

# INSTRUCTIONS

## Response to Notice of Motion and Motion to Stop Cost of Living Adjustment (COLA)

The following forms should be used when responding to a Motion to Stop COLA in District Court:

- ✓ *Response to Notice of Motion and Motion to Stop Cost of Living Adjustment (CSD802)*
- ✓ *Affidavit in Support of Response to Notice of Motion and Motion to Stop Cost of Living Adjustment (CSD803)*
- ✓ *Affidavit of Service (CSD101)*
- ✓ *Confidential Financial Source Document (CON112 - Form 11.2)*

### **Important Notices and Resources:**

The Court provides forms and instructions as a general guide to the court process. The instructions explain the steps and address common questions, but are not a comprehensive guide to the law.

You are responsible for your own case. Court employees can provide general information on court rules, procedures and practices but are prohibited from giving legal advice.

If you do not understand the forms and instructions, you may contact the Statewide Self Help Center at [www.mncourts.gov/selfhelp](http://www.mncourts.gov/selfhelp) or by calling 651-435-6535.

If you are not sure if you should file court papers or if you have questions not addressed in the instructions, you should talk to a lawyer. For lawyer referral information see [www.mncourts.gov/selfhelp/?page=252](http://www.mncourts.gov/selfhelp/?page=252).

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 651-296-2775.

## Step 1

### **Fill out the *Response to Notice of Motion and Motion to Stop COLA* form**

The purpose of this form is to request that the court deny the other party's motion to stop the cost of living adjustment on child support / spousal maintenance.

The information to fill in the boxes and blanks at the top of the form can be found at the top of your current child support order or your divorce or paternity decree, including:

- The county where your case is located (which may be different from the county where you live).
- The number of the judicial district.
- The court file number.
- The name of the Petitioner.
- The name of the Respondent.

If you are the Petitioner in the current order or decree, you will be the Petitioner in this responsive motion. Same if you are the Respondent.

Fill in the name and last known address of the other party.

If the cost of living adjustment is only for child support, check the child support box. If the cost of living adjustment is for both child support and spousal maintenance, check both boxes.

Sign and date the last page. Include your address and telephone number.

## Step 2

### **Fill out the *Affidavit in Support of Response to Notice of Motion and Motion to Stop COLA* form**

Fill in the top of the form the same way you did on your "Response to Notice of Motion and Motion to Stop Cost of Living Adjustment" form.

Fill in your name and check the box that indicates who you are in this action (either Petitioner or Respondent).

Check the same boxes you checked on your "Response to Notice of Motion and Motion to Stop Cost of Living Adjustment" (child support, spousal maintenance, or both).

Write out your reasons why the court should deny the other party's request to stop cost of living adjustment on the child support / spousal maintenance obligation(s). Be specific in your reasons and indicate how your reasons are supported by law.

Signing the Affidavit under penalty of perjury 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**  
**Make copies of the forms**

After the forms are completely filled out, make **two** copies of your responsive motion, your affidavit, and any attachments. Keep one copy of each form and all attachments for yourself (be sure to bring your copies with you to court on the day of your hearing).

**Step 4**  
**Have copies of the documents served 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**

**At least 5 days before the hearing date, one copy of your forms and supporting documents are hand-delivered to the other party personally, or are left at that party's place of residence with some person who is of suitable age or discretion who also lives at the same residence.**

**Service by Mail**

**At least 8 days before the hearing date, one copy of your forms and supporting documents are mailed by first class U.S. mail to the other party.**

**Warning! If your documents are not timely served upon the other party (or his/her attorney), your motion may not be heard by the court.**

**Step 5**  
**Complete the *Affidavit of Service* form**

The person who hand delivers or mails the documents must fill out an "Affidavit of Service" form for each party served.

The server must sign the "Affidavit of Service" under penalty of perjury. By signing the Affidavit under penalty of perjury, the server is stating that the information in the Affidavit is true to the best of his / her knowledge. Perjury is the crime of intentionally lying or misrepresenting the truth, punishable by jail or other sanctions.

## Step 6

### File the Originals with the Court

File the documents with court administration in the county where your case is located as soon as practical but no later than 5 days before the scheduled hearing.

- The *Response to Notice of Motion and Motion to Stop Cost of Living Adjustment*
- The *Affidavit in Support of Response to Notice of Motion and Motion to Stop Cost of Living Adjustment*
- The *Affidavit of Service*
- The *Confidential Financial Source Document* (if used)

Filing by facsimile: Any paper may be filed with the court by facsimile (fax). If documents are filed by fax, the original documents must not be filed, but you must keep all original documents and make them available to the court or any party upon request. There is an additional \$25 filing fee to file by fax.

#### **Confidential Financial Source Document – Court Form CON112 (also called Form 11.2)**

IF you file any financial documents supporting your motion, you must attach the documents to Form 11.2. Check the box of the document you are attaching (such as pay stubs, tax returns, etc.). This form is only for the Court.

NOTE: If you fail to use the Form 11.2 cover sheet to protect confidential information in your supporting documents, the court may order you to pay additional court costs or other sanctions as a penalty for failing to follow the court rules.

#### **Court Fees**

Check with your local court administrator to see if a filing fee is required. If you did not pay an initial filing fee when this case first began, you will now need to pay the filing fee.

If you cannot afford to pay the fee (if required), you may qualify to have the filing fee and motion fee waived by the court. You need to fill out an [In Forma Pauperis application](http://mncourts.gov/GetForms.aspx?c=19&p=69) (available from court administration or online at <http://mncourts.gov/GetForms.aspx?c=19&p=69>) and file it with court administration. Your application will be reviewed by a judge who will decide whether you must pay the fee. If the judge does not sign an order that waives the fee, you must be prepared to pay the fee.

## Step 7

### Appear at the hearing

Come to court on the date and time scheduled for the hearing. Be sure to bring with you copies of the other party's Notice of Motion and Motion to Stop Cost of Living Adjustment (that you were served with), your responsive motion, your responsive affidavit, and all of your supporting papers.