MOTION FOR CONTEMPT

INSTRUCTIONS

NOTES: IN 1991, OHIO DOMESTIC RELATIONS LAW CHANGED SIGNIFICANTLY. USE THE ATTACHED FORMS. (AUGUST 1991)

This packet contains the legal forms that you may need to request a finding of contempt. The forms enclosed are: (1) Confidential Information Page, (2) Motion for Contempt, (3) Order to Appear and Show Cause, (4) Affidavit in Support of Motion, (5) Parenting Proceeding Affidavit (UCCJEA Affidavit), and (6) Request for Service. In every parenting proceeding, a Declaration under Uniform Child Custody Jurisdiction and Enforcement Act (UCCJEA Affidavit) **MUST** be included with the Motion. These instructions are intended to be a general guide to help you get the forms filled out, filed with the Court, served on the opposing party/parties and to get your request properly before the Judge/Magistrate. These instructions are not intended to be a legal analysis of your request but are merely to assist you in preparing and presenting your request. ***PLEASE READ ALL THE INSTRUCTIONS BEFORE YOU BEGIN TO COMPLETE THE FORMS.*** **ALL FORMS MUST BE CLEARLY LEGIBLE.**

A. FILLING OUT THE FORMS:

You should fill out these forms **before** you go to the Courthouse to file them. ***THE COURT STAFF WILL NOT HELP YOU IN COMPLETING THESE FORMS***. They can only provide you with general information concerning your case number, and the date and time of your hearing. **ALL FORMS MUST BE CLEARLY LEGIBLE.**

1. **CONFIDENTIAL INFORMATION PAGE** – This information is necessary for the Court to know, but is kept in a confidential envelope in your file and will not be available for public viewing.

2. **MOTION FOR CONTEMPT** – In the #1 blank, fill in the county that issued the Court order. In the #1A blank, fill in the Case Number. In the #2 blank, fill in the Plaintiff's name. In the #3 blank, fill in the Defendant's name. In the #4 blank, fill in your name. In the #5 blank, fill in the name of the individual you feel has not complied with an order of the Court. In the #6 blank, state the reason you feel this person is in contempt. In the #7 blank, you should sign your name and fill in your address.

3. **ORDER TO SHOW CAUSE** – Fill in the top #1 through #3 just like the Motion for Contempt set out at paragraph No. 2 above. In the first paragraph you will need to choose the correct options (i.e. Plaintiff/Defendant, he/she etc.). In the second paragraph, you will need to choose the correct options and fill in #4 blank with the name of the individual you feel has not complied with an order of the Court. The Juvenile Court Clerk will provide the name of the Judge or Magistrate who will be hearing this Motion, along with the hearing date and time.

4. **AFFIDAVIT IN SUPPORT OF MOTION** – Fill in the top #1 through #3 just like the Motion for Contempt set out at paragraph No. 2 above. Fill in #4 blank with your name. Fill in #5 blank with specific details that explain what has happened that make you feel that a Court order has been violated. **THIS IS A SWORN STATEMENT. THIS MUST BE SIGNED IN FRONT OF A NOTARY PUBLIC.** You must have this done before you come to the Courthouse to file this Motion. ***THE COURT STAFF WILL NOT NOTARIZE THIS FOR YOU.***

5. **PARENTING PROCEEDING AFFIDAVIT (UCCJEA Affidavit)** – The UCCJEA ***MUST*** be filled out completely and notarized. If this document is not filed, the Court has no jurisdiction over this matter and the Court cannot hear your case. ***THE COURT STAFF WILL NOT NOTARIZE THESE DOCUMENTS FOR YOU.*** *A Notary Public can often be found at your local bank.*

6. **REQUEST FOR SERVICE** – Fill in the names of the parties and case number on the Request for Service just as you did on the Motion. You should probably check the box for certified mail service, though you have other options. In the spaces provided, type in the names and address of the people you want served with these papers. In general, the natural parents and the caretaker of the child(ren) will need to be served.

   You must have a valid address of the other party/parties for the Clerk's office to mail the Motion. ***IF YOU DO NOT HAVE A VALID ADDRESS FOR THE OTHER PARTY/PARTIES, YOU WILL NEED TO REQUEST SERVICE BY PUBLICATION WHICH REQUIRES AN ADDITIONAL AFFIDAVIT AND DEPOSIT OF $125.00.*** The Judge/Magistrate has no authority to grant your Motion unless all other parties have been served with a copy of the papers and have been given an opportunity to be heard on the Motion.

B. FILING THE MOTION:

1. After you have filled all the forms out, go to the Clerk of Juvenile Court's office at the County Courthouse in the county where the last order for custody was made. This is the only place you can file the Motion.

