

How to Draft a Declaration | WA Divorce & Family Law



by [Samuel K. Darling, Bellevue Family Law Attorney](#)

This article explains how to draft declarations in support of a Washington State divorce or family law motion, such as a motion for temporary orders. Don't overlook this topic. Declarations are how parties submit evidence for hearings of this type. If your evidence doesn't come in or is substantially incomplete, you probably lose.

Article's Table of Contents

- 1) [The Magical Signature Block](#)
- 2) [Required Case Caption](#)
- 3) [Tips for Writing a Winning Declaration](#)
- 4) [How to Attach Exhibits](#)
- 5) [Protected Information \(Redaction & Sealing\)](#)
- 6) [Party Declaration Formatting & Examples](#)
- 7) [Local Rules](#)

I. The Magical Signature Block.

At its core, a declaration is a witness statement with a special signature block. The signature section of the document should contain the following five elements:

1. A sentence swearing under Washington State's penalty of perjury that the information in the declaration is true,
2. The place where the declarant signed the document (city and state),
3. The date signed,
4. The declarant's name, and
5. His or her signature.

Click here for an [example witness declaration](#) containing the proper signature block.

II. Required Case Caption.

To use a declaration at a court hearing, it needs to be filed with the court. That in turn requires a case caption – information at the top of the document identifying what case it’s for and the name of the document.

Often a declaration doesn’t have a case caption, such as with the example witness declaration in the preceding section. To file an uncaptioned declaration, a litigant uses a cover sheet. Click here for a [template case caption cover sheet](#) our firm uses for bundled 3rd party declarations. We gather declarations from many supporting 3rd party witnesses (people who aren’t parties to the case) and attach them behind one case caption cover sheet. Usually the primary declaration – the moving party’s declaration – has its own caption and is filed as a separate document. Click here for our firm’s [party declaration form](#). Submitting the party’s declaration separately gives emphasis and helps with organization.

III. Tips for Writing a Winning Declaration.

Now you know the basic requirements for a declaration. This section explains how to make your declaration(s) good enough to win.

1. Don’t Use the Subjoined Fill-In-The-Blank Declaration Forms. Our firm recommends creating your own party declaration rather than using the fill-in-the-blank declaration template attached to many of Washington State’s template family law motions. Where the fill-in-the-blank declaration form calls for information, just write “see my declaration.” Putting information in your own specially crafted declaration typically works better, because it enhances your ability to tell your story. **But if the fill-in-the-blank declaration calls for information that isn’t in your declaration, put the information in the form!**

2. Be Thorough. Be thorough in drafting declarations in support of your motion. Usually your declarations are your exclusive means of getting facts into evidence. Chances are you won’t be allowed to present any live testimony or proof at the hearing. Oral argument at a hearing is like closing arguments at the end of trial. That is, you can’t submit any more proof or facts; you can only argue from the facts already in evidence. If you didn’t get those facts into evidence through your declarations, you’re in trouble.

3. Tell a Story. Make sure the party declaration (your declaration), not only relates the facts but “tells a story”, if possible. Decide what your case is about, and present it from that context. Your declaration’s introduction is where summarizing the story. You might say something like “this case is about my physically abusive husband leaving us with nothing.” Or perhaps you might say “this case is about my wife refusing to work and pretending to be disabled.” Try to emphasize that main storyline throughout your declaration.

4. Show Rather Than Tell. This means to provide objective facts rather than conclusions and subjective descriptions. If you provide a conclusion or subjective description, make sure to back it up with lots of objective details. For example, you wouldn’t want to just write “my husband is a monster”, which is your subjective conclusion. Instead, provide the court with enough objective detail to draw its own conclusion. You might describe the incidents that show he’s a monster. For example,

“On or about January 15th, I served my husband leftovers, something he told me not to do. While he was sitting and I was serving him, he backhanded me against my left cheek. The cheek swelled to three times its original size, so we visited the E.R. that night. Before meeting the doctor, my husband squeezed my hand hard enough to hurt and got within four inches of my face. He told me I had slipped and hit my cheek on the sink.”

5. Declarations Should Contain Firsthand Knowledge, Not Secondhand.

You must present each piece of information through a declaration of someone with first-hand knowledge rather than from a witness reporting what someone else said. Reporting what someone else said is called “[hearsay](#)”, and it’s typically banned. One of the main exceptions to hearsay is whatever the opposing party communicated. You and your witnesses can relate what the opposing party said or wrote. This hearsay exception is called “admission of a party opponent”. The hearsay rules are exceedingly complex, but this small amount of knowledge should cover most of the situations you’ll encounter.

