

# INSTRUCTIONS

## Generic Family Responsive Motion and Affidavit

Forms you may need for this process:

- *Responsive Notice of Motion and Motion* (FAM702);
- *Affidavit in Support of Responsive Motion* (FAM703);
- *Affidavit of Service by Mail* (SOP104);
- *Affidavit of Personal Service* (SOP102).

### What You Need to Do

1. Complete the court forms, following all of the steps in these Instructions.
2. Verify the hearing date (found on the other party's notice of motion and motion) by contacting Court Administration in the county where the 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 they are not a full guide to the law. Court employees may be able to give general information about court rules and procedures, but they cannot give legal advice.

Do you have a question about court forms or instructions?

- Visit [www.MNCourts.gov/SelfHelp](http://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 legal 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, visit <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

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

A **generic responsive motion** is a way to respond to the other party's motion filed in a family case that is already open. In very simple terms, the responsive motion is where you state **what** you want the court to order. Along with every motion, you must file an **affidavit**. The affidavit is where you state **why** the court should give you what you have asked for in your responsive motion.

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

- A family case has already started;
- The other party has served you with a motion;
- You want to ask the court to deny the other party's motion, and/or do something within the case; and
- The court does not publish a specific form for the request you want to make.

**IMPORTANT:** It is strongly recommended that you get legal advice if you do not know what you should write in your responsive motion or you want the responsive motion reviewed by an attorney.

## Step 1 Fill Out *Responsive Notice of Motion and Motion (FAM702)*

### The Caption

Fill out the top part of the Responsive Notice of Motion and Motion (this is called "the case caption"):

<p><b>State of Minnesota</b></p> <p>County of: <span style="float: right; border: 1px solid black; border-radius: 50%; padding: 2px 10px;">A</span></p>	<p style="text-align: right;"><b>District Court</b></p> <p>Judicial District: <span style="float: right; border: 1px solid black; border-radius: 50%; padding: 2px 10px;">B</span></p> <p>Court File Number: _____</p> <p>Case Type: _____</p>
<p><b>In Re the Matter of:</b></p> <p style="text-align: center;"><span style="border: 1px solid black; border-radius: 50%; padding: 2px 10px;">C</span></p> <p>_____ Name of Petitioner (First, Middle, Last)</p>	
<p>v.</p> <p style="text-align: center;"><span style="border: 1px solid black; border-radius: 50%; padding: 2px 10px;">D</span></p> <p>_____ Name of Respondent (First, Middle, Last)</p>	
<p><b>RESPONSIVE NOTICE OF MOTION AND MOTION</b></p>	

You can find the information you need to fill out the caption on the other party's motion. If the information is not found on their motion, 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 to view your court file.
- A. Write the name of the county where the case is located.
- B. Write the Judicial District. Fill in your court file number (for example, 27-FA-20-0001).
- C. Write the petitioner's name on the petitioner line just as it appears on your court documents. The person who was the petitioner when the case started will always be the petitioner.
- D. Write the respondent's name on the respondent line just as it appears on your court documents. The person who was the respondent when the case started will always be the respondent.

## The Notice

<b>E</b>	TO:	_____	_____	_____	
		First	Middle	Last	
	_____	Street Address		Apt. No.	
	_____	City	County	State	Zip Code
<b>NOTICE</b>					
I will ask the court for an Order at a hearing scheduled as follows:					
<b>F</b>	Date:	_____	Time:	_____	a.m./p.m.
	Courthouse address:	_____			
	Telephone:	_____			
NOTE: Please contact the court with your current phone number and mailing address in case they need to notify you of any location or date/time change.					

- E. After the word "TO:" write the full name and address of each party (do not include yourself here).
- F. Fill in the information about the hearing (look on the other party's motion to find this information). The hearing for this responsive motion should be on the same day and at the same time as the other party's motion.

