

## **INSTRUCTIONS FOR FILING A MOTION AFTER TERMINATION OF THE MARRIAGE WITH MINOR CHILDREN**

You must print clearly or type the information that you fill out for each case. If the forms are not completely filled out, the Court will not accept the forms for filing. If you do not know an answer, you must state "unknown". Once the clerk has given your case a case number, you will use that case number in all documents that are filed in this case.

The filing fees for court costs for a post termination motion are \$250. The above filing fees are deposits for court costs. Court costs in your case may be more or less than the deposit. The Court will decide who pays the court costs at the end of the case.

If you do not have funds to pay the filing fee, you must complete the "Motion to File Without Payment of Costs" papers, **Court Form 1**, which must be signed in front of a notary and then notarized by the notary public, and the Court will then determine whether you qualify to have the filing fee waived. It is possible that you will still have to pay the court costs, in whole or part, at the end of the hearing.

**Praeipce for Service** - The Praeipce for Service must be completed by you at the time that you file your court documents. Service of process (the way that the person(s) receive a copy of the court papers that you are filing at this time) is one of the most important procedures which you must decide at the beginning of the legal action. All necessary parties must be served with the court documents that you are about to file. It is your responsibility to make sure that the documents are served on the other party(ies). You may choose to have the documents served by 1. Certified mail or 2. personal service, usually by the county sheriff where the person resides. If the certified mail is returned unclaimed, then you may attempt service by regular mail. All costs for service will be added to the court costs and or the filing fees.

**Child Custody Affidavit Form - Court Form 6** In all cases where there are minor children, unless this form is completed, YOUR CASE WILL NOT BE SET FOR HEARING. This form is required by law to be completed and submitted to the court at the time that the complaint for divorce, the petition for dissolution or the motion for change of custody is filed. All questions must be answered. When you list where the child has lived for the last five years, please start with the most recent address and work backwards. Answer all questions. This form must be signed in front of a notary public who will notarize this before it is filed with the court.

**IV-D Application** – In all cases where there are minor children and child support will be ordered and/or health insurance will be provided, the person receiving the child support or health insurance must sign and complete the IV-D application if an application for child support services has not already been signed.

**Post Decree Motions** include:

**Motion for Contempt**

You must have completed the following:

1. The Motion for Contempt and Affidavit in Support of your motion;
2. The Classification form, **Court form 2**;
3. The Affidavit of Income and Expenses, which must be signed in front of a notary and then notarized by the notary public, **Court form 4**;
4. The Health Insurance Information Worksheet, **Court form 5**,
5. The Child Custody Affidavit, which must be signed in front of a notary and then notarized by the notary public, **Court form 6 if the contempt involves the child(ren)**;
6. The Praeipce for Service
7. The "Notice of Hearing" form which must be attached to the motion for contempt;
8. If the contempt is for failure to pay child support or spousal support, you must have a current computer print-out of support records from the Seneca County Child Support Enforcement Agency, also called an "arrearage statement".

IN THE COMMON PLEAS COURT OF SENECA COUNTY  
DOMESTIC RELATIONS DIVISION

\_\_\_\_\_  
Name

Case No. \_\_\_\_\_

\_\_\_\_\_  
Street address

\_\_\_\_\_  
City and state

DOB: \_\_\_\_\_

Plaintiff

vs

Judge \_\_\_\_\_

\_\_\_\_\_  
Name

\_\_\_\_\_  
Street address

\_\_\_\_\_  
City and state

DOB: \_\_\_\_\_

Defendant

**MOTION FOR FINDING OF  
CONTEMPT**

1. This day, the undersigned party, \_\_\_\_\_ requests this Court order \_\_\_\_\_ to appear before this Court and show why he/she should not be held in contempt for failing to comply with this Court's prior Orders filed on \_\_\_\_\_ as \_\_\_\_\_ has not complied with these orders in that

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_.

as is more fully set contained in the affidavit that is attached hereto.

