

ENFORCEMENT OF VISITATION (VISITATION CONTEMPT)
FAIRFIELD COUNTY COMMON PLEAS COURT

INSTRUCTIONS

Attached is a form motion requesting that the other parent of your child(ren) or other person designated by the court as the residential parent and legal custodian of your child(ren) be held in contempt of Court for denying or interfering with your visitation rights. These instructions are intended to be a general guide to help you get the forms filled out, filed with the Court, and served on the opposing party, and to get your request properly before the Judge. These instructions are not intended to be a legal analysis of your request, nor are they intended to be a representation that you will or should win your motion. These instructions are merely to assist you in preparing and presenting your request to the Court. **YOU MUST READ AND FOLLOW THESE INSTRUCTIONS CAREFULLY.**

A. FILLING OUT THE FORMS

1. You should fill out all of the forms before you go to the Courthouse to file them. Other than telling you the proper case number, the Clerk of Courts' staff will not help you complete the forms. Print neatly in blue or black ink or type the forms. The Judge must be able to read what you write.
2. At the top of the Motion for Contempt, you need to fill in the names of the Plaintiff/Petitioner and the Defendant/Respondent, and your addresses, Social Security numbers (don't worry if you don't have the opposing party's Social Security number), and dates of birth. Also fill in the case number. (You can find out the case number, as well as which of you is the Plaintiff/ Petitioner and which of you is the Defendant/Respondent from the Divorce or Dissolution Decree or other court papers filed in this case.) If you do not have such papers, you can get this information from the Clerk of Courts office at the Courthouse. Leave the line after "JUDGE" blank.
3. In the first paragraph of the Motion for Contempt, put the name of the child(ren)'s legal custodian in the first blank. After this paragraph are blank lines on which you can list your reason(s) for wanting the child(ren)'s legal custodian to be held in contempt of Court. First, you should state which judgment entry, order or decree contains the order the other parent violated. You can do this by giving the date the judgment entry, order, or decree was file-stamped, or you can just attach a copy of it to the motion. You need to be very specific when writing the reason(s). You must write down what specifically the child(ren)'s legal custodian did or did not do that you believe violated your visitation rights. You do not have to go into all of the details; however, both the Judge and the child(ren)'s legal custodian must be able to know from reading your motion why you want the child(ren)'s legal custodian to be held in contempt of Court.

4. At the end of the Motion for Contempt are four blank lines. You should sign your name on the first line (above the word “MOVANT”) and print or type your name, address, and phone number on the other lines. **YOU MUST SIGN THE MOTION IN THE PRESENCE OF A NOTARY PUBLIC.** If you do not know anyone who is a Notary Public, you might be able to find one at a bank, realtor’s office, or insurance company. Otherwise, check the yellow pages.
5. Under the words Instructions for Service, print the name of the child(ren)’s legal custodian in the first blank and the street address, city, state, and zip code in the following blanks. **You must have a valid address for the child(ren)’s legal custodian so that the Clerk’s office is able to mail the Motion for Contempt to him/her.** (You can also use the child(ren)’s legal custodian’s work address.) If you do not have a valid address, there is no point in filing the motion. The Court has no authority to grant a Motion for Contempt unless the child(ren)’s legal custodian has been served properly with a copy of the motion and has been given the opportunity to be heard on the motion. Sign your name on the blank line labeled “Movant.”
6. Fill in the name of Plaintiff/Petitioner and Defendant/Respondent and the case number on the Order to Appear and Show Cause. Put your name in the first blank line in the first paragraph and put the name of the other parent on the second blank line. Also, place the other parent’s name in the first blank of the second paragraph. Leave the time and date for the hearing blank; the court staff will fill them in. Do not sign the Magistrate’s/Judge’s name.
7. Fill in the name of the Plaintiff/Petitioner and Defendant/Respondent and the case number on the Summons in Contempt. On the line immediately after the word “TO:”, fill in the name of the child(ren)’s legal custodian. Fill in your name and address in the first long blank. Leave the line after “The name and address of the movant’s attorney are:” blank. Do not fill in the Return of Service.
8. Fill out the Affidavit of Indigency if you do not have the income to pay a deposit on court costs for filing of your Motion for Contempt. (To find out the amount of the deposit, you should call the Fairfield County Clerk of Courts office at (740) 687-7030.) Fill in the top as you did on the other forms. **YOU MUST SIGN THE AFFIDAVIT OF INDIGENCY IN THE PRESENCE OF A NOTARY PUBLIC.**
9. On the form marked Entry, fill out only the names of the parties and the case number. Leave the rest of the form blank.
10. Fill in the names of the Plaintiff/Petitioner and the Defendant/Respondent and the Case Number on the Notice of Hearing. (The Assignment Commissioner will fill in the date and time of the hearing and have a copy mailed to both you and the child(ren)’s legal custodian.)

