*. If you want to change any policy, write the name of the policy you want to change, what the change will be, and why you want to change it.
9. Check whether there is insurance you want reinstated. If YES, explain what insurance has lapsed or has been cancelled, when it lapsed or was cancelled, who let it lapse or had it cancelled, and why it should be reinstated.
10. Check if you asked the Court in your *Responsive Notice of Motion and Motion for Temporary Relief without Children* to order your spouse to notify you of any salary or wage increases, bonuses or other extra income. Check all possible sources for this increased income or list the specific sources. If YES, write in why you need this information.
11. Check whether you want the court to order your spouse not to spend or use other income. If YES, explain why you want the court to order this.
12. If you asked the court in your *Responsive Notice of Motion and Motion for Temporary Relief without Children* to allow you to sell or otherwise dispose of specific property or items. List the specific property or items here and then explain why the court should grant you permission to sell or otherwise dispose of this property or these items.
13. If you asked the court for additional relief, explain why the court should grant this request.
14. Sign your *Affidavit* under penalty of perjury. This means you are stating that the information in the *Affidavit* is true to the best of your knowledge. Perjury is the crime of intentionally lying or misrepresenting the truth, punishable by jail or other sanctions.

Step 3 Fill Out the <i>Parenting / Financial Disclosure Statement Form</i>

Fill out the *Parenting / Financial Disclosure Statement* form (FAM108). This form gives the Court background information regarding you and the other party. Both the *Instructions* (FAM107) and the *Parenting / Financial Disclosure Statement* form (FAM108) can be found at www.mncourts.gov/forms under the court form category of Family, or can be obtained from the court administrator.

<p>Step 4 <i>Confidential Information Form 11.1 (CON111) and Cover Sheet for Non-Public Documents Form 11.2 (CON112), when necessary</i></p>
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NOTE! Most documents filed with the court are considered public documents and are available to the public. Certain information that is filed with the court may be considered confidential based on court rule and not available to the public. To keep this information confidential and not available to the public, you must take certain steps that are described below.

The steps listed below are for filers who are filing paper documents. Filers who are using eFS to submit their court documents must identify and designate their filings as required in Minn. Gen. R. Prac. 11.03 and 14.06.

Confidential Information Form 11.1

All social security numbers, employer identification numbers, and financial account numbers (also called “restricted identifiers”) must not be listed on papers you file with the court. This is to protect your privacy, the other parties and your children. Only provide social security numbers, employer identification numbers, and financial account numbers when the court requires this information to be provided to the court. For example, if you must provide the court with bank account numbers, or medical account numbers, do not include any account number in your document (your motion, supporting affidavit, etc.). Instead, you must use Form 11.1 to list these confidential numbers.

If account numbers are not required to be provided to the court, and the numbers appear on documents that are considered available to the public, (such as medical invoices or credit account numbers on statements) you must remove the number on the document before filing the document with the court.

Cover Sheet for Non-Public Documents Form 11.2

Most documents filed with the court are public. However, some documents are considered non-public documents based on court rules. You **must** identify these documents as non-public at the time you file the documents with the court. You must complete and file the “Cover Sheet for Non-Public Documents Form 11.2 (also called Form 11.2 cover sheet) when you file non-public

documents. The most common non-public documents are called “financial source documents.” Examples of financial source documents include:

- Paycheck stubs, employer statements, W-2 forms, or business income and business expenses
- Copies of your tax returns and schedules
- Bank statements
- Credit card statements
- Check registers

You may also need to submit other documents that court rules identify as non-public documents, such as a medical record. For example, a report from a doctor that provides a medical diagnosis or treatment plan for you or your child would qualify as a medical record.

You must use the Form 11.2 cover sheet when filing other non-public documents, such as medical records, with the court. One Form 11.2 cover sheet can be used for submitting all non-public documents.



The failure to use Form 11.2 or Form 11.1 may result in your document being rejected by court administration, being available to the public, stricken from the court record, and sanctions from the court.

See Rule 11 of the Minnesota General Rules of Practice for more information about how to file documents containing social security numbers, financial account numbers, “financial source documents” and other non-public documents.