## The Motion

I will ask the court for an order as follows:	
1. <input type="checkbox"/> Denying the other party's request for:	<b>1</b>
	_____
	_____
2. _____	
	_____
<b>2</b> 3. _____	
	_____
4. _____	
	_____
5. For any other relief the court feels is fair and equitable.	
(Use another piece of paper if you need more room)	

1. Check the box **only if you disagree with what the other party asks for in their motion.**

Next, **if you checked the box**, briefly summarize what the other party has asked for in their motion. If you run out of room, you can continue your answer on another piece of paper (do not write on the back or in the margins of your responsive motion).

2. If you have other requests you would like to make, 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 run out of room, you can continue your answer on another piece of paper.

## The Acknowledgment

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### ACKNOWLEDGMENT

By presenting this form to the court, I certify that to the best of my knowledge, information, and belief, the following statements are true. I understand that if a statement is not true, the court can order a penalty against me (such as to pay money to the other party, pay court costs, and/or other penalties).

1. The information I included in this form is based on facts and supported by existing law.
2. I am not presenting this form for any improper purpose. I am not using this form to:
  - a. Harass anyone;
  - b. Cause unnecessarily delay in the case; or
  - c. Needlessly increase the cost of litigation.
3. No judicial officer has said I am a frivolous litigant.
4. There is no court order saying I cannot serve or file this form.
5. This form does not contain any “restricted identifiers” or confidential information as defined in Rule 11 of the General Rules of Practice ([https://www.revisor.mn.gov/court\\_rules/gp/id/11/](https://www.revisor.mn.gov/court_rules/gp/id/11/)) or the Rules of Public Access to Records of the Judicial Branch ([https://www.revisor.mn.gov/court\\_rules/rule/ra-toh/](https://www.revisor.mn.gov/court_rules/rule/ra-toh/)).
6. If I need to file “restricted identifiers,” confidential information, or a confidential document, I will use Form 11.1 and/or Form 11.2, as required by Rule 11.

3. Read the **Acknowledgment** carefully. There can be serious consequences if you do not have a good reason for using the *Responsive Notice of Motion and Motion*.

## The Signature Block

Sign the form on the signature line, and write in the date you signed it. Write your personal contact information below your signature.

### Step 2

**Fill out the *Affidavit in Support of Motion (FAM703)***

## The Caption

Fill out the caption the same way you did for the *Responsive Motion*.

## The Statement of Facts

My name is <b>1</b> _____. (First, Middle, Last)
My written statement of facts that support my responsive motion are as follows: <b>2</b> _____ _____

1. Write your full name.
2. In the *Affidavit in Support of Responsive Motion*, you are supposed to write down facts that support the requests you made in your responsive motion. This is where you explain *why* you are asking the court to do the things you asked for in the *Responsive Notice of Motion and Motion*.

Write down the information you want the court to know. This section is your “statement of facts.” If you run out of room, 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, it is good practice to label your attachment something like “Attachment A.” or “Attachment 1.” Then, next to the statement in your *Affidavit* that talks about the attachment, you can write something like “See *Attachment A*” or “See *Attachment 1*.” For example: “I pay \$600 per month in child care costs.” See *Attachment 1*.” And Attachment 1 would be the child care bill. If you have many attachments, you may want to include the form called List of [Supporting Documents \(FAM903\)](https://www.mncourts.gov/GetForms.aspx?c=18&p=127) (<https://www.mncourts.gov/GetForms.aspx?c=18&p=127>).

If you add attachments to support a statement you make, be sure to add page numbers to the attachments so that they are easy to refer to.

**NOTE!** Most documents filed with the court are considered public documents and are 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 that are 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. 11.02 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](http://www.mncourts.gov/forms) under the court forms category of “Confidential Information” and is court form number CON111 and CON112.

## The Signature Block

<b>3</b> I declare under penalty of perjury that everything I have stated in this document is true and correct. Minn. Stat § 358.116.	
Dated: _____	<b>4</b>
_____	
County and State where signed.	
Signature _____	
Print Name: _____	
Address: _____	
City/State/Zip: _____	
Telephone: (____) _____	
E-mail address: _____	

- When you sign your *Affidavit in Support of Responsive 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*. Write the the county and state you are in when you signed it, and write your name and personal contact information below your signature.

