

8/01

CONTEMPT PACKET - 38(F)2(c); 39(A)(3)
Common Pleas Court

CHECKLIST

1. Standard Pro Se Cover Letter
2. Motion for Contempt and Instructions for Service
3. Order to Appear and Show Cause
4. Poverty Affidavit
5. Grievance Form

INSTRUCTIONS

Attached is a form motion requesting that your ex-spouse be held in contempt for disobeying a court order. These instructions are intended to be a general guide to help you get the forms filled out, filed with the court, served on the opposing party, and to get your request properly heard by the Judge. These instructions are not intended to be a legal analysis of your request or whether you should win your motion but merely to assist you in preparing and presenting your request to the court.

A. FILLING OUT THE FORMS:

1. You should fill out the forms before you go to the Courthouse to file it. Other than telling you the time and date of the hearing and telling you the proper case number, the Clerk of Courts will not help you in completing the forms.
2. At the top of the MOTION, fill in the County, name of Plaintiff, Defendant and addresses for each, the case number and the Judge who heard your divorce or dissolution. This information is available from your final divorce or dissolution decree or on other papers that have been previously filed with the court. If you do not have this information, you can get it from the Clerk of Courts when you go to file the motion.
3. In the FIRST PARAGRAPH of the MOTION there is a space for you to list the reason or reasons that you have for wanting your ex-spouse held in contempt of court. You should be specific but brief. You should write down what your ex-spouse did or did not do that you believe violated the previously written court order. You do not have to go into detail but do be specific enough so that the Judge and your ex-spouse will know from reading your motion why you want the hearing.
4. You must sign the MOTION under the words "Respectfully submitted." The words "pro se" mean you are representing yourself.
5. Under the words "Instructions for Service" print your ex-spouse's name in the first blank and the street address, city, state and zip in the next space. You **MUST** have a valid address for the Clerk's office to mail the motion. If you do not have a valid address for your ex-spouse, don't try to file this motion. The Judge has no authority to grant your motion unless your ex-spouse has been served with a copy of it and has been given an opportunity to be heard. **SIGN** your name.
6. Fill in the blanks on the ORDER TO APPEAR AND SHOW CAUSE for the County, the names of the plaintiff and defendant and the case number. Leave the rest of the form blank. (If the Clerk gives you the time and date of the hearing, you can write that in at the bottom.)
7. Fill out the AFFIDAVIT OF INDIGENCY if you are unable to pay the court costs for filing this motion. To find out the cost you may call the Clerk of Courts in the county where this motion will be filed.

DO NOT SIGN THIS AFFIDAVIT UNLESS YOU ARE IN FRONT OF A NOTARY PUBLIC. This must be done before you take the papers to the court for filing.

8. **MAKE THREE (3) COPIES OF EACH PAGE BEFORE GOING TO THE COURT.**

B. FILING THE MOTION:

1. After the forms are filled out, go to the Clerk of Courts in the courthouse where you went for your divorce or dissolution.
2. The Clerk may tell you the time and date of the hearing. If this information is given, write it in the blank at the bottom of the ORDER TO SHOW CAUSE. The hearings are usually scheduled approximately one month from the date you file the motion. You should make note of the date and time of the hearing if it is given to you at this time.
3. The Clerk will take the original and one (1) copy of the motion. You should ask that your copy be TIME-STAMPED which is your proof you filed the motion.

C. PREPARATION FOR THE HEARING:

1. It helps a lot if you are prepared for the hearing. You should present a neat appearance and have with you any witnesses that you wish to use to support your motion. You should also have with you any papers or other physical evidence that you want the Judge to see. If the motion is to collect unpaid MEDICAL BILLS, be sure you make copies of all the medical bills so you can leave the copies with the court. Do not make duplicates of monthly statements. You only need to show one statement that gives an unpaid balance.
2. You should have in front of you at the hearing the specific part of the Court's order that you believe your ex-spouse has violated. You will probably testify first and you should be prepared to tell the Judge all of the things that have happened that show that the order has been violated. This is the only opportunity that you will have to present the facts so make sure that you include everything. It would be helpful if you were to write down some facts to have in front of you to help you remind yourself what your ex-spouse has failed to do.
3. VERY IMPORTANT. Do not tell the Judge everything your ex-spouse has done that makes you angry. Stay to the point of why you asked for the hearing. The Judge will only hear what was mentioned on your motion. Be prepared to limit your testimony to just that complaint and DO NOT RAMBLE ON ABOUT THIS PROBLEM. BE SPECIFIC AND TO THE POINT.
4. At the hearing you may be asked questions by the Judge or by an attorney for your ex-spouse. Be brief about what you answer and if you do not understand the question, DO NOT HESITATE TO HAVE IT EXPLAINED TO YOU.
5. Listen to what the Judge has to say after all testimony is given. This is when the Judge will tell you what he has decided on the motion.