Form 11.1 and Form 11.2 can be found at www.mncourts.gov/forms under the court forms category of “Confidential Information” and is court form number CON111 and CON112.

Step 5

Make Copies of the Forms

1. Make **two** copies of the *Responsive Notice of Motion and Motion* form, **two** copies of your *Affidavit*, and **two** copies of your *Parenting / Financial Disclosure Statement* form and all attachments (for example: pay stubs, proof of expenses).
2. Keep **one** copy of each form for yourself (make sure to bring your copies with you to court on the day of your hearing).
3. Step 6 tells you how to serve the second copy of each form upon your spouse.
4. Step 8 tells you what to do with the forms.

Step 6 Serve Notice on Your Spouse

Overview

The other party must receive complete copies of all documents you have prepared for the hearing. This is called "service of process." The papers can be served personally (handed to the other party), or by mail. If papers are served by mail, Court Rules require adding three days. **Papers cannot be served on a legal holiday.**

If the other party is represented by an attorney, serve the other party's attorney, instead of the party directly.

Who Can Serve

The forms you have prepared can be served by any of the following:

- The sheriff;
- Another adult; or
- You.

Personal Service

The server hands to the other party **one copy** of the completed *Responsive Notice of Motion and Motion, Affidavit in Response to Motion, Parenting/Financial Disclosure Statement*, and one copy of any and all attachments.

- The server must give the papers to the other party (or their attorney, if they have one) **at least 7 days before the hearing date**. For example, if the hearing date is January 30, the server must give the papers to the other party on or before January 23. If January 23 is a Saturday, Sunday, or legal holiday, the papers must be served on or before the next day that is not a Saturday, Sunday or legal holiday (January 22, for example, if January 23 is a Saturday).
- **Note:** If your responsive *Motion* raises new issues not addressed by the other party's *Notice of Motion and Motion*, your responsive papers must be served **at least 14 days before the hearing**.

Service by Mail

The server places **one copy** of your *Responsive Notice of Motion and Motion, Affidavit in Response to Motion, Parenting/Financial Disclosure Statement*, and one copy of any and all attachments in an envelope.

- The server must mail the envelope containing the forms to the other party (or their attorney, if they have one) by first class U.S. mail **at least 10 days before the hearing date**. For example, if the hearing date is January 30, the envelope must be postmarked on or before January 20. If January 20 is a Saturday, Sunday, or legal holiday, the envelope must be postmarked on or before the next day that is not a Saturday, Sunday, or legal holiday (January 19, for example, if January 20 is a Saturday).

- **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 **17 days before** the hearing.

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

Step 7
Fill Out the *Affidavit of Service* Form

After a copy of your forms and attachments is hand-delivered or mailed, the person who did the service must fill out an *Affidavit of Service* form and sign it under penalty of perjury. Perjury is the crime of intentionally lying or misrepresenting the truth.

After it has been signed, make one copy of the *Affidavit of Service* for your records.

Step 8
File the Forms with the Court

At least 7 days before the hearing date, file the following documents with the Court Administrator. **If your papers raise new issues** not included in the other party’s Notice of Motion and Motion, you must file the papers with the court **at least 14 days** before the hearing date. You can mail them to the court, but you must allow 3 extra days for mailing. Put them in the mail at least eight 10 days before the hearing (or 17 days before the hearing if the papers raise new issues). **File:**

- The *Responsive Notice of Motion and Motion for Temporary Relief without Children*;
- The *Affidavit in Support of Responsive Motion for Temporary Relief without Children*;
- The *Parenting / Financial Disclosure Statement* and all attachments;
- The *Affidavit of Service by Mail OR Affidavit of Personal Service*;
- A memorandum of law, if you have one; (discussing how the law applies to your situation and facts)

There may be a filing fee due when you file your paperwork. Contact court administration to find out the amount of the filing fee. You can make checks payable to “District Court.”

If you cannot afford to pay the filing fee, you can ask for a fee waiver by completing the forms in the *Request for Fee Waiver* packet of forms (found online at www.mncourts.gov/forms). If a judicial officer does not sign the fee waiver order, then you must pay the motion fee before Court Administration can process your forms.