11. If income will be an issue, you need to fill out the Financial Affidavit to the best of your knowledge. If any of the information you provide is estimated, you should say it is an estimate. You will need to sign the Financial Affidavit in front of a notary public. You should also be prepared to bring a copy of last year's tax return, including all W-2's and schedules, as well as a copy of your current pay stub or wage statement with a year-to-date figure, to Court with you for verification of your income.
12. Make two (2) additional copies of each page of each form you have filled out, including any attachments such as a copy of the judgment entry, order, or decree violated.

B. FILING THE MOTION FOR CONTEMPT

1. After the forms are filled out and copied, go to the Clerk of Courts Office, Fairfield County Hall of Justice, 224 East Main Street, Lancaster, Ohio.
2. Give the clerk the original and all the copies of the motion and the other papers. The clerk will time-stamp the Motion for Contempt, Financial Affidavit, and the Affidavit of Indigency and keep the original documents for the court file and one copy of each document to serve on the child(ren)'s legal custodian. You should receive back one time-stamped copy of each document for your records. The clerk will keep the Summons in Contempt and the Order to Appear and Show Cause. You will receive a copy of the Entry only after the Judge signs it.
3. The Court will send you and the child(ren)'s legal custodian a notice indicating the date and time of the hearing on your motion, if it is not indicated on the Order to Appear and Show Cause.

C. PREPARATION FOR THE HEARING

1. You must be prepared for the hearing. You should dress as you would for a job interview and have any witnesses present that you wish to use to support your request. You should also have with you any receipts, papers, or other physical evidence that you want the Judge to see.
2. You should bring with you the specific part of the Court's most recent visitation order (which may be in your divorce or dissolution decree) that the child(ren)'s legal custodian has violated. You need to have this with you so you can explain to the Court how the child(ren)'s legal custodian has violated this order. You will probably testify first and you should be prepared to tell the Judge (or Magistrate) all the things the child(ren)'s legal custodian has done to violate the order. This is the only opportunity that you will have to present the facts, so make sure that you include everything. It is helpful if you write down an outline of what the child(ren)'s legal custodian has done that you believe

violates the visitation order before the day of your hearing so you have something to remind yourself of what to say when you testify. You should also write down before the hearing the questions you plan to ask your witnesses.

