FAMILY COURT MATTER

Response to Other Party's Request for Parenting Time Assistance

The following documents will be needed to respond to a request for parenting time:

Responsive Notice of Motion and Motion
Affidavit in Support of Responsive Motion
Affidavit of Service

Fill out – but DO NOT SIGN and DO NOT SERVE the:
Responsive Notice of Motion and Motion and
Affidavit in Support of Responsive Motion

SEE ALSO "PARENTAL GUIDE TO MAKING CHILD-FOCUSED PARENTING TIME DECISIONS"

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.

IMPORTANT NOTICES

- **WARNING: You CANNOT use these forms unless there is already a court order giving you or the other party visitation or parenting time rights. If you do not have such an order but you do have a Recognition of Parentage or a paternity order, then need the Family Court Packet entitled "Establishing Custody and Parenting Time" to bring your parenting time issues before the court.**

- The court expects every person who appears in court without an attorney to know and follow the law. The judge will not be able to give you any help in court.

- Court personnel and the County Attorney's office **CANNOT** help you fill out the form(s) in this packet.

- You MUST fill out all forms included in this packet and you **MUST** follow the instructions included in this packet.

- You should see an attorney if you do not know how to answer the questions on these forms or if you think the other party will hire an attorney.

- Type your answers or print neatly using dark ink.

INSTRUCTIONS

Step 1

Fill Out the *Responsive Notice of Motion and Motion for Parenting Time Assistance* Form

Fill out the *Responsive Notice of Motion and Motion for Parenting Time Assistance* form included in this packet. This form tells the court and the other party your response to the other party's request.

FILL OUT THE TOP PART OF THE FORM

NOTE: The information to fill in the top part of the form can be found at the top of the other party's *Notice of Motion and Motion* or your current parenting time or visitation order or your divorce or paternity decree. Be sure to copy the information EXACTLY as it is on your current order.

- Fill in the case number that is also called the "court file number."
- On the lines marked "Name of Petitioner" and "Name of Respondent," write the names of the Petitioner and Respondent as listed on your **current** visitation or parenting time order, or divorce or paternity decree.
- On the line marked "TO:" 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*.

FILL OUT THE REST OF THE FORM: The following instructions are numbered the same as the questions on the *Responsive Notice of Motion and Motion* form.

Review the other party's *Notice of Motion and Motion*. Check off **only** the boxes for the type of help you are asking for from the court, or your response to the other party's request. You should check a box for each question that the other party checked.

1. Check box 1(a) if you are asking for makeup (compensatory) parenting time because a scheduled parenting time was wrongfully denied and the other party has not let you have makeup parenting time. Check box 1(b) if you want the court to deny the other party's request.

2. Check box 2(a) if you are asking the court to appoint a visitation expeditor to help you and the other party to resolve the parenting time problems and/or any future parenting time problems that may happen. Under Minnesota's law, a visitation expeditor will first try to help you and the other party to reach an agreement between yourselves regarding the problem. However, if you and the other party are not able to resolve the problem yourselves, then a visitation expeditor will make a decision settling the problem. A visitation expeditor **cannot** make a decision that changes the existing visitation or parenting time order.

- **Note: Not all counties have visitation expeditors. The court will be able to grant this request only if visitation expeditors are available in your county.**
- **Warning: You and the other party will probably be required to pay for the fees and costs of a visitation expeditor.**

Check box 2(b) if you want the court to deny the other party's request.

3. Check box 3(a) if parenting time is now unsupervised and you are asking for it to be supervised. Check box 3(b) if you want the court to deny the other party's request.

NOTE: YOU CANNOT CHECK BOTH BOXES 3 AND 4.

4. Check box 4(a) if parenting time is now supervised and you are asking for it to be unsupervised. Check box 4(b) if you want the court to deny the other party's request.

5. Check box 5(a) if you are asking for the drop-offs and pick-ups of the child(ren) to take place at a visitation exchange center so that you can avoid contact with the other party as much as possible.

   - **Note: Not all counties have visitation exchange centers. The Court will be able to grant this request only if visitation exchange center exists in your county.**

   Warning: You and the other party will probably be required to pay for the fees and costs of this service.

   Check box 5(b) if you want the court to deny the other party's request.

6. Check box 6(a) if you are asking for the transportation of the child(ren) to take place in a different way or at a different location than is now happening and then tell the court how you would like it to take place. Check box 6(b) if you want the court to deny the other party's request.