6. Submit 3rd Party Supporting Declarations. Usually motions involve disputed facts, where you say it’s one way and the other side says it’s another. To prevail on these issues, you should aim to provide better evidence than the other side. If you’re fighting over custody, you might benefit from reading our article on [How to Win Custody: What to Do Before Filing for Divorce](#). It mentions the facts that tend to matter most and how to prove them.

Especially important are declarations from supporting witnesses who can verify your position (see bundled 3rd party declarations above). The less biased the witness appears, the more likely the court is to believe him or her. For example, the court will assume your parents, close family, and friends are biased heavily towards you. That means they're worse supporting witnesses than people like your neighbors and acquaintances. The best supporting witnesses are the other side's family members, if they'll cooperate with you. You probably should [not gather declarations from your minor children](#), especially if they are children you have in common with the opposing party.

7. Be Concise. Submitting too much information can overwhelm the court, so try to limit your declarations' total page count, excluding exhibits. Our firm tries to keep the party declaration (your declaration) to no more than 7-10 pages. Delete irrelevant or weak facts, and tighten your language to get down to this page number.

Just as you should limit your party declaration's page count, it's usually best to keep 3rd party bundled declarations to no more than 15 pages total. Toss out weak declarations if necessary. Help the jurist read your bundled 3rd party declarations more quickly by highlighting the most important language with a light-colored marker.

8. Gather Lots of Supporting Documents. In addition to witnesses, you should gather any supporting documents that prove your case, such as pictures, emails, text screen shots, police reports, account records, bills, tax records, and paystubs. They should be attached to a relevant declaration as exhibits or filed under seal as financial source documents. More on that in [sections IV](#) and [V](#) below.

Just like with bundled 3rd party declarations, don't hesitate to highlight or handwrite messages to the court on the supporting documents. Just make sure to make identical highlights and interlineations on the copies you give to the other party. The other side must be aware of any communication you have with the jurist.

IV. How to Attach Exhibits.

Be careful whose declaration you attach an exhibit to. The declarant needs to be able to identify the document without resorting to hearsay. Again, hearsay typically means what someone else said or wrote. In other words, you should attach an exhibit to the declaration of someone with first-hand knowledge of

the document, such as where it came from, how it was created, or who created it.

The exhibit itself also cannot contain hearsay. In this context, hearsay typically means the document cannot relate what someone else said or wrote, unless it's what the opposing party said or wrote. Account records, invoices, bank statements, tax returns, W-2s, bills, credit card statements, medical records, and special evaluations are generally allowed at this stage in the case, even though they aren't usually introduced through the person who wrote them. They're usually submitted under seal rather than as exhibits to the declaration – more on that in the next section.

Once you've identified whose declaration to introduce a document through, make it an exhibit using the following three-step process:

1. The body of the declaration should say something to the effect of "Attached as Exhibit [insert # or letter] is a true and correct copy of [state what the document is]." Less formal language is allowed.
2. Mark the document with that letter or number.
3. Attach the document to the declaration. "Attach" just means to put it at the back of the declaration.

Click here for an example of a short [declaration with an attachment](#).

V. Protected Information (Redacting & Sealing).

Generally your court file is public record, meaning anyone can view it. But sometimes you have to submit evidence that isn't appropriate for public viewing. The most common examples include documents with social security numbers, bank account numbers, and healthcare information. You remove this information from the public record by redacting the sensitive portion or filing the document under seal. The relevant rules are in [GR 15](#) and [22](#). It's often helpful to parse the exact language of the rules if you have questions about protecting sensitive information, but the following are the main points you should know.

1. Redaction. If a declaration exhibit contains a “restricted personal identifier”, redact it. A restricted personal identifier means a social security number, driver’s license number, phone number, financial account number, or a child’s birthdate. Redact means to black out the sensitive information and write “REDACTED” at the top of the page. Blacking out sensitive information with a black pen, such as a sharpie, isn’t sufficient. The redacted numbers usually show through. You might try whiting out the information and then using the black pen.

2. Filing Under Seal. Financial source documents should be filed under a seal using a Sealed Financial Source Documents Cover Sheet. This simply means putting the cover sheet on top of the documents when you file them with the court, and the court will then place them in a special sealed file, often called a GR 22 file. Financial source documents include income tax records, credit card statements, checks or the equivalent, check registers, pay stubs or other proof of earnings, bank statements, loan application documents, and retirement plan orders, such as Qualified Domestic Relations Orders (QDROs). You can find a template [Sealed Financial Source Documents Cover Sheet](#) by clicking here. Similarly, health records, health care payment records, and genetic test records for parentage should be filed under a [Sealed Personal Health Care Records Cover Sheet](#). You can find a Word template by clicking the link in the preceding sentence.