3. **VERY IMPORTANT!!! THIS IS NOT THE TIME TO TELL THE JUDGE EVERYTHING THAT THE CHILD(REN)'S LEGAL CUSTODIAN HAS DONE THAT YOU DISAGREE WITH, OR THAT HAS HURT OR ANGERED YOU. THE JUDGE WILL ONLY WANT TO HEAR THE EVIDENCE YOU HAVE THAT SHOWS THE VIOLATION(S) OF THE ORDER THAT YOU HAVE LISTED IN YOUR MOTION. IF YOU DID NOT INCLUDE COMPLAINTS THAT YOU HAVE AGAINST THE CHILD(REN)'S LEGAL CUSTODIAN IN YOUR WRITTEN MOTION, THE JUDGE (OR MAGISTRATE) PROBABLY WON'T HEAR YOUR TESTIMONY ON THOSE POINTS.** For example, if you mentioned only the denial of or interference with visitation rights in your written motion, and you try to tell the Judge (or Magistrate) that the child(ren)'s legal custodian also has failed to return property to you that s/he was ordered to return to you in the divorce decree, the Judge (or Magistrate) won't hear it. So be prepared to limit your testimony to the matters raised in your written motion.
4. At your hearing, you may be asked questions by the Judge, the child(ren)'s legal custodian, or the child(ren)'s legal custodian's attorney. Before answering each question, listen carefully to it. Be sure you provide the information that you are asked. If you do not understand the question, ask to have the question explained to you before answering. You have the right to have the questions explained. Never answer a question you don't understand.
5. Please note: because you are asking the Court to punish the child(ren)'s legal custodian for disobeying a court order, s/he is entitled to a court-appointed attorney if s/he is indigent and cannot afford to hire an attorney. You, however, are not entitled to a court-appointed attorney to represent you on your Motion. The reason for this is that the child(ren)'s legal custodian might go to jail, and you will not.
6. The Judge is likely to make a decision while you are in Court. If the Judge does not make a decision while you are in Court, you eventually will receive a copy of the decision by mail. If you are dissatisfied with the decision, you have certain appeal rights which are don't discussed here, as well as the right to file objections if the decision was made by a Magistrate. You should contact a private attorney IMMEDIATELY upon receiving the decision if you want to pursue these rights since you must do so within a very short time.

GOOD LUCK!!

IN THE COURT COMMON PLEAS
FAIRFIELD COUNTY, OHIO
DOMESTIC RELATIONS DIVISION

*

*

*

SSN# _____

*

DOB _____,

*

Plaintiff/Petitioner,

*

CASE NO. _____

vs.

*

JUDGE _____

*

*

*

SSN# _____

*

DOB _____,

*

Defendant/Respondent.

*

MOTION FOR CONTEMPT

STATE OF OHIO,

SS:

COUNTY OF FAIRFIELD,

Now comes Movant and moves this honorable Court to hold _____

in contempt of this Court for disobeying an order previously granted by this Court. The factual

basis for this request is: _____

I would like a hearing before this Court to prove these facts to be true. I swear or affirm that the foregoing facts are true to the best of my knowledge or belief.

Respectfully submitted,

MOVANT'S SIGNATURE

SWORN TO AND SUBSCRIBED BEFORE ME, a Notary Public, this _____ day of _____, _____.

NOTARY PUBLIC

INSTRUCTIONS FOR SERVICE

TO THE CLERK:

Please serve a copy of the foregoing Motion, the Summons, the Order to Appear, and all ancillary papers upon _____ by certified mail, return receipt requested at the following address:

MOVANT

IN THE COURT OF COMMON PLEAS
FAIRFIELD COUNTY, OHIO
DOMESTIC RELATIONS DIVISION

_____, *
Plaintiff/Petitioner, * CASE NO. _____
vs. *
_____, *
Defendant/Respondent. * ORDER TO APPEAR
AND SHOW CAUSE

This case comes before the Court on a Motion filed by _____
requesting an Order finding _____ in contempt of this Court for failing to
comply with this Court's prior orders affecting visitation.

IT IS THEREFORE, ORDERED, ADJUDGED, AND DECREED that
_____ appear personally before this Court in Lancaster, Ohio on the _____
day of _____, _____ at _____m. to show cause why s/he should not be
punished for failure to comply with the former Order of this Court.

MAGISTRATE/JUDGE

FAIRFIELD COUNTY COMMON PLEAS COURT

PLAINTIFF/PETITIONER

Case No. _____

-VS-

Judge: _____

DEFENDANT/RESPONDENT

SUMMONS IN CONTEMPT

TO: _____

A written charge of CONTEMPT has been filed against you in this court by: (State the name and address of movant.)

