

# INSTRUCTIONS

## Generic Civil Motion and Affidavit

Forms you may need for this process:

- *Notice of Motion and Motion* (CIV602);
- *Affidavit in Support of Motion* (CIV603);
- *Affidavit of Service by Mail* (SOP104);
- *Affidavit of Personal Service* (SOP102);
- *Notice of Hearing* (CIV604).

### What You Need to Do

1. Complete the court forms, following all of the steps in these instructions.
2. Schedule a hearing date by contacting Court Administration in the county where the civil case is located.
3. File your forms (electronically or at the courthouse), and pay the motion filing fee (or ask for a fee waiver if you cannot afford to pay the fee).
4. Appear at the hearing. Each “step” here is described in more detail below.

### 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.

Got a question about court forms or instructions?

- Visit [www.MNCourts.gov/SelfHelp](http://www.MNCourts.gov/SelfHelp)
- Call the MN Courts 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](http://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 your court administrator or call the Minnesota State Law Library at 651-297-7651.

## General Information About the Generic Civil Motion Packet

The information contained in this document is not intended as legal advice but as a general guide to you to explain the legal process. If you do not understand any of these procedures, talk to an attorney. Court staff cannot give legal advice.

A **generic motion** is a way to ask the court to do something within a civil case that is already open. In very simple terms, the motion is where you state **what** you want the court to order. Along with every motion, you need an **affidavit**. The affidavit is where you state **why** the court should give you what you have asked for.

You may be able to use this packet **IF**:

- A civil case has already started and you have a case number;
- You want to ask the court to do something within the case;
- The court does not publish a specific form for the request you want to make; and
- You want to have a hearing on your request.

**IMPORTANT:** It is strongly recommended that you [get legal advice](#). If you do not know what you should write in your motion, want the motion reviewed by an attorney, or do not already have a civil case open, you should get legal advice.

### Step 1

#### Fill Out *Notice of Motion and Motion (CIV602)*

#### Section A – The Caption

The top part of the first page is where you will find the case caption. It looks like this:

State of Minnesota		District Court	
County	<b>1</b>	Judicial District:	
		Court File Number:	
		Case Type:	
Plaintiff		<b>Notice of Motion and Motion</b>	
vs	<b>2</b>		
Defendant			

You will find the information you need to fill out the caption on a court document from your existing civil case. If you do not have any documents from your court file, and if you do not know the information, you will need to look in your court file.

- Some limited case records can be viewed online at [www.mncourts.gov/publicaccess](http://www.mncourts.gov/publicaccess).
- If you cannot view your case online, you may need to go to the courthouse in the county where your case is located to view your court file.

1. At the top of the page, write in the following information:

- The **county** where the case is located;
- The **judicial district** number (each county is located in one of ten [judicial districts](#));
- Your **court file number** (this usually starts with a two-digit number, followed by letters and numbers. For example, *15-CV-19-0001*); and
- The **case type**.

2. Write in the name of each **plaintiff** and the name of each **defendant** as it is found on the court document mentioned earlier. If your name is incorrect in any way, you can add “aka” (Also Known As) and then your correct name.

### Section B: The Notice

B

TO:

3

**NOTICE**

I will ask the Court for an Order at a hearing scheduled as follows:

Date:		Time:	
Name of Courthouse:		Judicial Officer (if known):	
Street Address:		City:	

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3. After the word “TO,” print the name and address of each party except yourself.

4. Leave this section blank for now. You will fill in this section when you get to Step 3 (below).

### Section C: The Motion

C

**MOTION**

I am asking the Court for an Order as follows:

1. \_\_\_\_\_
2. \_\_\_\_\_
3. \_\_\_\_\_
4. For any other relief the Court feels is fair and equitable.

*Use another sheet of paper if you need more room.*

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5. In the numbered paragraphs, state only **what** you want the court to order at the hearing (do not state **why** in this section). If you need more space, please add more paper (do not write on the back of the page or in the margins).

**Section D: The Signature Block**

On page 2 of the *Notice of Motion and Motion*, please read the **Verification and Acknowledgments** carefully. There can be serious consequences if you do not have a good reason for using the *Notice of Motion and Motion*.

D

or filing this document for an improper purpose, the Court can order me to pay money to the other party, including the reasonable expenses incurred by the other party because of the serving or filing of this document, court costs and reasonable attorney's fees.

Date \_\_\_\_\_

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Signature \_\_\_\_\_

Printed Name: \_\_\_\_\_

Address: \_\_\_\_\_

City, State, Zip \_\_\_\_\_

6. After you have filled out the *Notice of Motion and Motion* (except for the information about the hearing), then you can date and sign the form. Then print your personal contact information below your signature.

**Step 2**

**Fill out the *Affidavit in Support of Motion (CIV603)***

**Section E: The Caption**

E

State of Minnesota District of \_\_\_\_\_

County \_\_\_\_\_

Judicial District: \_\_\_\_\_

Court File Number: \_\_\_\_\_

Case Type: \_\_\_\_\_

Plaintiff \_\_\_\_\_

Affidavit in Support of Motion

vs \_\_\_\_\_

Defendant \_\_\_\_\_

Fill out the caption just like you did in Section A above.

