

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)*
- ✓ *Cover Sheet for Non-Public Documents Form 11.2 (CON112)*

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 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.

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.

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
Fill out the "Cover Sheet for Non-Public Documents" Form 11.2
Fill out the "Confidential Information" Form 11.1 when necessary

NOTE! Most documents filed with the court are considered public documents and 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 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 under the court forms category of “Confidential Information” and is court form number CON111 and CON112.

Step 4 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 5 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** as defined in Minn. Stat. § 645.44, subd. 5 (<https://www.revisor.mn.gov/statutes/cite/645.44#stat.645.44.5>).

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 7 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 10 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.

If you are raising *new* issues in your response, the timing deadlines are different:

- For personal service, 14 days before the hearing date; and
- For service by mail, 17 days before the hearing date.

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 6
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 7
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 7 days before the scheduled hearing (14 days if raising new issues in your response).

- 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 *Cover Sheet for Non-Public Documents Form 11.2* (if used)
- The *Confidential Information Form 11.1* (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.

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](#) (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

Go 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.