

Packet 9

Order to Show Cause (Contempt of Court) Packet

Forms and Procedures

For Wyoming

2011

Because laws may change, the forms and instructions contained in this packet may become outdated. You use these packets at your own risk. If you have questions or don't understand the forms, it is strongly recommended that you contact an attorney. Nobody is liable if you don't get the result you want. **THESE FORMS MAY OR MAY NOT BE APPROPRIATE IN YOUR PARTICULAR CASE.**

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ORDER TO SHOW CAUSE (CONTEMPT OF COURT) FORMS

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PLEASE CAREFULLY READ THE FORMS AND INSTRUCTIONS CONTAINED IN THIS PACKET. IF YOU HAVE ANY QUESTIONS, PLEASE CONSULT WITH AN ATTORNEY.

THESE ARE EDUCATIONAL FORMS AND INSTRUCTIONS DESIGNED TO ASSIST YOU, BUT YOU ARE REPRESENTING YOURSELF. PLEASE REVIEW AND FOLLOW THE DIRECTIONS TO IMPROVE YOUR PERFORMANCE IN YOUR CASE. FAILURE TO READ AND FOLLOW THE INSTRUCTIONS MAY ADVERSELY IMPACT YOUR CLAIM.

Instructions for Obtaining an Order to Show Cause

Use this Packet if you are trying to enforce a prior Court order because the other party is not following the order (i.e., you want to have the other party held in contempt). Please read through the following information and instructions before completing the forms to ensure that you qualify to seek an Order to Show Cause from the Court.

Step 1. Getting Started. If the other party has willfully failed to follow a prior Court order, then you may be able to have them held in contempt by the Court. To do so, the following forms are required:

1. Motion for Order to Show Cause (attach a copy of your prior court order)
2. Affidavit in Support of Order to Show Cause
3. Order to Show Cause

Be sure to complete each form completely and accurately. You will need to attach a copy of the prior court order that you are seeking to enforce. A copy can be obtained from the Clerk of District Court for a small fee.

Step 2. File the Documents. You will file your documents with the Clerk of District Court where the order you are trying to enforce was filed. There is not a cost to file these papers, but there is a cost to have the other party served with the documents.

Take the original and two (2) copies of each document to the Clerk's office. The Clerk will give you copies of each document back after stamping them with the date they were filed. You should keep one copy of each document for your records. The other set of documents will need to be served upon the other party. A judge will need to sign the Order to Show Cause, and the Court will set a date for a hearing on your motion.

RECAP for Step 2: To have the other party held in contempt for failing to follow a prior order issued by the Court, you will need to file the following documents with the Clerk of the District Court's office:

- A. *Motion for Order to Show Cause*; and
- B. *Affidavit in Support of Order to Show Cause*
- C. *Order to Show Cause*
- D. Take the original and two (2) copies of each document to the Clerk's office.
 - a. The Clerk will give you both copies back after file-stamping them
 - b. You should keep one copy for your records.
 - c. The other set of documents will need to be served upon the other party.
 - d. The Judge will sign the Order to Show Cause and set a date for a hearing.

Step 3. Serve the Other Party. Wyoming law requires that you give notice to the other party about the filing of the motion. This is known as “service of process”.

Service by Sheriff. To serve the documents on the other party, you must take the documents to the Sheriff’s Department in the county in which the other party lives. Service fees vary in Wyoming counties, but typically cost around \$35.00. Check with the Sheriff’s Department to determine how much the service fee is in your county. If the other party is to be served outside of Wyoming, you must contact the Sheriff’s office in the county where the respondent is to be served to determine the service fee and address for forwarding the documents you wish to have served on the Defendant or Respondent.

Proof of Service. The Sheriff’s Department will complete the last page of the *Order to Show Cause* called the “*Return of Service by Sheriff*” (or they may have their own form - an “*Affidavit of Service*”) and will usually file the original with the Clerk’s office and send you a copy. If you receive what looks like the original *Order to Show Cause* with the *Return* portion completed or an “*Affidavit of Service*” from the Sheriff, call the Clerk’s office to ensure the original has been filed. If it has not, then file the original with the Clerk’s office and keep a copy for yourself. This is the proof that the defendant was given proper notice.

Note: Once the other party has been served, you **MUST** be sure the original *Order to Show Cause* with the completed *Return* (or *Affidavit of Service*) is on file with the Clerk’s office so that the Judge knows that proper service was made.

RECAP for Step 3: You **MUST** give the other party official notice that you have filed a motion to hold them in contempt. Notice is given by having the other party served by doing the following:

Service by Sheriff

- A. Provide copy of the *Motion for Order to Show Cause; Affidavit in Support of Order to Show Cause*, and *Order to Show Cause* to Sheriff where the other party lives;
- B. Pay the *service fee*; and
- C. Once the other party is served, be sure the original *Return* or *Affidavit of*

Step 4. Attend Hearing. If the other party was served and proof of service is on file with the Clerk’s office, attend the scheduled hearing. Be on time and dressed appropriately (as if you were going to a job interview). Present your case to the Judge. The Judge will decide if the other party has willfully failed to follow the prior court order and advise you of his or her decision.