7. Check box 7(a) if your existing order states only that parenting time or visitation shall be "reasonable" and you want a specific parenting time schedule. Be as complete and as specific as possible when describing the schedule you want. Check box 7(b) if you want the Court to deny the other party's request.

8. Check box 8(a) if your existing order includes a specific visitation or parenting time schedule and you are asking for that schedule to be changed. Be as complete and as specific as possible when describing the schedule you want. Check box 8(b) if you want the court to deny the other party's request.

9. Check box 9(a) if you are asking the court to order the other party to pay any court fees or other costs that you have because of this hearing. Check box 9(b) if you want the court to deny the other party's request for you to pay his/her costs.

10. Check box 10 if you are asking for the other party to pay any expenses that you have because the other party disobeyed the parenting time order. For example, if you had to pay for day care because the other parent did not appear, or if you had already paid for air fare to bring your child(ren) to you and the other parent would not let the child(ren) go.

11. Check box 11 if you are asking for the other party to pay a penalty to the court because the other party disobeyed the existing parenting time order. The judge will determine the amount to be paid, which cannot be over $500. **Note: If the court grants this request, the money will not go to you, but will be paid to the court**.

12. Check box 12 if you want the court to deny the other party's request.

Date and Sign the *Notice of Motion and Motion* Form.

Step 2

Fill Out the *Affidavit in Response to Motion for Parenting Time Assistance* Form

Fill out the *Affidavit in Response to Motion for Parenting Time Assistance* form included in this packet. This form 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 the same way you did on your *Responsive Notice of Motion and Motion* form in Step 1.

- Write the case number which is also called the "court file number."
- On the line marked "Name of Petitioner" write the name of the Petitioner as listed on your **current** visitation or parenting time order or divorce or paternity decree.
- On the line marked "Name of Respondent" write the name of the Respondent as listed on your **current** visitation or parenting time order or divorce or paternity decree.
- Write your name on the line above the first numbered paragraph/question.

FILL OUT THE REST OF THE FORM:

You **MUST** answer paragraphs/questions 1 through 6:

1. You **CANNOT** use this packet of materials **UNLESS** a Parenting Time /visitation order already exists for you or the other party. In paragraph/question 1, check off who has parenting time with the child(ren): You or the other party.

2. Check off whether an *Order for Protection* is or is not currently in effect in any state involving you and the other party or the child(ren) of this case. If an *Order for Protection* **IS** in effect, fill in the county, state, and file number found on the *Order for Protection*.

3. Check off whether a juvenile court proceeding (including delinquency, child(ren) in need of protection or services, foster care, or termination of parental rights) involving the child(ren) of this case. If more room is needed, attach another sheet of paper and make a note of that on the form.

4. List the name, birth date, and your relationship (e.g., mother, father, grandparent) to each child(ren) involved in this case. If more room is needed, attach another sheet of paper and make a note of that on the form.

5. Write the name of the state in which the child(ren) currently live and the month and year when they first started living there. Also list the name of the person with whom the child(ren) live and that person's relationship to the child(ren) (mother, father, grandparent). Finally, list the address of the child(ren) (including street address, city, and state).

6. Describe as clearly and as completely as possible the parenting time problem you have, including dates, times, witnesses, and other information that will be helpful to the court in resolving the problem.

For Paragraphs/Questions 7-20, check off only the type(s) of help that you checked off on your Responsive Notice of Motion and Motion *form.*

7. Check box 7 ONLY if you checked box 1(b) on the *Responsive Notice of Motion and Motion* form. Then also fill in the date(s) and time(s) on which you were scheduled to have parenting time and what the other party did to deny you that parenting time. For example: *"The other party did not let me take the child(ren) with me when I went to pick them up for my scheduled parenting time"*; or *"the other party refused to drop off the child(ren) as planned;"* or *"the other party wasn't home when I went to pick up the child(ren) at the scheduled time and even though I waited for an hour the other party did not show up."*

8. Check box 8 ONLY if you checked box 1(a) on the *Responsive Notice of Motion and Motion form.* If you agree that the other party may have compensatory parenting time, check box "YES" and write in the place and times and the reason for the make-up time. If you do not agree to make-up time, check box "NO" and write in the reason.

9. Check box 9 ONLY if you checked box 2(a) on the *Responsive Notice of Motion and Motion* form. Write in your reasons for your request.

   NOTE: Not all counties have visitation expeditors. The court will be able to grant this request only if visitation expeditors are available in your county.

   WARNING: You and the other party will probably be required to pay for the fees and costs of the visitation expeditor.