A copy of the Order to Appear and Show Cause is attached. The name and address of the movant's attorney are: (State attorney's name and address.)

You are hereby SUMMONED AND ORDERED TO APPEAR. Failure to appear may result in the issuance of an order for your arrest and, if the matter relates to child or spousal support, the issuance of an order for the withholding of support from your income or assets.

You have the right to have an attorney represent you in this matter. If you are indigent, you have the right to have the Court appoint an attorney to represent you at no cost to you. If you believe you are indigent, you MUST apply to the Court for an appointed attorney within three (3) business days after you receive this summons. The Court may refuse to grant a continuance at the time of the hearing for the purpose of providing you an opportunity to retain an attorney if you have failed to make a good faith effort to retain an attorney or apply for a court-appointed attorney prior to the hearing.

If you are found guilty of contempt, the Court may impose the following sentences: (1) FOR A FIRST OFFENSE: A FINE OF NOT MORE THAN TWO HUNDRED FIFTY DOLLARS, A DEFINITE TERM OF IMPRISONMENT OF NOT MORE THAN THIRTY DAYS IN JAIL, OR BOTH; (2) FOR A SECOND OFFENSE: A FINE OF NOT MORE THAN FIVE HUNDRED DOLLARS, A DEFINITE TERM OF IMPRISONMENT OF NOT MORE THAN SIXTY DAYS IN JAIL, OR BOTH; (3) FOR A THIRD OR SUBSEQUENT OFFENSE: A FINE OF NOT MORE THAN ONE THOUSAND DOLLARS, A DEFINITE TERM OF IMPRISONMENT OF NOT MORE THAN NINETY DAYS IN JAIL, OR BOTH. IN ADDITION, IF THE CONTEMPT CONSISTS OF THE OMISSION TO DO AN ACT WHICH YOU CAN YET PERFORM, THE COURT MAY IMPRISON YOU INDEFINITELY UNTIL YOU PERFORM THE ACT. O.R.C. Sections 2705.05 and 2705.06 O.R.C.

Date: _____

CLERK OF COURTS

By: _____
DEPUTY

RETURN OF SERVICE (PERSONAL)

Received this summons on the ____ day of _____, _____, at _____ o'clock
____.M. and the ____ day of _____, _____ I served the same upon

By delivering to _____ Personally a true copy of summons, a copy
of the Motion and accompanying documents.

Sheriff - Bailiff - Process Server

By Deputy

IN THE COURT OF COMMON PLEAS
FAIRFIELD COUNTY, OHIO
DOMESTIC RELATIONS DIVISION

_____, *
Plaintiff/Petitioner, * CASE NO. _____
vs. *
_____, *
Defendant/Respondent/Petitioner * ENTRY

Pursuant to request of the movant and for good cause shown, it is hereby ORDERED that the attached Motion be accepted without pre-payment of the costs.

MAGISTRATE

JUDGE

IN THE COURT OF COMMON PLEAS
FAIRFIELD COUNTY, OHIO
DOMESTIC RELATIONS DIVISION

_____, *
Plaintiff/Petitioner, * CASE NO. _____
vs. *
_____, *
Defendant/Respondent. * NOTICE OF HEARING

Take notice that a hearing in the above-captioned Motion for Contempt has been scheduled for the _____ day of _____, _____ at _____ .m. in the Court of Common Pleas of Fairfield County, Ohio.

JUDGE, COURT OF COMMON PLEAS

**IN THE COURT OF COMMON PLEAS OF FAIRFIELD COUNTY, OHIO
DOMESTIC RELATIONS DIVISION**

Plaintiff/Petitioner
-vs-/-and-

Case No.: _____

Defendant/Petitioner

**FINANCIAL AFFIDAVIT/MOTION
FOR TEMPORARY ORDERS/AFFIDAVIT
OF HEALTH INSURANCE COVERAGE**

_____, Affiant(s), being duly sworn, say(s):

PART A - TEMPORARY RELIEF REQUESTED

I am requesting the following relief:

- | | |
|--|--|
| <input type="checkbox"/> Financial Disclosure Only | <input type="checkbox"/> Spousal Support |
| <input type="checkbox"/> Residential Parent Allocation | <input type="checkbox"/> Debt Allocation |
| <input type="checkbox"/> Companionship Only | <input type="checkbox"/> Legal Fees and Expenses (Amount Requested _____) |
| <input type="checkbox"/> Child Support | <input type="checkbox"/> Other (Please Specify) _____ |

PART B - NOTICE OF HEARING

This matter shall come on for non-oral hearing on affidavits only (parties and counsel need not appear) on the _____ day of _____, 20____ at _____ .m.

| PART C - CASE INFORMATION | | |
|----------------------------------|---|--|
| | Husband | Wife |
| Full Name | | |
| Street Address | | |
| City/State/Zip | | |
| Telephone | | |
| Social Security No. | | |
| Date of Birth/Age | | |
| | | |
| Date Married | When Separated | Number of Children |
| Children's Ages | With Whom Children Live | Number of Dependents |
| Children's Address | Home Rented or Owned?____ Occupied By_____ | Number of Dependent Children by Previous Marriage - H____ W____ |

| PART D - ANNUAL INCOME | | |
|--|----------------|-------------|
| | Husband | Wife |
| Employer/Source of Income | | |
| Street Address | | |
| City/State/Zip | | |
| Telephone | | |
| Gross annual wages or self employment income * (excluding overtime and bonuses) | \$ | \$ |
| Gross annual overtime or bonuses | \$ | \$ |
| Gross annual unemployment benefits | \$ | \$ |
| Gross annual worker's compensation | \$ | \$ |
| Gross annual interest or dividends | \$ | \$ |
| Child support received for other children | \$ | \$ |
| Spousal support received from prior marriage | \$ | \$ |
| Other: (eg. pensions, annuities, etc.) | \$ | \$ |
| TOTAL GROSS ANNUAL INCOME: | \$ | \$ |
| *Attach Verification - Current Pay Stub, W-2's, Tax Return, Etc. | | |
| Deductions from Income | | |
| Income Tax Actually Paid (Federal/State/Local) | \$ | \$ |
| F.I.C.A. | \$ | \$ |
| Mandatory Retirement Plan | \$ | \$ |
| Union Dues | \$ | \$ |
| Health Insurance Coverage | \$ | \$ |
| Child Support Withheld From Income | \$ | \$ |
| Spousal Support Withheld From Income | \$ | \$ |
| TOTAL ANNUAL DEDUCTIONS: | \$ | \$ |
| | | |
| TOTAL NET ANNUAL INCOME: | \$ | \$ |

PART E - FINANCIAL DISCLOSURE

LIST ALL CASH AND FUNDS ON DEPOSIT IN ANY AND ALL ACCOUNTS IN ANY BANK, SAVINGS AND LOAN, CREDIT UNION OR OTHER FINANCIAL INSTITUTION. ACCOUNT MAY INCLUDE ONE OR MORE OF THE FOLLOWING: CHECKING, CERTIFICATE OF DEPOSIT, INVESTMENT, SAVINGS, INDIVIDUAL RETIREMENT, STOCK OPTION, ETC. NOTE - YOU ARE REQUIRED TO DISCLOSE ALL FUNDS IN WHICH YOU HAVE AN INTEREST REGARDLESS OF THE NAME IN WHICH THESE FUNDS ARE HELD. INCLUDE CASH OVER \$250.00.

| Name of Financial Institution | Address | Account Number | Name On Account | Balance |
|-------------------------------|---------|----------------|-----------------|---------|
| | | | | |
| | | | | |
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PART F - DEPENDENT INFORMATION

LIST EACH BIOLOGICAL OR ADOPTIVE MINOR CHILD, NOT THE SUBJECT OF THIS ACTION, LIVING WITH EITHER PARTY. (DO NOT INCLUDE THE CHILD(REN) INVOLVED IN THIS ACTION. DO NOT INCLUDE STEP-CHILDREN.)