**Section F: The Statement of Facts**

In the *Affidavit in Support of Motion*, you are supposed to write down facts that support the requests you made in your motion. It is where you explain *why* you are asking the court to do the things you asked for in the *Notice of Motion and Motion*. Later on, you will sign the *Affidavit in Support of Motion* under penalty of perjury. This is like being under oath. It means you should not write anything that you know is not true.

My name is	7	_____ . My written statement of facts:	F
		_____	
		_____	
		8	

7. Write your name.

8. Write down the information you want the court to know. This section is your “statement of facts.” If you run out of room, then please add more paper. Do not write on the back of the page or in the margins.

If you want to include an attachment that supports a statement you make, then it is good practice to label your attachment something like “Attachment A” or “Exhibit 1.” Then, next to the statement in your *Affidavit* that talks about the attachment, you can write something like “See *Attachment A*” or “See *Exhibit 1*.” For example: “It cost \$800 to fix my car. See *Exhibit 1*.” And Exhibit 1 would be the bill from the car repair shop.

### Section G: The Signature Block / Penalty of Perjury

<p><b>I declare under penalty of perjury that everything I have stated in this document is true and correct. Minn. Stat. § 358.116.</b></p>		G
Dated: _____	_____	
_____	9	Signature
County and State where signed		Name: _____
		Address: _____
		City/State/Zip: _____
		Telephone: _____
		E-mail address: _____

9. When you sign your *Affidavit in Support of Motion*, you are signing under penalty of perjury. Perjury is the crime of intentionally lying or misrepresenting the truth. By signing under penalty of perjury, you are stating that the information in your *Affidavit* is true to the best of your knowledge.

Date and sign the *Affidavit*. Then write the names of the county and state you are in when you signed it, and print your personal contact information below your signature.

## Step 3

### Contact Court Administration About a Hearing Date

In some districts, you need to schedule the hearing *before* you serve and file your motion. In other districts, you get a hearing date *after* you have filed. It is important that you check with your local [Court Administration](#) to see how to schedule a hearing for your motion. If you do not schedule a hearing, the court will not do anything with your motion.

***If you are able to schedule a hearing date right away:***

- Then go back to the “Notice” section (Section B: The Notice) on the first page of your *Notice of Motion and Motion* (CIV602). Fill in the information in the boxes (hearing date, time, location, and name of judicial officer).

***If your district schedules the hearing after you file:***

- Then you can write in “To Be Determined” in the “Notice” section of your *Notice of Motion and Motion* (CIV602). Note: it is okay to fill in the name and address of the courthouse.
- Later on, once you do have a hearing date, you will need to fill out the *Notice of Hearing* form (CIV604) and serve that form on the other parties (See Step 8 below).

## Step 4

### Make Copies

You will need to make one copy of the *Notice of Motion* and the *Affidavit in Support of Motion* (plus any attachments) for each party, including yourself. Be sure to bring your copy with you to court when you go to the hearing.

## Step 5

### Serve Notice on the Other Party

#### Overview

The other party must receive notice of the hearing and 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. The other party must receive the papers at least 21 days before the hearing. If papers are served by mail, Court Rules require adding three days, so that papers must be postmarked at least 24 days before the hearing.

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

Papers **CANNOT** be served on legal holidays as defined in Minn. Stat. 645.44 (<https://www.revisor.mn.gov/statutes/cite/645.44#stat.645.44.5>).

#### Who Can Serve

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

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

*January*

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
				1	2	3
4	5	6	7	8	9	10
		Add 3 extra days if serving by mail.			Day 21: last day for personal service	Day 20
11	12	13	14	15	16	17
Day 19						Day 13
18	19	20	21	22	23	24
Day 12						Day 6
25	26	27	28	29	30	31
Day 5				Day 1	Hearing Date	

Count **backwards** from the hearing date. The day before the hearing date is **Day 1**.

**Personal Service**

At least **21 days before the hearing date**, the server hands to the other party **one copy** of the completed *Notice of Motion and Motion*, and **one copy** of your *Affidavit in Support of Motion*, including one copy of any and all attachments. Example: If the hearing date is January 30, the papers must be served on or before January 9. If January 9 is a Saturday, Sunday, or legal holiday, keep counting backwards to the next day that is not a Saturday, Sunday, or legal holiday to determine the service deadline.

**Service by Mail**

The server places **one copy** of the completed *Notice of Motion and Motion* form, **one copy** of your *Affidavit in Support of Motion*, and one copy of any and all attachments in an envelope.

The server must mail the envelope containing the forms to the other party by first class U.S. mail **at least 24 days before the hearing date**. Example: If the hearing is January 30, the papers must be postmarked no later than January 6. If January 6 is a Saturday, Sunday, or legal holiday, keep counting backwards to the next day that is not a Saturday, Sunday, or legal holiday to determine the service deadline.

