

INSTRUCTIONS

Limited Removal of a Conciliation Court Case to District Court

Important Notices and Resources

The Court has forms and instructions, for some types of cases, as a general guide to the court process. These instructions explain the steps in more detail and answer common questions but are not a full guide to the law. Court employees may be able to give general information on court rules and procedures, but they cannot give legal advice.

Have questions about court forms or instructions?

- Visit www.MNCourts.gov/SelfHelp
- Call the Statewide Self-Help Center at 651-435-6535

Not sure what to do about a legal issue or need advice?

- Talk with a lawyer
- Visit www.MNCourts.gov/Find-a-Lawyer.aspx

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 court administration or call the Minnesota State Law Library at 651-297-7651.

Forms You May Need

- *Demand for Limited Removal to District Court, Affidavit of Good Faith, and Notice of Hearing De Novo (New Hearing)* (CCT502); and
- *Affidavit of Service for Limited Removal* (CCT503) **OR** *Conciliation Court Affidavit of Service* (CCT103).

Forms are available online at www.mncourts.gov/forms under the “Conciliation / Small Claims Court” Category in the “Appeals – Limited Removal” packet or at <https://mncourts.gov/GetForms.aspx?c=10>.

General Information

You can find more information about Conciliation Court online at <https://mncourts.gov/Help-Topics/Conciliation-Court.aspx>.

If your request to vacate a default judgment is denied, you may demand "limited" removal of the *Motion to Vacate the Default Judgment* to the district court for re-hearing.

You must comply with the Conciliation Court Rules 520 and 521 of the [Minnesota General Rules of Practice](https://www.revisor.mn.gov/court_rules/rule/gp-toh/) which govern limited removals to district court (revisor.mn.gov/court_rules/rule/gp-toh/. If you do not understand what is required, you may wish to [talk with an attorney](https://mncourts.gov/Help-Topics/Find-a-Lawyer.aspx) (mncourts.gov/Help-Topics/Find-a-Lawyer.aspx).

Keep in mind that this is a limited removal, and the judicial officer will decide only the issue of whether or not the default judgment should be vacated and a new trial granted. If the district court judicial officer grants your *Motion to Vacate the Default Judgment*, the case will be returned to conciliation court for a new trial of your case. If the judicial officer denies your motion, the judgment stands. However, you may appeal the judicial officer's decision to the Minnesota Court of Appeals within the required time. See the [Rules of Civil Appellate Procedure](https://www.revisor.mn.gov/court_rules/ap/) (revisor.mn.gov/court_rules/ap/).

Step 1
Fill Out the *Demand for Limited Removal to District Court, Affidavit of Good Faith, and Notice of Hearing De Novo (New Hearing)* (CCT5002)

The Caption

| | |
|--|---------------------------------------|
| State of Minnesota | District Court |
| County of: _____ | Court File Number: _____ |
| Judicial District: _____ | Case Type: <u>Conciliation Appeal</u> |
| _____ Plaintiff | |
| VS | |
| _____ Defendant | |
| Demand for Limited Removal to District Court, Affidavit of Good Faith, and Notice of Hearing De Novo (New Hearing) (CCT502) | |
| <small>Minn. R. Gen. Prac. 521(e)</small> | |

The caption is at the top of the form. Fill in all of the information exactly the same as on the *Notice of Conciliation Court Order/Entry of Judgment*.

The Form

Pursuant to Conciliation Court Rule of General Practice 520, 1 _____
(name) filed a motion in Conciliation Court case file number 2 _____
requesting the order for judgment be vacated, and the Court denied this motion.

3 Plaintiff / Defendant wishes to appeal the denial of their motion in this matter and is removing the matter from Conciliation Court to the District Court for a hearing De Novo (new hearing) of this motion challenging the denial of the removal. In accordance with the provisions of Minnesota Statute § 491A.02, subd. 6, and Conciliation Court Rule of General Practice 521(e), this removal is made in good faith and not for purpose of delay.

1. Fill in the name of the person who filed the motion asking the court to vacate the order for judgment.
2. Fill in the court file number of the **Conciliation Court** case.
3. Check the box showing whether the person appealing the denial of their motion is the Plaintiff or the Defendant.

Signature Block

Sign and date the *Demand* form under penalty of perjury. Perjury is the crime of intentionally lying or misrepresenting the truth, punishable by jail or other sanctions.

Include the county and state you are in when you sign the form, and your personal contact information under the signature.

Step 2 Make Copies

Make one copy of the form for each party in the case, including yourself.

The next 3 steps (3-5) are about *servicing* and *filing*.

Servicing is the making sure all other parties in your case receive a copy of your *Demand*.

Filing means giving your *Demand* (and *Affidavit of Service*, explained below) to court administration and pay the filing fee.

If you cannot afford the filing fee, you may apply for a fee waiver pursuant to [Minn. Stat. § 563.01](https://revisor.mn.gov/statutes/cite/563.01) (revisor.mn.gov/statutes/cite/563.01). See the [Fee Waiver Help Topic](https://mncourts.gov/Help-Topics/Fee-Waiver-IFP.aspx) (mncourts.gov/Help-Topics/Fee-Waiver-IFP.aspx).

Your **deadline for servicing and filing** the completed forms **depends on how you received the *Notice of Denial of Motion to Vacate***:

*If the court gave you the Notice of the Denial **electronically** or **in person***, serve and file the completed forms with the **District Court** within **21 days** of the date the *Notice of Denial of Motion to Vacate* was sent electronically or given to you in person. The date is specified on the *Notice*.

*If the court sent the Notice of the Denial to you **through the mail***, then you add an extra 3 days, so you would have to serve and file the completed forms within **24 days** of the date the *Notice* was sent to you.

Step 3
Serve a Copy of the Completed *Demand* Form

A copy of your *Demand for Limited Removal to District Court* must be served on each opposing party or their attorney by first class mail, by electronic means, or by personal service. See [Minnesota Rules of General Practice](#) 14 and 521(b)(1) (revisor.mn.gov/court_rules/rule/gp-toh).

Personal service must be done by someone at least 18 years old and not a party to the case. See [Minnesota Rules of Civil Procedure](#) 4.03 (revisor.mn.gov/court_rules/rule/cp-toh/).

Papers cannot be served on legal holidays as defined in [Minn. Stat. § 645.44, subd. 5](#) (revisor.mn.gov/statutes/cite/645.44).

Step 4
Fill Out the *Affidavit of Service for Limited Removal (CCT503) – OR – Conciliation Court Affidavit of Service (CCT103)*

The *Affidavit of Service* tells the court who served the papers on the other parties and how and when the papers were served.

The person who served the papers (by mail or by personal service) should complete the *Affidavit of Service* form (CCT103 or CCT503) and sign it under penalty of perjury. Perjury is the crime of intentionally lying or misrepresenting the truth, punishable by jail or other sanctions.

Step 5
File the Forms with the District Court

File the forms (*Demand* and *Affidavit of Service*) with Court Administration. You will need to pay the district court filing fee or [ask for a fee waiver](#) (mncourts.gov/Help-Topics/Fee-Waiver-IFP.aspx).

This is a new court action to be heard in **District Court**.



Do not file the *Demand* in the Conciliation Court case.