

MOTION FOR CONTEMPT: What to do with these Court Forms

If you are doing your own Motion for Contempt, please read this. It will help you to know what to do with these court forms.

First, a few tips for filling out the forms:

- Always use full legal names, not nicknames.
- Type or print neatly. If you have access to a computer, you may be able to fill out the forms on-line at www.ptla.org/forms.htm
- If any children involved in this case receive, or have received, AFDC, TANF, or Medicaid, mail a copy of your court papers to the Department of Human Services (DHS). The address is on the form. You should also do this if you have asked DHS to collect child support for you.

STEP ONE: Fill Out the Forms

MOTION FOR CONTEMPT

The section at the top of this form is called the "caption." Look at the caption from your original Court Order and copy the court location, docket number and

name of Plaintiff and Defendant. (This information stays the same. If you were the Defendant before, you are still the Defendant, even if you are the one filing the Motion now.) If you can't find your original order, you can buy a copy from the clerk.

Check the "Child Support Only" box if child support is the **only** issue. Fill in the other blanks on the form. At the top of page 2, check the boxes to show what you want the Court to order.

You must sign this form in front of a Notary Public. You can find a Notary at a bank, a legal services office, through your town office, or at the court clerk's office.

SUBPOENA FOR HEARING ON MOTION FOR CONTEMPT

You must use the form you got from the clerk. It has the clerk's original signature and seal. **You cannot use a photocopy or on-line version of this form.**

Copy the caption at the top of the page from your **Motion** form. On the next line, after "To:" write the other party's name. Then check the box, to show whether the

other party is the Plaintiff or Defendant. For now, leave the middle section, notice of hearing, blank. If you want the other party to bring any documents to the hearing, list them in the next section. On the next line, check whether you are the Plaintiff or Defendant. Leave the rest of the form blank.

ORDER

Fill out the caption as you did on the other forms. In the large boxes write your address and the other party's address. Leave the rest blank for the Court to fill out.

SUMMARY SHEET

Fill out the **Confidential Family Matter Summary Sheet**, which has its own instructions. This information helps the clerk to file and keep track of your case. The clerk will not accept your papers for filing without this form.

STEP TWO: File the Forms

Take these original forms back to the clerk:

- Motion for Contempt
- Subpoena for Hearing on Motion for Contempt
- Order
- Summary Sheet

The Court charges a fee to file your Motion. (If your Motion is for payment of child support only, you don't have to pay this fee.) If you cannot afford court fees or Sheriff's service, you can ask the clerk for an **Application to Proceed Without Payment of Fees** and an **Indigency Affidavit**. Fill out these forms and sign them. You must sign the Affidavit in front of a Notary Public. Then file these two forms with your **Motion**. A judge will review your financial information and decide whether you will qualify for a "fee waiver." If the court denies your request, **you must pay the filing fee within 7 days**. If the Court says yes to your request, you can go ahead and file your papers without paying the fee.

Make a copy of your **Motion** before you give the original to the clerk. The clerk will show your papers to a judge. If you have done everything correctly, the Court

will set a date and time for a hearing and sign the **Order**. The clerk will return the **Subpoena** and a copy of the signed **Order** to you. The clerk may fill in the hearing time and court location on the **Subpoena** for you. If not, add that information to the **Subpoena** by copying it from the **Order**.

STEP THREE: Serve the Forms

Now you must "serve" the papers on the other party. First, make two copies of the **Subpoena** (with copies of your **Motion** and the **Order** attached). Keep one copy. Give the original **Subpoena** and the other copy to the sheriff for service.

In a letter, or in person, ask the sheriff's office to deliver the **Subpoena**, the **Motion** and the **Order** to the other party. Give a home address. If you think the other party will be hard to find at home, give a work address. **Remind the deputy that the papers must be served at least 10 days before the hearing date.**

If you did not get a "fee waiver" (see above), the sheriff's office will charge you for this service (about \$15-\$30). If the Court gave you a fee waiver, give the sheriff a copy of the Court's Order so that you will not be billed for this service.

STEP FOUR: File the Subpoena

After the other party has been "served," mail or hand-deliver to the court clerk the **Subpoena**, the **Motion** and the **Order** you got back from the deputy sheriff. The judge cannot hear your case until this is filed, showing that the other party has been "served".

STEP FIVE: Court Hearing

This is a formal court hearing. The judge will hear each side. You can testify for yourself, bring witnesses, and present documents. Court rules of evidence and procedure will be followed.

Prepare for the hearing by planning what you need to say. It will be your burden to prove that the other party has failed or refused to follow the earlier court order. You must also show, by "clear and convincing proof," that the other party has the ability to comply with what the Court ordered. Go to the hearing, be on time, and be prepared.