**Warning: If your forms are not personally served on the other party at least 21 days before the hearing OR mailed to the other party at least 24 days before the hearing date, your *Motion* may NOT be heard by the court.**

**If there is more than one plaintiff or more than one defendant, please note that ALL of the other parties must be served.**

**Step 6**  
***Affidavit of Service (Proving Other Parties Were Served)***

*After* the paperwork is served on all of the other parties (**not before**) either personally or by mail, the server must fill out the *Affidavit of Service* form for each party who is served. This form serves as your proof for the court that papers were served on the other party.

**IF THE PAPERS WERE SERVED PERSONALLY, FOLLOW THESE INSTRUCTIONS:**

Use the [Affidavit of Personal Service \(SOP102\)](#)

<b>YOU:</b>	1. Fill in the caption the same as you did for the <i>Notice of Motion and Motion</i> (see Step A, above).
<b>THE SERVER:</b>	1. Write the server's name and date of birth.
	2. Write the date the server handed the papers to the other party.
	3. List all of the papers the servers handed to the other party ( <i>Notice of Motion and Motion, Affidavit in Support of Motion, etc.</i> ).
	4. Write the other party's name.
	5. Write the location (where) the server handed the papers to the other party.
	6. Write in the server's name, address, and telephone number. Server should sign and date the form, and list what county and state they are in when they sign the <i>Affidavit of Personal Service</i> .

After the server signs the *Affidavit of Personal Service* (SOP102), make one copy for your records. The original is filed with the court as part of Step 7 below.

**IF THE PAPERS WERE SERVED BY MAIL, FOLLOW THESE INSTRUCTIONS:**

Use the [Affidavit of Service by Mail \(SOP104\)](#).

<b>YOU:</b>	1. Fill in the caption the same as you did for the <i>Notice of Motion and Motion</i> (see Step A, above).
<b>THE SERVER:</b>	1. Write the server's name and date of birth.
	2. Write the date the server mailed the papers to the other party.
	3. List all of the papers the servers handed to the other party ( <i>Notice of Motion and Motion, Affidavit in Support of Motion, etc.</i> ).
	4. Write the other party's name.
	5. Write the other party's address. Note: the address is broken up. The first line is for the street address ( <i>123 Main St.</i> ); the second line is for the city ( <i>Mantorville</i> ); then state; then zip code.
	6. Write the city and state the server was in when they mailed the papers.
	7. Write in the server's name, address, and telephone number. Server should sign and date the form, and list what county and state they are in when they sign the <i>Affidavit of Service by Mail</i> .

After the server signs the *Affidavit of Service by Mail*, make one copy for your records. The original is filed with the court as part of Step 7.



## Step 7

### File with Court Administration

You will need to file the following forms with Court Administration at least 21 days before the hearing:

- Original *Notice of Motion and Motion*;
- Original *Affidavit in Support of Motion* (including any attachments); and
- Original *Affidavit of Personal Service* **or** *Affidavit of Service by Mail* (one *Affidavit of Service* for each party other than yourself).

There will be a [motion fee](#) due when you file your paperwork. You can make checks payable to “District Court.”

If you cannot afford to pay the motion fee, you can ask for a fee waiver by completing the forms in the the *Request for Fee Waiver* packet of forms (found online at <https://mncourts.gov/GetForms.aspx?c=19&p=69>). 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.

## Step 8

### Notice of Hearing Form (CIV604)

If you filed your *Notice of Motion and Motion* and *Affidavit in Support of Motion* **without a hearing date**, then you need to use the *Notice of Hearing* form (CIV604) to let the other party know when the hearing date is scheduled.

If you use the *Notice of Hearing* form, follow these instructions to fill it out:

1. Fill out the caption like you did for the *Notice of Motion and Motion*.
2. After the word “TO,” write the name and address of each party except yourself.
3. Fill in the details of the hearing (date, time, location, name of judicial officer).
4. Fill in the date that you **filed** the original *Notice of Motion and Motion*. If you do not remember the date, you may be able to look it up online at [www.mncourts.gov/publicaccess](http://www.mncourts.gov/publicaccess).
5. Date and sign the form, then print the requested information.
6. Make one copy of this *Notice of Hearing* form for each party (including for yourself).
7. Serve a copy of the *Notice of Hearing* form on each of the other parties, like you did with the *Notice of Motion and Motion*. See Steps 5 and 6 above.
8. File the original *Notice of Hearing* form and one *Affidavit of Service* form (for each party other than yourself) with Court Administration.

## **Step 9**

### **Go to Your Hearing**

To prepare for your hearing, it is a good idea to look at the court rules that apply to civil cases. You can find [links to these rules](#) online. You could also visit a [law library](#) to read the court rules.

You must go to court on the date set for the hearing. It is important to be on time. If you are even a few minutes late, the judicial officer may dismiss your motion.

Bring your copies of the paperwork with you to the hearing. If the other party has served you with a responsive motion, be prepared to talk about your response to their responsive motion at the hearing. If you are unsure how to prepare for the hearing, or what evidence you should bring, you should [get legal advice](#) before your court date.