Note: If you were unable to serve the other party in time for the hearing, follow Step 5 below.

RECAP for Step 4: If the other party was served, attend the hearing. If the other party was **NOT** served, move on to Step 5.

- A. Be on time and be dressed appropriately.
- B. Present your side of the story to the Judge.
- C. The Judge will make a decision and advise you of his or her ruling.

Step 5. Dismissal. If you decide not to pursue the contempt action, (because you cannot find the other party to serve him or her, or if the other party has cured the reason for the contempt action, or for any other reason), you must file the *Order of Dismissal*. If the other party has not been served with the *Order to Show Cause*, only your signature is required on the *Order of Dismissal*. If, however, the other party has been served with a copy of the *Order to Show Cause*, both parties need to sign the *Order of Dismissal*.

RECAP for Step 5: If you no longer need to pursue the contempt action or if the other party was NOT served in time for the hearing, complete the following:

A. *Order of Dismissal*

- a. If the other party was not served, the *Order of Dismissal* only needs to be signed by you.
- b. If the other party was served, then he or she must also sign the *Order of Dismissal*.

B. Take an original and two (2) copies of the *Order of Dismissal* for filing with the Clerk and two (2) addressed, stamped envelopes (one addressed to you and one to the other party with enough postage to cover the cost of mailing the *Order of Dismissal* to you and the other party). The Clerk will mail the order to you once it has been signed by the Judge.

**CHECKLIST FOR PACKET 9
ORDER TO SHOW CAUSE**

STEP 1. These forms are required if you believe the other party is willfully failing to obey a Court order:

- Motion for Order to Show Cause (attach a copy of your prior court order)
- Affidavit in Support of Order to Show Cause
- Order to Show Cause

STEP 2. File the contempt action in the District Court where the prior Court order was entered. Take an original and two copies of each document with you. The Clerk will keep the originals. Keep one copy for yourself. The other copy is for service upon the other party as described in **Step 3**.

- Motion for Order to Show Cause*
 - attach a copy of your prior Court order
- Affidavit in Support of Order to Show Cause*
- Order to Show Cause*

STEP 3. Serve the other party

- Contact Sheriff's Department about serving the documents and pay service fee.
- Defendant was personally served by the Sheriff
 - File original *Order to Show Cause* (with completed *Return*) or an *Affidavit of Service* completed by Sheriff with the Court.

STEP 4. Attend hearing if other party was served and proof is on file with the Court.

OR

STEP 5. Dismiss Action

- Order of Dismissal*
 - If the other party was not served, the *Order of Dismissal* only needs to be signed by you.
 - If the other party was served, then he or she must also sign the *Order of Dismissal*.
 - Take an original and two (2) copies of the *Order of Dismissal* for filing with the Clerk and two (2) addressed, stamped envelopes (one addressed to you and one to the other party with enough postage to cover the cost of mailing the *Order of Dismissal* to you and the other party). The Clerk will mail the order to you once it has been signed by the Judge.

STATE OF WYOMING)
) ss
COUNTY OF _____)

IN THE DISTRICT COURT
_____ JUDICIAL DISTRICT

Plaintiff/Petitioner: _____ ,)
(Print name of person filing))

Civil Action Case No. _____

vs.)

Defendant/Respondent: _____)
(Print name of other party)

MOTION FOR AN ORDER TO SHOW CAUSE

The Movant seeks an ORDER TO SHOW CAUSE for violation(s) regarding: (check all applicable boxes) VISITATION CUSTODY CHILD SUPPORT OTHER: (explain).

1. The Movant hereby moves the Court for an order directing the above Plaintiff/Petitioner Defendant/Respondent to appear and show cause why the Defendant/Respondent should not be held in contempt for violation of an Order dated _____ (a copy of the order is attached) wherein Movant was granted visitation custody child support other: _____.

2. In support of the Motion, Movant alleges and says that Plaintiff/Petitioner Defendant/Respondent has violated the Order in the following specific ways: _____

Attach additional sheet of paper if needed.

WHEREFORE, MOVANT respectfully requests the following:

1. That an Order to Show Cause be issued directing Plaintiff/Petitioner Defendant/Respondent to appear before the court and Show Cause why the him or her should not be found in contempt of court for violation of the Order as alleged.

2. That the Court enforce the Order.

3. That (explain anything else you would like the Court to do) _____

4. For such other and further relief as the Court deems just and proper.

DATED this _____ day of _____, 20_____.
(day) (month) (year)

Signature
Printed Name: _____
Address: _____

Phone Number: _____

STATE OF _____)
) ss. **VERIFICATION**
COUNTY OF _____)

I, _____, being duly sworn, depose and say that I am the Movant in the foregoing action, that I have read the foregoing MOTION FOR AN ORDER TO SHOW CAUSE and am familiar with the contents, that the contents are true to the best of my own knowledge except as to those matters as may be alleged upon information and belief.