2. All cases require the payment of Court costs. **When you file your case, you should be prepared to pay a deposit of *$140.00*.** This is an initial deposit. If your costs exceed this amount, you will be billed for the balance.

3. If you are unable to prepay these court costs, you must file an **AFFIDAVIT OF INDIGENCY**. This form can be obtained from the Clerk's office or this Court's website.

   Remember, this does not mean that you will never have to pay court costs. It means that you will not have to ***prepay*** the costs. It is up to the Court to decide who pays court costs. The final determination of indigence will be made at the evidentiary hearing, but is subject to review by the Court at any stage of the proceedings. As a general rule, *ANYONE WHO IS EMPLOYED MUST PAY THEIR COSTS AT THE TIME OF FILING.*

C. HEARING:

1. You should be prepared for the hearing. You should be neat, clean and appropriately dressed. You must have with you at the time of the hearing any witnesses that you want to verify why your motion should be granted. You should also have with you any papers or other documents or evidence (such as work schedules, etc.) that you want the Judge/Magistrate to see during your case. Because the Court may ask you about your financial information, you should bring with you proof of your income (i.e. letter from the Welfare Office [Department of Jobs and Family Services], letter from employer, check stubs, letter from Social Security, etc.).

2. You should have with you for the hearing any evidence you wish to submit to the Court to verify your position. You should tell the Judge/Magistrate in clear and simple terms why you want the change and why it is in the best interest of the child(ren) to have the Motion granted. The hearing is your opportunity to present your side of the story, so make certain that you include everything in your testimony. It may be helpful if you sit down before the hearing and make a written outline of everything that has happened and the current circumstances that support your Motion so that you will have something you can use to remind yourself of what it is you want to say when you testify.

3. VERY IMPORTANT! Time is limited. Restrict yourself to the issue before the Court and the factors involved with that issue. The Judge/Magistrate will only want to hear the evidence that you have that shows or supports the specific Motion before the Court.

4. At the hearing you may be asked questions by the Judge/Magistrate, or the other party in this case or the attorney of the other party, if there is one. You must answer the questions truthfully, but you don't need to volunteer information. Listen to the question and make sure that you are providing the information that you were asked. If you do not understand a question, or are not sure what you are being asked, you have the right to have the question explained to you before answering it.

5. The Judge/Magistrate **may not** make the decision to grant your Motion at the end of this hearing. Listen closely to what the Judge/Magistrate has to say at the end of the hearing to know if the matter will be taken "under advisement" or if the Motion was granted or denied.

STATE OF OHIO, (1)_____ COUNTY, SS:

IN THE COURT OF COMMON PLEAS

JUVENILE DIVISION

(2)_____ CASE NO. (1A)_____

Plaintiff

vs.

(3)_____ **MOTION FOR CONTEMPT**

(Oral Hearing Requested)

_____

Defendant(s)

Now comes (4)_____, Plaintiff/Defendant, and moves this Honorable Court to hold (5)_____, Plaintiff/Defendant, in Contempt of this Court for disobeying a previous Order of this Court. The factual basis for this request is:

(6)_____

_____

_____

_____

_____

_____

Respectfully submitted,

(7)_____

Signature

_____

_____

Address

_____

Phone Number

STATE OF OHIO, (1)_____ COUNTY, SS:
IN THE COURT OF COMMON PLEAS
JUVENILE DIVISION

(2)_____ CASE NO. (1A)_____
Plaintiff

vs. **AFFIDAVIT IN SUPPORT OF MOTION**

(3)_____

_____
Defendant(s)

STATE OF OHIO

COUNTY OF (1)_____ SS:

I, (4)_____, being duly cautioned and sworn, state that the Plaintiff/Defendant has violated a previous order of this Court in that he/she has:

(5)_____

_____

_____

I hereby swear or affirm that the information stated above is true and accurate. I understand that falsification of this document may result in a Contempt of Court finding against me which could result in a jail sentence and fine, and that falsification of this document may also subject me to criminal penalties for perjury (O.R.C. Sec. 2921.11).

OATH OF AFFIANT

I hereby swear or affirm that the answers above are true, complete and accurate to the best of my knowledge. I understand that falsification of this document my result in a contempt of court finding against me which could result in a jail sentence and fine, and that falsification of this document may also subject me to criminal penalties for perjury under Ohio Revised Code §2921.11.

_____
AFFIANT

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

_____
NOTARY PUBLIC

Confidential Information Page
Juvenile Court

Please complete the following information. You do not need to make copies of this page, but you must submit this form when filing a Motion or Complaint. This will allow the court to have necessary information without it being released to the other parties on your case.

*****This form – which will include <u>complete</u> social security numbers – will be kept in a confidential envelope in your file and will not be available for public viewing.**

Addresses and Dates of Birth may only be kept confidential if you present a valid protection order, or proof under the Family Violence Act.