2. Further, the undersigned request that the Court order \_\_\_\_\_ to pay the Court costs of this motion and also for an Order as follows:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_.

\_\_\_\_\_  
Your signature

\_\_\_\_\_  
Your street address

\_\_\_\_\_  
Your city, state, and zip code

**Affidavit**

State of Ohio )  
County of \_\_\_\_\_ ) ss:

\_\_\_\_\_, being first duly sworn, states as follows:  
Your name

The \_\_\_\_\_ is in contempt of this court orders as follows: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
Your signature

Sworn to and signed in my presence this \_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_  
Notary public  
My commission expires:

**NOTE: 1. This must be notarized before this will be accepted by the clerk of courts for filing.**

**2. You must have made at least three extra copies of the motion and the affidavit and all attachments for filing, four if the matter involves child support or spousal support.**

**NOTICE OF HEARING**

**TO:**

**YOU ARE ACCUSED OF CONTEMPT OF COURT ORDER. YOU SHOULD READ THIS NOTICE.**

Take notice that hearing on the matter of contempt will be held on \_\_\_\_\_ at \_\_\_\_\_ .m.

(1) A Notice of Hearing date is attached. Your failure to appear at this hearing may result in the issuance of an order for your arrest. If this case involves alleged failure to pay support, the court may also issue an order for the payment of support by withholding an amount from your personal earnings or by withholding or deducting an amount from some other asset of yours.

(2) You have a right to be represented by legal counsel in this matter. If you believe that you are indigent, you must apply for Court appointed Counsel within three (3) business days after receipt of the summons. **YOU MUST CONTACT THE COURT WHERE YOU WILL APPEAR TO APPLY FOR REPRESENTATION.**

(3) The Court may refuse to grant a continuance at the time of the hearing for the purpose of obtaining counsel if you fail to make a good faith effort to retain your own private counsel or to obtain court appointed counsel.

(4) The following potential penalties could be imposed upon you, if you are found guilty of contempt for your failure to pay support, or for your failure to comply with, or you interference with, a visitation order or decree:

**STATUTORY PENALTIES:** For a first offense, you may be fined not more than \$250.00 and imprisoned not more than thirty days, or both. For a second offense, you may be fined not more than \$500.00 and imprisoned for not more than sixty days, or both. For a third offense, you may be fined not more than \$1,000.00 and imprisoned not more than 90 days, or both. (O.R.C. 2705.05)

**IMPRISONMENT UNTIL COMPLIANCE:** If your contempt consists of the omission to do an act which the court finds you can yet perform, you may be imprisoned until you perform it. (O.R.C. 2705.06)

**SUPPORT CONTEMPT:** If you are found in contempt for failure to make child support or spousal support, the court must order you to pay all court costs and reasonable attorney fees to the other party (3113.31(K); & 3105.18(G)). In addition, if the court finds your failure to pay child support was willful, it must require you to pay interest on your child support arrearage. (O.R.C. 3113.219)

**HEALTH INSURANCE CONTEMPT:** If you are found in contempt for failure to comply with Health Insurance Orders relating to minor children, you are liable for any medical expenses incurred as a result of your failure, and upon a second offense your child support obligation may be increased (O.R.C. 3113.217(I) 7 (J)).

**VISITATION CONTEMPT:** If you are found in contempt for failure to comply with or interference with any companionship or visitation rights, in addition to all other penalties, the Court must order you to pay all court costs and reasonable attorney fees to the other party, and may also award compensatory visitation time. (O.R.C. 3105.051(K)).

**ADDITIONAL PENALTIES:** In addition to all penalties imposed by statute, the court has inherent power to impose additional sanctions for contempt of court. (Hale vs. State, 55 Ohio St. 210(1986); Zakany vs. Zakany, 9 Ohio St. 3d 192 (1984).

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THE COURT WOULD LIKE TO REMIND ALL PARTIES THAT PROPER DRESS IS EXPECTED FOR ALL HEARINGS.