GOOD LUCK!

INSTRUCTIONS FOR SERVICE

Please serve a copy of the foregoing Motion, Supporting Affidavit, and Notice of Hearing upon _____ at the following address: _____

_____ by U.S. CERTIFIED MAIL, RETURN RECEIPT REQUESTED.

Should service fail, please contact me for a better address.

Thank you.

IN THE COURT OF COMMON PLEAS
_____ COUNTY, OHIO

CASE NO. _____

Plaintiff

JUDGE: _____

vs.

Defendant

MOTION FOR CONTEMPT
(ORAL HEARING REQUESTED)

Now comes Plaintiff/Defendant and moves this Honorable Court to hold Plaintiff/Defendant in contempt of this Court for disobeying an order previously granted by this Court. The factual basis for this request is:

Respectfully submitted,

Pro Se

IN THE COURT OF COMMON PLEAS

_____ COUNTY, OHIO

Plaintiff

CASE NO. _____

vs.

Defendant

ORDER TO APPEAR
AND SHOW CAUSE

This day this cause came on for hearing on the Motion of the plaintiff/defendant, for an order requiring the plaintiff/defendant to appear personally before this Court to show cause why he/she should not be punished for failing to comply with a former order of this Court. The Court, being fully advised in the premises, finds said Motion well taken and hereby sustains the same.

It is therefore, ORDERED, ADJUDGED and DECREED that the plaintiff/defendant _____ appear personally before this Court before Judge/Referee to show cause why he/she should not be punished for failure to comply with the former order of this Court.

A show cause hearing will be held on _____, the _____ day of _____, 19__ at _____ o'clock __.M.

Defendants shall also take NOTICE that:

8. Failure to appear as ordered may result in your arrest, and in cases involving alleged failure to pay support, the issuance of an order to withhold support from your income and/or assets;
9. You may be required to post bond of no less than \$500.00 and no more than \$10,000.00 if self-employed;
10. You have the right to consult with and be represented by an attorney;
11. If you wish to have an attorney and believe you are unable to afford an attorney, you must

apply for a court appointed attorney by contacting the public defender's office or the court within three (3) business days after receipt of this Judgment Entry;

12. The court may refuse to grant a continuance in order for you to hire an attorney or to apply for a court appointed attorney if you fail to make a good faith effort to do so prior to the hearing.
13. If found in contempt, you may be sentenced as follows:
 - a. First offense: Not more than thirty (30) days in jail and a fine of not more than \$250.00;
 - b. Second offense: Not more than sixty (60) days in jail and a fine of not more than \$500.00;
 - c. Third or subsequent offense: Not more than ninety (90) days in jail and a fine of not more than \$1,000.00;
14. If found guilty of contempt for failure to pay support or for failure to comply with, or interference with a visitation order or decree, the penalties may include reasonable attorney fees and costs.

JUDGE/REFEREE

IN THE COURT OF COMMON PLEAS
_____ COUNTY, OHIO

Case No. _____

Plaintiff

vs.

Affidavit of Inability to
Prepay or Give Security
for Costs

Defendant

(Sec. 2323.31 Revised Code)

STATE OF OHIO

_____ COUNTY, SS:

I, the undersigned, a party in the above captioned case, being first duly sworn, represent to the court that I am unable either to prepay or give security for costs in this action and request this Court to accept the attached pleading without prepaying or giving security for costs as provided by Sec. 2323.31 of the Revised Code.

In support of this request, I submit answers to the following questions:

1. What is your age? _____ years.

2. Do you have any children? _____, If so, give names and ages:

3. What is your occupation or business? _____

4. Are you employed? _____, If so, give name and address of your employer:

5. What did you earn during the past year? \$ _____

6. What are your parents' names and ages? _____

7. Do you own any real estate? _____, If so, give its value \$ _____

Is it mortgaged? _____, If so, give the amount of mortgage \$ _____

8. Do you own an automobile? _____, If so, what is the value \$ _____

9. What other items of personal property do you own? _____

What debts are against it? _____

10. Have you made an advance payment to your attorney for his services in this case? _____, If so, how much \$ _____ Who paid it? _____

11. Do you have any securities or bank accounts? _____, If so, give its value: _____

12. Are you receiving public assistance? _____ If so, what kind? _____
_____ How much \$ _____

Signed: _____

OATH

STATE OF OHIO

_____ COUNTY, SS:

Before me, a notary public, in and for said county and state, personally appeared

_____ who being first duly cautioned and sworn, says that the facts in the foregoing affidavit are true.

Notary Public