Is there a pending or recent investigation, involving the minor child(ren) with the Tuscarawas County Department of Job and Family Services?

☐ YES – If yes, give name of caseworker or JFS contact person: _____

☐ NO

Is there a safety plan involving the child(ren)?

☐ YES – If yes, please attach a copy of the safety plan

☐ NO

<u>Person filing Complaint/Motion</u>

Name: _____
First Middle Last

Also known as: _____
First Middle Last

SSN: _____ Date of Birth: _____

Address: _____
Street Address P.O. Box

_____
City State Zip

Relationship to child: _____

Spouse: _____
First Middle Last

Spouse's SSN: _____ Spouse's Date of Birth: _____

Child's Biological Mother

Name: _____
First Middle Last

Also known as: _____
First Middle Last

SSN: _____ Date of Birth: _____

Address: _____
Street Address P.O. Box

_____
City State Zip

Child's Biological Father

Name: _____
First Middle Last

Also known as: _____
First Middle Last

SSN: _____ Date of Birth: _____

Address: _____
Street Address P.O. Box

_____
City State Zip

Current Legal Custodian (If child is in custody of non-parent)

Name: _____
First Middle Last

Also known as: _____
First Middle Last

SSN: _____ Date of Birth: _____

Address: _____
Street Address P.O. Box

_____
City State Zip

Child #1

Name: _____
First Middle Last

SSN: _____ Date of Birth: _____

Address: _____
Street Address P.O. Box

_____
City State Zip

Child #2

Name: _____
First Middle Last

SSN: _____ Date of Birth: _____

Address: _____
Street Address P.O. Box

_____
City State Zip

Child #3

Name: _____
First Middle Last

SSN: _____ Date of Birth: _____

Address: _____
Street Address P.O. Box

_____
City State Zip

Child #4

Name: _____
First Middle Last

SSN: _____ Date of Birth: _____

Address: _____
Street Address P.O. Box

_____
City State Zip

In The Court of Common Pleas
Juvenile and Probate Trial Division
Tuscarawas County, Ohio

_____	Case No. _____
Plaintiff/Petitioner 1	Judge _____
vs./and	Magistrate _____
_____	
Defendant/Petitioner 2/Respondent	

Instructions: Check local court rules to determine when this form must be filed. By law, this affidavit must be filed and served with any Complaint, Petition or Motion regarding the allocation of parental rights and responsibilities, parenting time, custody, or visitation. Each party has a continuing duty while this case is pending to inform the Court of any parenting proceeding concerning the child(ren) in any other court in this or any other state. **If more space is needed, add additional pages.**

UCCJEA/Parenting Proceeding Affidavit (R.C. 3127.23)

Affidavit of _____
(Print Name)

Only check the following box if you believe that the health, safety, or liberty of yourself or your child(ren) would be jeopardized by the disclosure of your address or identifying information. You acknowledge that the court may conduct a hearing regarding the basis for your request.

☐ Pursuant to R.C. 3127.23(D), I allege that my health, safety, or liberty or that of my child(ren) would be jeopardized by the disclosure of identifying information to a party to this case or the public. Therefore, I request that my address be placed under seal. I have marked the corresponding box next to each address I am requesting to be sealed.

1. (Number): _____ Minor child(ren) is/are subject to this case as follows:

Insert the information requested below for all minor or dependent children of the parties. You must list the residences for all places where the children have lived for the last **FIVE** years.

a. Child's name _____		**Place of birth** _____	**Date of birth** _____	**Sex** ☐ **M** ☐ **F**
Date of residence	Address Confidential	Person child lived with (name and address)		Relationship
_____ to present	☐	_____ _____		_____
_____ to _____	☐	_____ _____		_____

_____ to _____	☐	_____ _____	_____
_____ to _____	☐	_____ _____	_____

b. Child's name _____	**Place of birth** _____	**Date of birth** _____	**Sex** ☐ **M** ☐ **F**

☐ Check this box if the information below is the same as in Section 1(a). Skip to the next question.

Date of residence	Address Confidential	Person child lived with (name and address)	Relationship
_____ to present	☐	_____ _____	_____
_____ to _____	☐	_____ _____	_____
_____ to _____	☐	_____ _____	_____
_____ to _____	☐	_____ _____	_____

c. Child's name _____	**Place of birth** _____	**Date of birth** _____	**Sex** ☐ **M** ☐ **F**

☐ Check this box if the information below is the same as in Section 1(a). Skip to the next question.

Date of residence	Address Confidential	Person child lived with (name and address)	Relationship
_____ to present	☐	_____ _____	_____
_____ to _____	☐	_____ _____	_____
_____ to _____	☐	_____ _____	_____

_____ to _____	☐	_____ _____	_____

d. Additional children are listed on Attachment 1(d). (Provide requested information for additional children on an attachment labeled 1(d).)