Various kinds of evaluations and reports should be filed under a [Sealed Confidential Report Cover Sheet](#). Those include parenting evaluations, DV assessment reports, risk assessment reports, CPS reports, sex abuse evaluations, and Guardian ad Litem reports (or CASA reports for volunteers). The above-mentioned types of documents are the ONLY ones you can file under seal, absent special court permission. You can’t for example, file your declaration under seal even if you really don’t want other people to read it.

Sealed documents don’t need to be redacted even if they contain restricted personal identifiers.

VI. Party Declaration Formatting & Examples.

The party's declaration – your declaration – should follow a certain format. It's what jurists expect, and conforming to that expectation makes life easier for them. You want to make the judge happy.

Start with an introduction stating who you are, your relation to the case, and what the case is about.

Then provide a background section. Relevant information for a background section often includes a) your age, b) your spouse's name and age, c) the date(s) of your relationship with the other party (e.g., when you married and broke up), d) the number, names, and ages of the children involved, and e) where everyone is living. Use your discretion in adding or subtracting information from the background section – these aren't hard-and-fast rules.

Third, provide the information the court needs to know to make a decision. This is essentially the heart of your declaration, and it varies a bit from case to case. You might expand the third section to numerous sections on each of the main points, such as separate sections for parenting-related issues, the parties' incomes, and financial calculations, if relevant.

Fourth and last, state what you're asking the court to do at the motion hearing and why.

1. Example Divorce Declaration. Click here for an example [declaration submitted in support of a motion for temporary orders in a divorce](#). A typical divorce declaration would expand the third section of the declaration (see above) into the following six topics, if relevant:

a. *Abuse & Addictions or Dangers to the Child.* This section, if applicable, would describe any relevant i) physical abuse, ii) extreme emotional abuse, iii) drug or alcohol abuse, iv) mental health issues, v) parental neglect, and vi) abusive use of conflict (i.e., one parent badmouthing the other in front of the children in an effort to make the children dislike the other parent).

b. *Parenting During the Previous 12 Months.* Describe each parent's parenting functions for the previous 12-month period. Include details regarding i) which parent usually takes care of the kids on which days of the week and ii) a chronological list, from morning to evening, of which parenting functions each spouse performs on a typical day. If the parties have been separated for more than a couple months, focus on that time period and explain who had the kids

when. Courts tend to keep in place any status quo the parties have established. Often it's also important to tell the court about the parties' work schedules, such as which days of the week and hours each party works.

c. *Educational and Work History*. Describe each spouse's educational background and work history. Include school names, dates of graduation, dates of expected graduation, degrees earned, dates of employment, employer names, job titles, and yearly income.

d. *Other Sources of Income*. Describe any other regular sources of income you or your spouse benefit from. Sources of income might include payments from renters, dividends, government benefits, and support from friends or relatives. Provide proof of income to the extent you can. Documents proving income are usually filed under seal as financial source documents (see above).

e. *Other Adults Living with Either Spouse*. Set out the details pertaining to any other adults who live with either spouse. Include information on the adult's age, relationship to the spouse(s), income, and sharing of expenses.

f. *Anything Else You Want to Tell the Court*. This might include a description of child support or maintenance calculations.

2. Example Declaration from Parenting Plan Modification.

In a parenting plan modification proceeding, section three (see above) would primarily relate the change in circumstances that warrant the new parenting plan. Click here for an example [declaration submitted in support of a motion for temporary orders in a parenting plan modification proceeding](#).

3. Example Declaration from Motion to Modify a Temporary Order.

Click here for an [example declaration in support of a motion to change a temporary order](#). Again, section three would focus on the change in circumstances warranting the modification to the temporary order.

VII. Local Rules.

Most counties have unique local rules regarding declarations, especially maximum declaration page count. You can find each county's [local rules](#) by clicking the link in this sentence. They're long though, so you might prefer speaking on an [unbundled basis](#) with a local practitioner or making an appointment with a family law facilitator. Family law facilitators are often located in each county's superior court building and charge \$10 per session. That's it! We hope you found this helpful. Our firm believes in making quality legal information available free of charge on the internet. For more articles,

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