

# **FAMILY COURT MATTER**

## **RESPONSE TO A REQUEST FOR TEMPORARY RELIEF PENDING FINAL HEARING WITH CHILDREN**

**The following court forms will be needed to respond to a request for temporary relief:**

*Responsive Notice of Motion and Motion for Temporary Relief (DIV1102)*

*Affidavit in Support of Responsive Motion for Temporary Relief (DIV1103)*

*Parenting / Financial Disclosure Statement (FAM108)*

*Affidavit of Personal Service (DIV903)*

*Affidavit of Service by Mail (DIV904)*

## IMPORTANT NOTICES

- USE THIS FORM **ONLY** IF YOU AND YOUR SPOUSE HAVE MINOR CHILDREN TOGETHER.
- COURT PERSONNEL AND THE COUNTY ATTORNEY'S OFFICE **CANNOT** HELP YOU FILL OUT THESE 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 THESE FORMS OR IF YOU THINK THE OTHER PARTY WILL HIRE A LAWYER.
- YOU **MUST** FILL OUT ALL NECESSARY FORMS 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 forms listed in these Instructions 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 forms listed below. It is important to:

1. Use the forms listed below and fill them out completely. (Steps 1-4)
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 the other party 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 the other party has scheduled, your written response must be **personally served** on the other party **at least 14 days** before the hearing.

## Step 1

### **Fill Out the *Responsive Notice of Motion and Motion for Temporary Relief* Form (DIV1102)**

Fill out the *Responsive Notice of Motion and Motion for Temporary Relief* form included in this packet. This form tells the court and the other party your response to the other party'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 the other party is listed as the Petitioner or Respondent in this case. Write the full name and street address of the other party.
- On the line marked “Please Take Notice,” write in the date, time, name of judicial officer and location of the hearing the same as in the other party’s *Notice of Motion and Motion for Temporary Relief*.

## 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 the other party allege domestic violence.** Check off whether you want the court to order you and the other party 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. **Legal Custody** - Identifies which parent(s) will have a right to make decisions about important issues in the lives of the children, including the educational, religious and medical upbringing of the children. Check off the type of temporary legal custody you would like the court to order.
  - a. **Joint legal custody**  
Both you and the other parent will have an equal right to make decisions regarding the educational, religious and medical upbringing of the children.
  - b. **Sole legal custody**  
Only one parent will have the right to make decisions regarding the educational, religious and medical upbringing of the children.
3. **Physical Custody** - Identifies which parent(s) the children will live with. A parent who DOES NOT have physical custody usually has a right to parenting time with the children. Parenting time was formerly called “visitation.” Check off which type of temporary physical custody you would like the court to order:
  - a. **Joint physical custody**

The children will live with both you and the other parent based on a schedule that meets the needs of the children. Write in your proposed schedule on the lines provided.

b. **Sole physical custody**

The children will live with one parent and have parenting time with the other parent.

4. **Parenting Time** - Check off whether temporary parenting time with the children should be supervised or unsupervised. Fill in the temporary parenting time schedule that you believe best meets the needs of the children. NOTE: Supervised parenting time is not likely to be ordered unless unsupervised visits will cause harm to the children.

5. **Child support** is money parents pay for the care, support and education of the children. It may include a monthly court ordered amount for basic support, child care support and medical support. The Minnesota Department of Human Services (DHS) has created a child support calculator to estimate the amount of child support that the court may order on a case. The calculator is on the DHS website at:  
<http://childsupportcalculator.dhs.state.mn.us/> .

To answer this question, check off how you would like the Court to decide the issue of temporary child support.

- a. Check box (a) if the children will live with you and you want the other party to pay you a monthly child support amount, and then fill in the amount that should be paid.
- b. Check box (b) if you will be paying temporary child support to the other parent, and then fill in the amount that should be paid.

**NOTE:** You may be able to ask to pay/receive more or less than the guideline amount. If you want to ask for an amount other than the guideline amount, read Minn. Stat. § 518A.43 and explain why you want to deviate from the guideline amount, and how much you want child support to be. You can get a copy of the statute at the law library or online at <http://www.leg.state.mn.us/leg/statutes.asp> .

6. **Maintenance** - Formerly called “alimony,” maintenance is an amount paid by one spouse 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 the other party 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 the other party to pay you a specific amount for temporary maintenance, and then fill in that amount.
7. **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 the other party to each pay your own attorney’s fees. Check box (b) if you want the other party to pay some or all of your attorney’s fees, and then fill in the amount that the other party should pay you. Check box (c) if you do not want the court to decide the issue of attorney’s fees at this time.