2. **Participation in custody case(s): (*Check only one box*)**

☐ I **Have Not** participated as a party, witness, or in any capacity in any other case, in this or any other state, concerning the custody of or visitation (parenting time), with any child subject to this case.

☐ I **Have** participated as a party, witness, or in any capacity in any other case, in this or any other state, concerning the custody of or visitation (parenting time), with any child subject to this case.

Explain: _____

_____

a. Name of each child: _____
b. Type of case: _____
c. Court and State: _____
d. Date and court order or judgment (if any): _____

3. **Information** about custody case(s): **(*Check only one box*)**

☐ I **Have No Information** of any cases that could affect the current case, including any cases relating to custody; domestic violence or protection orders; dependency, neglect, or abuse allegations; or adoptions concerning any child subject to this case.

☐ I **Have the Following Information** concerning cases that could affect the current case, including any cases relating to custody; domestic violence or protection orders; dependency, neglect, or abuse allegations; or adoptions concerning a child subject to this case, other than listed in Paragraph 2.

Explain: _____

_____

a. Name of each child: _____
b. Type of case: _____
c. Court and State: _____
d. Date and court order or judgment (if any): _____

4. Knowledge of prior child support proceedings: **(*Check only one box*)**

☐ The child(ren) described in this affidavit are NOT subject to existing child support order(s) in this or any state or territory.

☐ The child(ren) described in this affidavit ARE subject to the following existing child support order(s):

a. Name of each child _____
b. Type of proceeding _____
c. Court and address _____
d. Date of court order or judgment (if any): _____
e. Amount of child support paid and by whom: _____

5. **Information about criminal convictions:**

List all of the criminal convictions, including guilty pleas, for you and the members of your household for the following offenses: any criminal offense involving acts that resulted in a child being abused or neglected; any domestic violence offense that is a violation of R.C. 2919.25; any sexually oriented offense as defined in R.C. 2950.01; and any offense involving a victim who was a family or household member at the time of the offense and caused physical harm to the victim during the commission of the offense.

Name	Case Number	Court/County/State	Charge

6. **Persons not a party to this case: (*Check only one box*)**

☐ I **Do Not Know of Any Person** not a party to this case who has physical custody or claims to have custody or visitation rights with respect to any child subject to this case.

☐ I **Know That the Following Named Person(s)** not a party to this case has/have physical custody or claim(s) to have custody or visitation rights with respect to any child subject to this case.

a. Name/Address of Person: _____
☐ has physical custody ☐ claims custody rights ☐ claims visitation rights
Name of each child: _____

b. Name/Address of Person: _____
☐ has physical custody ☐ claims custody rights ☐ claims visitation rights
Name of each child: _____

c. Name/Address of Person: _____
☐ has physical custody ☐ claims custody rights ☐ claims visitation rights
Name of each child: _____

7. **I understand that I have a continuing duty to advise this Court of any custody, visitation, parenting time, divorce, dissolution of marriage, separation, neglect, abuse, dependency, guardianship, parentage, termination of parental rights, or protection order from domestic violence case concerning the children about whom information is obtained during this case.**

Oath or Affirmation

(*Do not sign until Notary Public is present*)

I, (print name)_____, swear or affirm that I have read this Affidavit and, to the best of my knowledge and belief, the facts and information stated in this Affidavit are true, accurate, and complete. I understand that if I do not tell the truth, I may be subject to penalties for perjury.

_____

Your Signature

State of _____)

) SS

County of _____)

Sworn to or affirmed before me by _____this _____day of _____,_____.

_____

Signature of Notary Public

_____

Printed Name of Notary Public

Commission Expiration Date: _____

(Affix seal here)

STATE OF OHIO, TUSCARAWAS COUNTY, SS:
IN THE COURT OF COMMON PLEAS
JUVENILE DIVISION

_____ CASE NO. _____

Plaintiff

vs.

REQUEST FOR SERVICE

_____

Defendant

TO THE CLERK OF SAID COURT:

Please serve the following parties:

_____	_____	_____
Name	Name	Name
_____	_____	_____
Street address	Street address	Street address
_____	_____	_____
City State Zip	City State Zip	City State Zip

By ◯ Certified Mail, Return Receipt Requested

◯ Addressee Only, Certified Mail, Return Receipt Requested

◯ Service by publication in the Times Reporter

***additional deposit and affidavit required for service by publication

◯ Issuance to Sheriff of _____ County, Ohio

For (Personal) or (Residence) service

***$50.00 additional deposit required for sheriff service

SPECIAL INSTRUCTIONS TO SHERIFF:

_____

_____