### Step 3 Make Copies

You will need to make one copy of the *Responsive Notice of Motion* and the *Affidavit in Support of Responsive Motion* (plus any attachments) for each party, including yourself.

### Step 4 Serve 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. **Service cannot be done on legal holidays.**

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

#### Who Can Serve

If your hearing is in front of a judge or referee, the forms you have prepared can be served by:

- The sheriff;

- Another adult; or
- You.

If your hearing is in front of a child support magistrate, **you cannot serve the forms yourself**. You must have another adult who is not involved in the case, or a sheriff or professional process server, serve the forms on the other party or parties.

**Personal Service**

The server hands the other party **one copy** of the completed *Responsive Notice of Motion and Motion, Affidavit in Support of Responsive Motion*, and all attachments.

- **Deadline: Your response must be handed to the other party at least 7 days before the hearing, or 14 days before the hearing if your response raises new issues.**

**Service by Mail**

The server places in the mail **one copy** of the completed forms and all attachments in an envelope addressed to the other party. Your address should be in the upper left hand corner of the envelope, even if you won't be the person mailing the envelope. The server must mail the envelope containing the forms to the other party by first class U.S. mail.

- **Deadline: Your response must be mailed to the other party at least 10 days before the hearing, or at least 17 days before the hearing if your response raises new issues.**

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





## Step 5

### *Affidavit of Service (Proving Other Parties Were Served)*

**After** the paperwork is served on all of the other parties either personally or by mail, the server must fill out the *Affidavit of Service* form for each party who is served. This form is your proof to the court that your papers were served on the other party.

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

Use the Affidavit of Personal Service form (SOP102) (<https://www.mncourts.gov/GetForms.aspx?c=33&f=27>).

<b>YOU:</b>	1. Fill in the caption the same way you did for the <i>Responsive Notice of Motion and Motion</i> .
<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 server handed to the other party ( <i>Responsive Notice of Motion and Motion, Affidavit in Support of Responsive 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 at the bottom of the <i>Affidavit of Personal Service</i> form. The 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 6 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 way you did for the <i>Responsive Notice of Motion and Motion</i> .
<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 server handed to the other party ( <i>Responsive Notice of Motion and Motion, Affidavit in Support of Responsive 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>Minneapolis</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 at the bottom of the <i>Affidavit of Service by Mail</i> form. The 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* form, make one copy for your records. The original is filed with the court as part of Step 6 below.

**Step 6**

**File with Court Administration**

You will need to file the following forms with Court Administration at least 7 days before the hearing, or 14 days before the hearing if your responses raises new issues:

- Original *Responsive Notice of Motion and Motion*;
- Original *Affidavit in Support of Responsive 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 find filing fee information by visiting the court's website at <https://mncourts.gov/Help-Topics/Court-Fees/District-Court-Fees.aspx>. Enter the county your case is located in and press "Go." **You can make checks payable to "District Court Administrator."**

If you cannot afford to pay the motion fee, you can ask for a fee waiver by completing the forms in the *In Forma Pauperis/IFP* packet of forms (found online at [www.mncourts.gov/forms](http://www.mncourts.gov/forms)). If a judge does not grant your request, you must pay the motion fee before Court Administration can process your forms.

**Step 7**

**Go to Your Hearing**

To prepare for your hearing, it is a good idea to look at the court rules that apply to family cases. You can find [links to these rules](https://mncourts.gov/Help-Topics/Civil-Actions.aspx#tab06RulesAndLaws) online at <https://mncourts.gov/Help-Topics/Civil-Actions.aspx#tab06RulesAndLaws> . 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 responsive motion.

Bring your copies of the paperwork with you to the hearing. If you are unsure how to prepare for the hearing, or are unsure about what evidence you should bring, you should [get legal advice](#) before your court date.