8. **Evaluation and Counseling** - Check off whether you would like the court to order an evaluation or counseling. Check box (a) if you want the court to order the other party to submit to an evaluation or to attend counseling for a problem such as alcohol abuse, drug abuse or anger management. If YES, check the type of evaluation or counseling you want the court to order.
9. **Use of Your Home** - Check off how you would like the court to temporarily divide use and possession of the 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.
10. **Household Goods, Furniture and Furnishings** - Check off how you would like the court to temporarily divide the use and possession of the household goods, furniture and furnishings:
- Check (a) if both you and your spouse should keep the use and possession of the items you each now 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.
11. **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 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).
12. **Debt Payments** - If you and your spouse have debts, check box (a) and for each debt that you and/or the other party 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).

13. **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, the other party or minor children. If YES, write in the policy and the changes that you wish to make.
  14. **Reinstate Insurance** - Check off whether you want the court to order the other party to reinstate insurance that (s)he allowed to lapse. If YES, write in the insurance that should be reinstated.
  15. **Income Changes** - Check off whether you want the court to order the other party to immediately notify you of any income raises, bonuses, or other extra income, including tax returns.
  16. **Spend Income** - Check off whether you want the court to order the other party to not spend any income raises, bonuses, or other extra income, including tax returns.
  17. **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 17 does not require you to write anything.
  18. Check off whether you want the court to allow you to sell, give away, or discard property that may belong to you, the other party, or the parties together and explain why.
  19. **Harassing Behavior** - By law, you and your spouse cannot harass each other. You do not need to write anything for this paragraph/question.
  20. Check off whether you want the court to grant additional relief. If YES, write in the specific additional requests.
  21. You do not need to write anything for paragraph/question 21.
- **Read the Acknowledgment and sign it.** Minnesota law requires the attorneys and self-represented litigants 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 the other party 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 the other party'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 *Affidavit in Response to Motion for Temporary Relief with Children***  
**Form (DIV1103)**

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.

**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 with Children*.
2. Check off whether a juvenile court (child protection, delinquency or foster care) case is or is not currently taking place in Minnesota or in another state. If YES, list the county, state and case file number(s).
3. Check off whether an *Order for Protection* involving you and the other party or the children exists in Minnesota or in another state. If YES, list the county, state, case file number(s), and date of the order. **Attach a copy of the *Order for Protection*.**
4. Write in the number of minor children that you and your spouse have together, including children born to you before or after your marriage and any children adopted into your marriage. For each child, fill in the full name, date of birth, and age.
5. Check off whether the children currently live(s) with you or your spouse or another person. If your children live(s) with another person, write in that person's relationship to the children. Write in your children's current address, and the date the children moved to that address.
6. Check off who should have temporary legal custody of your children the same way you did on your *Responsive Notice of Motion and Motion for Temporary Relief with Children* form and the reasons you think this is best for your children.
7. Write down your response to paragraph 6 in the other party's *Affidavit*.
8. Check off who should have temporary physical custody of the children the same way you did on your *Responsive Notice of Motion and Motion for Temporary Relief with Children*.
9. Write in why your request is best for the children. Include as many details and facts as possible for each factor listed so the court can make a decision. The court considers 13

factors to determine custody if there is no custody order. (See Minnesota Statute § 518.17)  
Write in why you think your request regarding physical custody is in the best interests of your children. Include details about each of the 13 factors:

- (1) the wishes of the children's parents as to custody;
- (2) the reasonable preference(s) of the children, if the court deems the child to be of sufficient age to express a preference;
- (3) the children's primary caretaker;
- (4) the intimacy of the relationship between each parent and the children;
- (5) the interaction and interrelationship of the children with a parent or parents, siblings, and any other person who may significantly affect the children's best interests;
- (6) the children's adjustment to home, school and community;
- (7) the length of time the children has/have lived in a stable, satisfactory environment and the desirability of maintaining continuity;
- (8) the permanence, as a family unit, of the existing or proposed custodial home;
- (9) the mental and physical health of all individuals involved; except that a disability, as defined in section 363.01, of a proposed custodian or the children shall not be determinative of the custody of the children, unless the proposed custodial arrangement is not in the best interests of the children.
- (10) the capacity and disposition of the parties to give the children love, affection, and guidance, and to continue educating and raising the children in the children's culture and religion or creed, if any;
- (11) the children's cultural background;
- (12) the effect on the children of the actions of an abuser, if related to domestic abuse, as defined in section 518B.01, that has occurred between the parents, or between a parent and another individual, whether or not the individual alleged to have committed domestic abuse is or ever was a family or household member of the parent; and
- (13) except in cases in which a finding of domestic abuse as defined in section 518B.01 has been made, the disposition of each parent to encourage and permit frequent and continuing contact by the other parent with the children.

