

# OFFICE OF THE FAMILY COURT COMMISSIONER

----- Milwaukee County, Wisconsin

*[These materials are made available to the public pursuant to the directives of Section 767.081 of the Wisconsin Statutes.]*

## **INSTRUCTIONS FOR PROCESSING YOUR CONTEMPT MOTION**

### **O V E R V I E W**

A contempt motion is used to have the court schedule a hearing on your case because the other party is disobeying a court order, either by doing something they are not to do, or by failing to do something they are to do. This includes problems with visitation, with payment of support or maintenance, or for other provisions of an order or judgment that you wish to have enforced (e.g. debt payment).

There are 4 basic steps for preparing and processing a contempt motion:

- 1) Filling out the papers
- 2) Obtaining a court date and getting a judge or court commissioner's signature on the Order to Show Cause
- 3) Having the papers personally delivered (served) by a sheriff or private process server and returned to you before the hearing, so you can file them with the court. Cost is \$20.00 for each attempt by the sheriff and you must provide a stamped self-addressed envelope for the return of the papers. Private process servers charge differently - check the Yellow pages under "Process Servers" or "Private Detectives" if you are interested.
- 4) Attending the hearing, filing your papers back with the court with proof of service, arguing your case and obtaining a copy of the court's order.

**PLEASE NOTE** that there is no cost for filing this motion with the court. Your only cost will be the process service fees as mentioned above.

### **S T E P B Y S T E P I N S T R U C T I O N S**

#### **STEP 1 --- Filling Out the Papers**

##### **Order to Show Cause**

You will need: the forms provided with this packet, a typewriter or ink pen and a copy of the judgment of divorce or paternity, or last order in your case concerning the problem or issue you are bringing to the court's attention. *(For example, the judgment or last order concerning visitation, or child support and/or maintenance, or other provision for which you request help.)*

Begin by copying exactly the names from your judgment or order. If you were the respondent, you still are, even if you are now the person asking the court for help. Your case number always remains the same, so copy it exactly too.

Next, write the other adult person's name, address and phone number (if known) on the lines following "TO:" on page 1 of the forms. The correct address - home or work - is **ESSENTIAL** because the sheriff or process server **MUST** deliver the papers personally and hand them to the other person before you will be allowed to go ahead with any hearing.

Write your name in the next blank space.

Write the other person's name in the blank after: "THE COURT ORDERS THAT YOU,  
\_\_\_\_\_ "

Don't write anything in the next two spaces, after DATE, and TIME. The court commissioner's clerk fills that part in when she gives you a date.

For the next part of the papers, you must refer to that portion of the order or judgment which you seek to enforce. *(For example, that portion setting visitation or periods of physical placement, or that portion setting child support or maintenance, etc.)*

Write the date of the order you are trying to enforce. Put that date on the last blank on page 1.

You have now finished your part of the Order to Show Cause. Now you must fill out the Affidavit.

### Affidavit

Fill out the title the same way you did on the Order to Show Cause.

The first line is your name; fill it in.

In the paragraph numbered "1.", write whether you are the petitioner or respondent.

In the paragraph numbered "2.", put the date of your judgment or order in the blank. Then, in the big space, copy exactly, word for word, what the judgment or order provides regarding the problem or issue you are bringing to the court's attention. *(For example, the portion of the order may read: "Visitation by the respondent at all reasonable times upon reasonable notice," or it may say: "Respondent shall pay child support at the rate of 17% of gross pay per pay period." Whatever portion of the judgment or order which you want enforced should be put down here.)*

In the paragraph numbered "3.", put the word "petitioner" or "respondent" depending on whom the other party is. *(If the problem concerns placement or visitation, you may use the terms "mother" or "father" depending on your circumstances.)* Then, in the big space, write what your specific complaint is.

Do **NOT** sign your name yet but fill in **your complete address and phone number!**

Next, find a Notary Public (a person with a license to notarize papers) and sign your Affidavit in front of the Notary. The Notary will ask you for identification, so be sure to have some form of picture identification with you.

Now, take the papers you have filled out and make four copies of each of the four pages. Put the papers into 5 sets, each set consisting of an Order to Show Cause (on top) and the Affidavit. The set containing the Affidavit you actually signed is the "original" set.

You are now ready to proceed to obtain your court date.

## **STEP 2 --- Obtaining Your Court Date**

Go to Room 707 of the Milwaukee County Courthouse, the Office of the Family Court Commissioner. Approach the counter directly on your right as you enter.

Hand the clerk an original and all copies of your papers and tell her this is a contempt motion and NOT a modification motion.

The clerk will read your papers and assign you a court date. She will put her initials on your original papers and direct you to one of the commissioners, who will then sign your original Order to Show Cause.

Now you must copy the commissioner's name on your four copies of the Order to Show Cause. You **PRINT** the name and put this symbol in front of the name "/s/".

You have completed Step 2, and you are now ready to move on to Step 3, which is getting your papers delivered to (also known as "served on") the other adult party.

## **STEP 3 --- Serving the Papers**

Take the original and one copy of your papers to the process server, along with payment of the fee (\$20.00 for the Milwaukee County sheriff for each attempt at service). The Milwaukee County sheriff, located in Room 102 of the Safety Building at 821 West State Street, serves papers only in Milwaukee County; other sheriffs serve in their respective counties in Wisconsin. You should bring along a self-addressed stamped envelope to return the papers to you once they have been served.