10. Check box 10 ONLY if you or the other party is asking for supervised parenting time. Check "YES" if you checked box 3(a) on your *Responsive Motion*. Check "NO" if you checked box 3(b) on your *Responsive Motion*. Then tell the court why parenting time should be changed to supervised or why the court should not change the time as the other party asked.

11. Check box 11 ONLY if you or the other party is asking for unsupervised parenting time. Check "YES" if you checked box 4(a) on your *Responsive Notice of Motion and Motion* form. Check "NO" if you checked box 4(b) on your *Responsive Notice of Motion and Motion* form. Then tell the court why parenting time should be changed to unsupervised or why the court should not change the parenting time as the other party asked.

12. Check box 12 ONLY if you or the other party is asking to transfer the child(ren) at a visitation exchange center. Check "YES" if you checked 5(a) on your *Responsive Notice of Motion and Motion*. Check "NO" if you checked box 5(b) on the *Responsive Notice of Motion and Motion* form. Then tell the court why the pick-ups and drop-offs of the child(ren) should take place at a visitation center or why the other party's request should be denied.

    NOTE: Not all counties have visitation exchange centers. The court can grant this request only if a visitation exchange center exists in your county.

    WARNING: You and the other party will probably be required to pay for the fees and costs of this service.

13. Check box 13 ONLY if you or the other party wants to change the transportation for parenting time. Check "YES" if you checked box 6(a) of your *Responsive Notice of Motion and Motion* form. Check "NO" if you checked box 6(b) of your *Responsive Notice of Motion and Motion* form. Then tell the court how the transportation arrangements should be changed and why or tell the court why the other party's request should be denied.

14. Check box 14 ONLY if you or the other party is asking for a specific parenting time schedule. Check "YES" if you checked box 7(a) on your *Responsive Notice of Motion and Motion* form. Then tell the court why your proposed schedule is in the best interests of the child(ren) or why the court should deny the other party's request.

15. Check box 15 ONLY if you or the other party wants to change the existing schedules. Check "YES" if you checked box 8(a) on your *Responsive Notice of Motion and Motion*. Check "NO" if you checked box 8(b) of your *Responsive Notice of Motion and Motion*. Then tell the court why your proposed schedule is in the best interests of the child(ren) or why the court should deny the other party's request.

16. Check box 16 ONLY if you checked box 9(a) on your *Responsive Notice of Motion and Motion*. Then tell the court the total amount of court fees and costs you paid and why the other party should have to pay you for those fees and costs.

17. Check box 17 ONLY if you checked box 10 on your *Responsive Notice of Motion and Motion*. Then tell the court the total amount and type of other expenses you have because of the denied parenting time.

18. Check box 18 ONLY if you checked box 12 on the *Responsive Notice of Motion and Motion* form. You do not need to fill in any other blanks for paragraph/question 18. **Note: The money will not be paid to you, but will be paid to the court**.

19. Check box 19 ONLY if you checked box 11 on the *Responsive Notice of Motion and Motion* form. Then tell the court the amount and type of expense you have already paid for regarding an upcoming scheduled parenting time.

20. Check box 20 ONLY if there is other information you think would be helpful to the court in deciding this case. Write in the information you want the court to know. Be specific.

When you have completed the Motion and Affidavit in Support of Motion, do not date and sign the papers. You must sign your *Affidavit* in the presence of a Notary Public or Court Administrator/Deputy. Make sure to bring picture identification to show to them.

Step 3
Make Copies of Forms

1. Make **two** copies of the *Responsive Notice of Motion and Motion* form, and **two** copies of the *Affidavit in Response to Motion* form.

2. Keep **one** copy of each form for yourself (make sure you bring your copies with you to court on the day of the hearing).

3. Step 4 tells you how to serve the second copy of each form upon the other party. Step 6 tells you what to do with the originals of the forms.

Step 4
Serve Papers on the Other Party

You must arrange for the other party to receive complete copies of all documents you have prepared for the hearing. This is called "service of process." **A party to an action is not allowed to serve the other party to the action.** You must have someone else who is over the age of 18 serve the other party. The papers can be served by mail, or personally (handed to the other party).

To personally serve the other party, follow these instructions:

1. The server (not you) hands the other party one copy of the completed ***Responsive Notice of Motion and Motion*** form, one copy of the completed ***Affidavit in Response to Motion for Parenting Time Assistance*** and one copy of any attachments.

2. 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. If January 10 is a Sunday, the papers must be served on or before January 9. **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 ten (10) days before** hearing.

To serve the papers by mail, follow these instructions:

1. The server places **one copy** of the completed *Responsive Notice of Motion and Motion* form, and **one copy** of your *Affidavit in Support of Responsive Motion for Parenting Time Assistance*, (and all attachments) in an envelope. Then the server writes your return address and the last known address of the other party on the front of the envelope. The server places the correct amount of postage on the

envelope (the server may want to take the envelope to the post office to be weighed to make sure you he/she has the right amount of postage).

2. The server must mail the envelope containing the forms to the other party either:
   a. At least 8 days before the hearing if the papers only respond to issues raised in the Notice of Motion and Motion. For example, if the hearing is on January 18, the papers must be postmarked no later than January 10.
   b. At least 13 days before the hearing if the papers raise new issues other than those raised in the other party's Notice of Motion and Motion.

   Warning: The court will ignore your response if you do not serve and file the responsive papers on time. If you do not know when your papers must be served, either ask an attorney for advice, or serve the papers at least 13 days before the hearing.

Step 5

The Person Who Served the Papers Fills Out the *Affidavit of Service* Form

If your server personally handed the legal papers to the other party, see "A" below. If your server mailed your legal papers to the other party, see "B" below.

A. FOLLOW THESE INSTRUCTIONS <u>ONLY</u> IF THE SERVER PERSONALLY HANDED THE PAPERS TO THE OTHER PARTY

- The person who handed the papers to the other party must fill out the *Affidavit of Personal Service* form included in this packet. This proves to the court that the other party received a copy of the *Responsive Notice of Motion and Motion* and *Affidavit in Response to Motion for Parenting Time Assistance.*

- Print the names of the parties and the case number (the same as on the *Notice of Motion and Motion*).

- Print the date that the papers were personally served (handed to the other party) and the name of the person to whom the papers were given.

- The person who served the papers must sign the *Affidavit of Personal Service* in front of a Notary Public or Court Administrator/Deputy. The server must have identification to show to them.

After the *Affidavit of Personal Service* has been signed and notarized, make a copy of it for your records.

B. FOLLOW THESE INSTRUCTIONS ONLY IF THE PAPERS WERE MAILED

The person who mailed the forms to the other party must fill out the *Affidavit of Service by Mail* form included in this packet. This form proves to the court that the other party received a copy of the *Responsive Notice of Motion and Motion* and *Affidavit in Response to Motion for Parenting Time Assistance.* The person who mailed the envelope containing the forms must fill in the top part of the form just as was done on all the other forms. Fill in the following:

- The name and date of birth of the person who mailed the envelope.
- The date on which the person put the envelope in the mail.
- The last known address of the other party.
- The City and State where the envelope was put in the mail.
- Attach a copy of the papers served to the *Affidavit of Service by Mail*.

THE SERVER (PERSON WHO MAILED THE ENVELOPE) MUST NOT SIGN THE *AFFIDAVIT OF SERVICE BY MAIL* UNTIL (S)HE IS IN THE PRESENCE OF A NOTARY PUBLIC OR A COURT ADMINISTRATOR/DEPUTY. MAKE SURE THE SERVER BRINGS IDENTIFICATION TO SHOW TO THEM. A Notary Public can usually be found at a bank.

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

Step 6
File the Forms With the Court

At least five (5) days before the hearing date, hand-deliver the **originals** of the following documents to Court Administrator's office. **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 10 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 (8) day before the hearing (or thirteen (13) days before the hearing if the papers raise new issues). **File:**

- The **original** of the *Responsive Notice of Motion and Motion for Parenting Time Assistance*;
- The **original** of your *Affidavit in Response to Motion for Parenting Time Assistance*;
- The **original** of the *Affidavit of Service by Mail*
- A filing fee.

Contact the Court Administrator's office to find out the amount of the filing fee. Checks should be made payable to "Court Administrator".

If you cannot afford to pay the filing fee, a judge may waive it under certain circumstances. Ask the Court Administrator/Deputy for an In Forma Pauperis application. You need to fill out this application and sign it in front of a Notary Public or Court Administrator/Deputy. This application will be reviewed by a judge who will determine whether you must pay the filing fee. If the judge does not sign the form that waives the fee, you must be prepared to pay the filing fee or the Court Administrator cannot accept your forms.

Step 7
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. **Do not bring child(ren) to the first hearing**. After the hearing the judge will issue an *Order*. The judge may issue the *Order* at the end of the hearing or may send a copy of the *Order* to you in the mail.