

INSTRUCTIONS ON FILING A MOTION FOR CONTEMPT

Contempt of court is a ruling by the judge that a person is intentionally failing to follow a judge's order. A person who is cited for contempt may be punished by a fine or a jail sentence until he or she obeys the court order. In many cases, the person who disobeyed the court order will be required to pay the petitioner's costs and attorney's fees.

You may use this form if any of the following is true:

- You have not received child support as ordered; or
- You have not been allowed to visit with your children as ordered; or
- The other party has not turned over property as ordered; or
- The other party has not performed other acts as ordered.

STEPS:

1. Complete the Motion for Contempt form.
2. Complete the Verification form.
3. Attach a certified copy of your Court order to the Petition.
4. Make 2 copies of the forms.
5. Pay the Filing Fee (or file a Poverty Affidavit if you cannot afford it).
6. File the forms.
7. Arrange for service of the forms to the opposing party.
8. Come to the court on the date listed.

PAYING THE FILING FEE:

Call or visit the website of the county's Clerk's Office to find out the fee for filing. You should take cash or money orders for these amounts with you when you take your papers to file your case. If you have a very low income, and feel that you cannot afford to pay these fees, you can ask the Court to waive the fees. To do this, you should file the *Affidavit of Indigence* (also known as a Poverty Affidavit) with the other papers when you file your divorce action at the Clerk's office. A judge must sign the *Order* approving your *Affidavit*, before the filing of your case will be completed by the Clerk's office staff. If the judge signs the order of approval, both the filing and service fees are waived. If the judge does not approve your *Affidavit*, you must pay the fees before your case will proceed.

FILING YOUR CASE:

After you have completed, signed (in front of a notary, where applicable), copied and sorted all your paperwork (and you have your filing and service fees ready, unless you are filing a *Poverty*), you are ready to file your case. Take all 3 sets of forms (with the Court's set on top), along with your cash or money orders, to the Superior Court Clerk's office. When it is your turn, give all 3 sets to the clerk. Tell the clerk if you and Respondent have ever had any cases between you in the Superior Court so that the case can be assigned properly. If your paperwork is in order, the clerk will keep the originals for the Court's file. The clerk will write your case number

on the top page of your set of copies, stamp them with the date & time stamp, and return them to you. The last number in the case number shows you which judge has been assigned to the case. Keep these for your records. Your case has now been filed. But, do not rush out of the Clerk's office yet. Unless you filed an *Acknowledgment of Service* (the opposing party must sign it), you must also arrange for service. The second set of copies will be used for service.

ARRANGING SERVICE:

You must serve the opposing party in one of the following ways:

1. If the opposing party will sign an Acknowledgment of Service form- Make two copies of the petition (one for you and one for the opposing party). You must provide the opposing party with a copy of the Petition and have him/her sign an Acknowledgment of Service form. He/she must do so before a notary. By signing this form, the opposing party is letting the court know that he/she has received a copy of the petition and therefore will not need to be served with a copy of the Petition by the Sheriff. You will then file the Acknowledgment of Service with the original Petition in the Clerk's office.
2. If the opposing party will not sign an Acknowledgment of Service form and he/she lives in the county where the Petition has been filed- You will need the Sheriff of that county to serve the opposing party with a copy of the Petition at his/her home. If you do not know the opposing party's home address or he/she is avoiding service at home, you can have the party served by the Sheriff at his/her work. Make two copies of the Petition. You will need a Sheriff's Entry of Service form as well as two copies of the Summons form. You can get these forms in the Clerk's office. Attach one summons form to the original petition and the second summons form as well as the Sheriff's Entry of Service to the service copy. Bring both copies to the Clerk's office. You will file the original copy, and you can then leave a service copy of the papers with the clerk and pay the service fee at the clerk's office. The sheriff will send you a copy of the service sheet indicating the date he/she either served or attempted service on the opposing side.
3. If the opposing party will not sign an Acknowledgment of Service form and he/she does not live in the county where the petition has been filed- You will need the Sheriff of the county in which the opposing party lives to serve the Petition. Contact the sheriff's department in that county to find out which forms and fees they require. File the original petition and summons with the Clerk's office and ask for a copy for Second Original Service.

This information is not intended to be a substitute for individual advice from an attorney. As changes in the law occur, the information in this sheet may become outdated. You should be sure to consult with an attorney to be sure that you are following the law correctly.

Prepared by the Atlanta Legal Aid Society, Inc.

(Use this paragraph when Respondent is a non-resident of Georgia and you seek a contempt action for failure to pay child support/alimony, to obtain health/life insurance coverage, to pay medical expenses, to turn over property, or to pay other expenses).

3. **(Check all that apply)**

In the previous Order, Respondent was ordered:

a) To pay the Petitioner the amount of \$_____ per Week/bi-weekly/semi-monthly/monthly) in child support, and Respondent owes \$_____ to Petitioner as of the date of this Petition.

b) To allow Petitioner to visit with the minor children, but has refused.

c) To give to Petitioner the following possessions but has refused:

d) To pay for and have medical insurance for the minor child(ren)

e) To pay me back for medical bills, in the amount of \$_____.

f) Other:

4. Respondent was able to do what the Court ordered. Respondent's failure to obey the Court order is willful.

5. Respondent should be held in contempt of this Court's Order and fined and/or confined to jail until he/she purges him/herself of this contempt.

6. Respondent should be ordered to reimburse Petitioner for costs incurred in this action.

THEREFORE, the Petitioner requests:

(a) That process and summons issue as provided by law;

(b) That Respondent be served with a copy of Petitioner's Petition for Citation of Contempt;

(c) That Respondent be held in contempt for failure to obey the terms of the Court's Order;

(d) That a Rule Nisi hearing be set ordering Respondent to come to Court and tell the Judge why Petitioner's Petition should not be granted;

(e) That Respondent be ordered to reimburse Petitioner for the cost of this action;

(f) Other:

_____.

(g) That Petitioner be awarded any other relief this Court finds right and proper.

This ____ day of _____, 20____.

Respectfully submitted,

Plaintiff *pro se* **[Sign Here]**

Petitioner's Name (print or type): _____

Petitioner's Address: _____

Petitioner's Telephone Number(s): _____

SUPERIOR COURT OF _____ COUNTY
STATE OF GEORGIA

_____,
Petitioner,

Civil Action

vs.

Case Number _____

Respondent.

VERIFICATION

My name is _____. I hereby swear or affirm, before a notary public, that I have read the following document:

_____,
which I am filing in court with this *Verification*, and the facts stated in the document are true.

Dated: _____

 Petitioner Respondent,
Pro se (Check & sign)

Name: _____

Address: _____

Phone: _____

Subscribed and sworn before me on this _____ day of _____, 20____ .

Notary Public
My commission expires: _____