Make sure you have accurate information about the other party's address or place of employment. If you suspect he/she will try to avoid service, attach a picture and try to give a car license number. Also write down his/her telephone numbers for the process server, if you can.

You must remember that you cannot be the process server; the papers must be delivered by a third party and the papers **MUST** be served at least 5 days BEFORE the scheduled hearing date.

*If you believe that you are indigent and are unable to pay for the Sheriff's service fees, you may go to ROOM 104 in this courthouse and request an "Order Waiving*

***Cost and Fees" form. Fill it out and take it to the Chief Judge's Office, ROOM 609 in this courthouse. If the order is signed and you take a copy of it to the Sheriff, then you will not have to pay to have your papers served.***

After the process server has delivered/served the papers, the process server will fill out another paper called an "Affidavit of Service", which is his/her notarized statement of when and where the papers were served. That affidavit of service is an essential paper for your case. Copy it on a xerox machine and attach the copies to your copies of the Order to Show Cause.

If your process server cannot serve the papers, you can't have a hearing - period. So, make sure that you give the process server good information and emphasize that you **MUST** have the papers back before the hearing.

#### **STEP 4 --- Attending the Hearing and Obtaining an Order**

Go to the office of the Family Court Commissioner (Room 707 of the Courthouse) on the appointed date.

Once you are there, ask for the "Findings and Order" form and fill it out by putting your case number, the date of the hearing and your name and the other party's name and addresses and your child(ren)'s name(s) in the appropriate blanks.

When your name is called, go into the hearing room and hand the Commissioner your filled out "Findings and Order" form and the original of your Order to Show Cause with proof of service attached.

The commissioner will run the hearing according to his/her individual style. You should be prepared to tell the Commissioner two things, in less than five minutes:

1. how the other person has violated the order
2. precisely what you want the commissioner to order the other party to do to correct the problem

The Commissioner will make an order after listening to both you and the other party, and will write that order on the Findings and Order form.

Generally, the commissioner will give you a copy of the Order at the end of the hearing. If not, it is your responsibility to arrange with the secretary to send you and the other party a copy of the Order once it is typed.

If you haven't received the Order in 2 weeks, you should call the office of the Family Court Commissioner (278-4401) to check on its whereabouts.

Once you get your Order, your proceeding is completed. Be sure you put your Order in a place where you can find it if you need it again.

In re the Marriage of:  
In re the Paternity of \_\_\_\_\_

**ORDER TO  
SHOW CAUSE**

\_\_\_\_\_  
Petitioner  
--- and ---

Case # \_\_\_\_\_

\_\_\_\_\_  
Respondent

Family **A B C D E**  
*[circle appropriate one]*

**TO:** \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
Phone Number: \_\_\_\_\_

Based on the Affidavit attached to this Order to Show Cause, and upon all the records, files and proceedings in this case, and on the motion of \_\_\_\_\_, the moving party,

THE COURT ORDERS that you \_\_\_\_\_ appear as follows:

BEFORE: Michael J. Bruch, Family Court Commissioner (or his designee)  
Milwaukee County Courthouse, Room 707  
901 North 9th Street  
Milwaukee, Wisconsin 53233

DATE: \_\_\_\_\_

TIME: \_\_\_\_\_

FURTHER, THE COURT ORDERS THAT YOU SHOW CAUSE AT THAT HEARING AS FOLLOWS:

1. Why you should not be found in contempt of court, pursuant to sec. 785.01 and sec. 785.03 Wis. Stats., for intentional disobedience of the Order or Judgment of the court regarding matters set forth in the attached affidavit, which Order or Judgment is dated \_\_\_\_\_.
2. Why the court should not make an order for relief within its power to order

remedial sanctions under sec 785.04 Wis. Stats. Remedial sanctions may include an award of money damages, a forfeiture not to exceed \$2,000.00 for each day the contempt continues, or incarceration (by a judge), as necessary, to secure compliance with the order made by the court in its discretion to secure enforcement of its orders or judgment.

FURTHER IT IS ORDERED:

A. That the party seeking this Order cause it to be served upon the responding party no later than five (5) days before the time set for hearing.

B. FAILURE TO APPEAR AT THE HEARING MAY RESULT IN THE ISSUANCE OF A CAPIAS or ORDER FOR ARREST DIRECTING THE SHERIFF TO PICK YOU UP AND BRING YOU TO COURT. FAILURE TO APPEAR WILL NOT STOP THIS COURT FROM IMPOSING REMEDIAL SANCTIONS IF THE COURT, AFTER HEARING, FINDS THAT IT CAN REASONABLY DO SO WITHOUT YOUR PRESENCE AND YOU WILL NOT BE GRANTED A REHEARING BECAUSE YOU FAILED TO APPEAR AT THIS ONE.

Dated at Milwaukee, Wisconsin, on \_\_\_\_\_

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Family Court Commissioner



3. The \_\_\_\_\_ has failed to obey the orders.  
Specifically:

4. I believe that the other party has the ability to comply with the orders of the court and that there is no legitimate reason for the violations and that his/her failure to do so is willful and intentional.

5. This affidavit is made in support of the attached Order to Show Cause seeking remedial sanctions under CH. 785, Wis. Stats.

\_\_\_\_\_  
Affiant  
Affiant's address:  
City/state/ZIP  
Phone number:

Subscribed and sworn to before me on

\_\_\_\_\_

\_\_\_\_\_  
Notary Public, State of Wisconsin  
My commission expires \_\_\_\_\_