| Husband's Household | | Wife's Household | |
|---------------------|---------------|------------------|---------------|
| Child's Name | Date of Birth | Child's Name | Date of Birth |
| | | | |
| | | | |
| | | | |
| | | | |

PART G - EXPENSES

STATE YOUR ACTUAL EXPENSES PER MONTH:

| | Husband | | Wife | |
|--|---------|--|------|--|
| 1. Rent (Not to include mortgage payments) | \$ | | \$ | |
| 2. Utilities | | | | |
| a. Gas | \$ | | \$ | |
| b. Electric | \$ | | \$ | |
| c. Phone | \$ | | \$ | |
| d. Other (Identify) | \$ | | \$ | |
| 3. Insurance | \$ | | \$ | |
| a. Auto | \$ | | \$ | |
| b. Life | \$ | | \$ | |
| c. Health (Not withheld from income) | \$ | | \$ | |
| 4. Uninsured Medical/Dental | \$ | | \$ | |
| 5. Clothing | \$ | | \$ | |
| 6. Groceries & Household Supplies | \$ | | \$ | |
| 7. Transportation | | | | |
| a. Fuel | \$ | | \$ | |
| b. Maintenance & Repairs | \$ | | \$ | |
| 8. Work-Related Child Care (Attach verification) | \$ | | \$ | |
| 9. Child Support Paid For Other Child(ren) (Not withheld from income) | \$ | | \$ | |
| 10. Spousal Support Paid For Ex-Spouse | \$ | | \$ | |
| 11. Other (Please identify) | \$ | | \$ | |

PART H - DEBTS

LIST **ALL** DEBTS OWED BY EACH PARTY, WHETHER ALLEGED TO BE MARITAL OR SEPARATE DEBT. **DO NOT INCLUDE ANYTHING LISTED IN PART G AS EXPENSES.**

| Secured Creditors | Debtor H W J | Person in Possession, Use or Occupancy | Principal | Monthly Installment |
|----------------------------|-------------------------|---|------------------|--------------------------------|
| Mortgage | | | | |
| 2nd Mortgage | | | | |
| Auto | | | | |
| Auto | | | | |
| Other | | | | |
| | | | | |
| Unsecured Creditors | Debtor H W J | | Principal | Monthly Installment |
| | | | | |
| | | | | |
| | | | | |
| | | | | |
| | | | | |

PART I - GROUP HEALTH INSURANCE FOR MINOR CHILDREN

INSTRUCTIONS: IF MINOR CHILDREN ARE INVOLVED IN THIS ACTION, ANSWER THE FOLLOWING QUESTIONS ABOUT THE AVAILABILITY, COST, AND COVERAGE OF GROUP HEALTH INSURANCE FOR THE MINOR CHILDREN. IF MINOR CHILDREN ARE NOT INVOLVED IN THIS ACTION, DO NOT COMPLETE PART I.

| | Husband | Wife |
|---|---------|------|
| AVAILABLE THROUGH EMPLOYER (Yes or No) | | |
| AVAILABLE THROUGH NON-EMPLOYER (Yes or No) | | |
| NAME AND ADDRESS OF INSURANCE COMPANY | | |
| | | |
| | | |
| GROUP POLICY NUMBER | | |
| COST TO YOU OR THE OTHER PARTY PER YEAR: (For children only) | \$ | \$ |
| Summarize the benefits of each plan (ie. DEDUCTIBLES, CO-PAYMENTS, HMO, COMPREHENSIVE, MAJOR MEDICAL, DENTAL, OPTICAL, ETC...). | | |
| <u>Husband's Policy:</u> | | |
| <u>Wife's Policy:</u> | | |

Affiant

Sworn to and subscribed before me this ____ day of _____, 20__.

Notary Public

Affiant

Sworn to and subscribed before me this ____ day of _____, 20__.

Notary Public