10. Write down your response to paragraphs 7 and 8 in the other party's *Affidavit*.

11. Check off whether you are asking for supervised or unsupervised parenting time the same as you did in paragraph 4 of your *Responsive Notice of Motion and Motion for Temporary Relief with Children*, and explain why you want the parenting time to be supervised or unsupervised. If you are asking for supervised parenting time, be specific about the reasons you believe the other parent's parenting time should be supervised. The court will grant parenting time that enables the children and the noncustodial parent to maintain a parent-child relationship that will be in the best interests of the children. If you are requesting supervised parenting time or other limits, write in the things that have happened and are likely to happen that will put the children's physical and/or emotional health in danger, or will impair the children's emotional development if the parenting time is unsupervised.
12. Write down your response to paragraph 9 of the other party's *Affidavit*.
13. Explain why you want the parenting time schedule that you asked for in your *Responsive Notice of Motion*. Include as many facts as possible to show the court that your proposed schedule is in the best interests of the children. If there are limits, such as no overnight parenting time, explain why the court should order these limits.
14. If your parenting time schedule is different from the other party's write down your response to paragraph 10 of the other party's *Affidavit*.
15. Fill in your gross income monthly and the source for that income, such as work, MFIP, Worker's Compensation, Unemployment Compensation, etc. Next, fill in the information for your spouse's gross monthly income and source. To calculate GROSS (before taxes) MONTHLY income:
  - If you are paid one time per month, write the gross monthly amount on the line.
  - If you are paid two times per month, (such as on the 1<sup>st</sup> and 15<sup>th</sup> of the month), add together these two gross amounts, and write that amount on the line.
  - If you are paid every other week, multiply the gross amount from one paycheck by 26 (the number of times you are paid each year), and write that amount on the line.
  - If you are paid only one time per year, divide that gross amount by 12 and write that amount on the line.
16. Check your request regarding temporary spousal maintenance the same as you did in your *Responsive Notice of Motion*. 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.
17. Write down your response to paragraph 12 of the other party's *Affidavit*.

18. 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*. Explain why you need your spouse to pay your attorney's fees.
19. Check the evaluations that you asked for in your *Responsive Notice of Motion*. Explain your reasons why the court should order your spouse to have these evaluations. Be specific.
20. Write down your response to paragraph 14 in the other party's *Affidavit*.
21. Check who should temporarily live in your house the same as you did in your *Responsive Motion*. Explain your reasons why the court should grant your request. Be specific.
22. Write down your response to paragraph 15 of the other party's *Affidavit*.
23. 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*. 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.
24. Check whether you or your spouse own motor vehicle(s) the same as you did in your *Responsive Notice of Motion*. 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*. 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.
25. 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.
26. Check whether you want to change any insurance policies the same way you did on your *Responsive Notice of Motion*. 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.
27. 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.
28. Check if you asked the court in your *Responsive Notice of Motion* 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.

29. 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.
30. If you asked the court in your *Responsive Notice of Motion* 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.
31. If you asked the court for additional relief, explain why the court should grant this request.
32. 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 *Parenting / Financial Disclosure Statement Form*

Fill out the *Parenting / Financial Disclosure Statement* form. This form gives the court background information regarding you and the other party. This form and its Instructions can be found under the Court Forms Category of “Family” (court forms FAM107 and FAM108).

### Step 4

#### *Confidential Information Form 11.1 (CON111) and Cover Sheet for Non-Public Documents Form 11.2 (CON112), when necessary*

**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](http://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 the *Affidavit* and **two** copies of your *Disclosure Statement* form and any attachments.
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 the other party.
4. Step 8 tells you what to do with the forms.

## Step 6 Serve Notice on the Other Party

### 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 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 10 days before the hearing (or thirteen 17 days before the hearing if the papers raise new issues). **File:**

- The Responsive Notice of Motion and Motion for Temporary Relief;
- The Affidavit in Support of Responsive Motion for Temporary Relief with Children;

- The Parenting / Financial Disclosure Statement, and all attachments;
- The Affidavit of Service;
- A memorandum of law, if you have one (discussing how the law applies to your situation and facts);
- If needed, Form 11.1 and Form 11.2.

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](http://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.