Movant's signature

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

Notarial Officer

My commission expires: _____

STATE OF WYOMING)
) ss
COUNTY OF _____)

IN THE DISTRICT COURT
_____ JUDICIAL DISTRICT

Plaintiff/Petitioner: _____ ,)
(Print name of person filing))

Civil Action Case No. _____

vs.)

Defendant/Respondent: _____ .)
(Print name of other party)

AFFIDAVIT IN SUPPORT OF ORDER TO SHOW CAUSE

I, _____ (print your name) states that _____ (print other party's name) has failed to comply with an order of this court as follows:

PRINT CLEARLY OR TYPE

1. On _____ (date), an Order was signed by this court ordering the other party to do the following: (Briefly summarize the parts of the Order that you contend have not been followed.)

Attach additional sheet of paper if needed.

2. Identify exactly what the other party has done, or failed to do, in violation of the Order.

Attach additional sheet of paper if needed.

3. There has not been a stay of execution or modification of the Order.

4. The other party has knowledge of the Order, has the ability to comply with the Order, and has intentionally and willfully disobeyed the Order.

5. The actions of the other party are contrary to the Order of this court.

6. I request this court issue an order to the other party to appear before the court at a specific date and time for a hearing to show cause why there has been a failure and/or refusal to comply with the Order of this court.

Submitted this (date): _____ day of _____, 20____.

Signature

Printed Name: _____

Address: _____

Phone Number: _____

STATE OF _____)

) ss.

COUNTY OF _____)

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

Witness my hand and official seal.

Notarial Officer

My commission expires: _____

STATE OF WYOMING)
) ss
COUNTY OF _____)

IN THE DISTRICT COURT
_____ JUDICIAL DISTRICT

Plaintiff/Petitioner: _____ ,)
 (Print name of person filing))
)
)
vs.)
)
)
Defendant/Respondent: _____ .)
 (Print name of other party)

Civil Action Case No. _____

ORDER TO SHOW CAUSE AND APPEAR

To: _____
(Type or Print Name of Other Party)

Address (home and work): _____

YOU ARE HEREBY ORDERED to APPEAR IN PERSON and SHOW CAUSE why you should not be found in civil and/or criminal contempt for violation of an Order of the Court as alleged in the petitioner's Motion for an Order to Show Cause;

YOU SHALL APPEAR IN PERSON at _____, ___ am ___ pm on _____, 20____,
at the _____.
(Insert name and address of Court)

The Movant is seeking ENFORCEMENT of an Order regarding visitation custody
 child support or other: (explain) _____

and PUNISHMENT FOR CONTEMPT for your violation of that Order.

YOUR FAILURE TO APPEAR IN PERSON AFTER YOU HAVE BEEN SERVED WILL NOT DELAY THE HEARING OR ENTRY OF AN ORDER WHICH MAY AWARD THE RELIEF SOUGHT, AND A BENCH WARRANT MAY BE ISSUED FOR YOUR ARREST.

SO ORDERED this _____ day of _____, 20_____.

DISTRICT COURT JUDGE

RETURN OF SERVICE BY SHERIFF

This is to certify that the undersigned Sheriff's Office of _____
County has on this date served this ORDER together with the Motion for an Order to Show
Cause, and Affidavit, if filed, by personally delivering to each person named below a copy of the
same:

Date Served

Name of Person Personally Served

This is to certify that the above named person(s) cannot be found by a diligent effort because

Date Received

Name of Sheriff

Date Returned

Deputy Making Return

STATE OF WYOMING)
) ss
COUNTY OF _____)

IN THE DISTRICT COURT

_____ JUDICIAL DISTRICT

Plaintiff/Petitioner: _____,) Civil Action Case No.

(Print name of person filing)

vs.)

Defendant/Respondent: _____)
(Print name of other party)

ORDER OF DISMISSAL

THIS MATTER having come before the Court pursuant to:

Request of Movant (as evidenced by his/her signature below) and the
Plaintiff/Petitioner or Defendant/Repondent has not been served; OR

By agreement of the parties (**both** parties have signed below)

And the Court, having reviewed the file and being otherwise fully advised;
FINDS that the action for an Order to Show Cause should be dismissed.

THEREFORE, IT IS ORDERED that the Order to Show Cause action be
dismissed without prejudice and that the hearing, if any, be vacated.

DONE THIS _____ day of _____, 20____.

BY THE COURT:

DISTRICT COURT JUDGE

Approved as to Form and Content:

Movant's Signature

Respondent's Signature (if was served)

Movant's Address:

Respondent's Address: