

**ASKING THE COURT TO DO SOMETHING –
FILING A RESPONSE TO A MOTION IN YOUR PERMANENT
PARENTING PLAN CASE
DISCLAIMER**

Documents are not legal advice. These documents are adaptations of the documents distributed by the Montana Supreme Court Commission on Self-Represented Litigants and have been approved by the Judges of the 4th Judicial District. These documents do not constitute legal advice, and no information contained in these documents can be relied upon to replace the advice of competent legal counsel licensed to practice in Montana.

Responding to a Motion

If you are handed, mailed or served with Motion documents, you have the right to respond and tell the Judge if you disagree with the other side's request. You must respond within 14 calendar days (including Saturdays, Sundays and holidays) if the Motion documents were hand delivered to you. If the Motion documents were mailed to you, you have an extra 3 days (including Saturdays, Sundays and holidays) to respond. ***If you don't respond to the Motion documents on time, the Judge may sign the other party's Order.***

To respond to the other party's Motion documents, you fill out three forms:

- 1. Proposed Order**
- 2. Response to Motion**
- 3. Affidavit**

- 1) Order (Form #190)** is the document you create for the Judge to sign in opposition to the proposed Order the other party filed. You write the Order as if you were the Judge. This is a statement written in very simple, clear terms which are short and to the point so if the judge agrees, he or she only has to sign the proposed Order to make it enforceable. By completing the statement, "the Court HEREBY ORDERS:" with a specific statement, you have a better chance of staying focused on your issue or request when filling out your Response to Motion and Affidavit. If you do not agree with the request of the other party as stated in their Motion, you could simply complete the Order with, "the Motion is denied."
The Judge may not agree with your Order, may choose to change your Order, may add to your Order or may draft a different Order.
- 2) The Response to Motion (Form #193)** tells the judge you disagree with the other party's Motion. Your response also has a brief summary of why you disagree. If the Order you wrote out, for example, states, "the Court HEREBY ORDERS: the Petitioner's Motion to adopt Petitioner's Proposed Parenting Plan as the Interim Parenting Plan is **denied**." Your Response may state you are requesting an order that, "denies the adoption of the Petitioner's

Proposed Parenting Plan as the Interim Parenting Plan.” It is not necessary to go into detail why you are making your request in your Response. When you come to the word, “BECAUSE,” a simple, clear statement is enough. For example, “BECAUSE the Petitioner’s Proposed Parenting Plan is *not* in the best interests of the child.”

In your Response you will also tell the Judge what other documents are attached, such as your Affidavit and Proposed Order. You will state whether you want a hearing and you will fill out the Certificate of Service which states you will hand delivered or mail your Response and Order to the other party or to their attorney if they have an attorney.

- 3) Affidavit (Form #192)** is a sworn statement made under oath. You write one, first person, “I” statement of fact at a time. Number each statement of fact 1. 2. 3. etc.... The first statement could contain introductory information, for example: The Respondent and I are the parents of three children ages, 1, 4, and 6.” A first statement which introduces you, the other party, your children and their ages gives the reader valuable information. Another statement could describe what has been completed in your Parenting case, such as “The Final Parenting Plans was ordered in 2009” or “As Ordered by this Court, the Respondent and I have attended mediation.” The purpose of this form is to state all the important and relevant facts which support your reasons for denying or changing what the other party requested in their Motion documents. An Affidavit is a form of evidence the Court uses when making decisions, just like live testimony in Court. Your Affidavit includes only the facts that you know from personal experience. An Affidavit is a sworn statement that must be signed in front of a Notary (or Notary Public).
NOTE: The service requirements may be different if you are filing something other than the documents discussed here.

4) Filing your Response to Motion, Affidavit and Order

Once you have completely filled out your forms, signed, dated, and have the signature on your Affidavit notarized, make **TWO** copies of all the documents. File the originals with the Clerk of District Court and ask the Clerk to “conform” your two sets of copies. Mail or hand deliver one set of the copies to the other party or their attorney. Keep the other set of copies for your files. If you hand deliver the Response to Motion documents to the opposing party or their attorney, they have 14 calendar days (including Saturdays, Sundays and holidays) to Reply to your Response. If you mail your Response to Motion documents to the opposing party or their attorney, they have an extra 3 calendar days (including Saturdays, Sundays, and holidays) to Reply to your Response. The other party must mail you a copy of everything they file with the Clerk of District Court. If a Reply is filed by the other party, no further action is required by either party. The Court will decide if either Order will be signed or if a hearing is needed.