

CONTEMPT

This packet contains forms and information on:

How to File a Petition for Citation of Contempt

It is advisable to have an attorney when filing legal papers to be sure that your rights are protected and that all the procedures are correctly followed. **Courthouse personnel are prohibited by state law O.C.G.A. § 15-19-51 from giving legal advice.** Different situations may require special procedures and courthouse personnel cannot advise you on how to proceed or what forms may be necessary in specific situations.

HOW TO FILE A PETITION FOR CITATION OF CONTEMPT

Use this packet only if the other side lives in Cherokee County and you have a Superior Court Order from a Georgia Court which orders your ex-spouse or the other parent of your children to do certain things, and that person has not done them. For example, this packet should be used if:

- you have not received child support as ordered **OR**
- you have not been permitted to visit with your children as ordered **OR**
- the other person has not turned over property as ordered or has not performed other acts as ordered **OR**
- the other person has not obtained health insurance or paid you back for medical expenses as ordered

If your ex-spouse no longer lives in Georgia and you need to file a *Contempt* action for custody or visitation against your ex-spouse, you must seek the advice of an attorney, unless your ex-spouse can be personally served while in Georgia with a copy of your petition that was filed in Georgia.

If your ex-spouse no longer lives in Georgia, you can use these forms to file a contempt action for nonpayment of child support/alimony, to obtain health/life insurance, to pay medical expenses, to turn over property, or to pay other expenses.

If you have a court order from another state, please contact an attorney.

BASIC STEPS OF THIS PROCESS

- STEP 1:** Fill out the *Petition for Citation of Contempt*.
- STEP 2:** Fill out the *Verification* form.
- STEP 3:** Fill out the *Rule Nisi* form.
Note: Most *Petitions* require summons to be attached to your *Petition for Service*. However, for a contempt action, the *Rule Nisi* serves as your summons.
- STEP 4:** Complete the form for Service (Must be obtained from the Clerk/Sheriff's Office).
- STEP 5:** Make a copy of your Court Order and attach it to the *Petition for Citation of Contempt*.
- STEP 6:** Put the documents in order.
- STEP 7:** Make two (2) copies of each document.
- STEP 8:** File the original documents with the Clerk of Court.
- STEP 9:** Take one (1) copy of the documents to the Sheriff's office.
- STEP 10:** Come to Court on the date and time indicated on the *Rule Nisi* form.

DETAILED INSTRUCTIONS FOR FORM COMPLETION

Step 1:

Petition for Citation of Contempt

- **Petitioner:** You are the Petitioner. Fill in your name on the line after “Petitioner” and on the line after “NOW COMES.”
- **Respondent:** The Respondent is the person who has not obeyed the Order. Fill in that person’s full name on the line after “Respondent.”
- **File Number:** Leave the Civil Action File Number blank. It will be filled in by the Clerk of Court when you file the *Petition*.
- **Paragraph 1:**
 - Fill in the county that issued the Order.
 - Fill in the name of the case where you got the Order that is not being obeyed. This can be found at the top of the original court Order. (Example: Joe Smith v. Jane Smith)
 - Fill in the case number from that case.
 - Fill in the date the judge signed the Order. This is on the last page of the Order above the judge’s signature.
- **Paragraph 2:**
 - Put an “x” in the box that is true and fill in the blank.
- **Paragraph 3:**
 - Put an “x” in all the boxes that are true.
 - If you did not get items the Court ordered, you should list them on the lines.
 - If you did not get medical insurance or have not been re-paid for medical costs, those should be listed.
 - Put the date of the day you finish the form and sign your name. Then clearly print your name, address, and telephone number.

Step 2:

Verification

- This document tells the Court that you swear, under oath, that what you wrote or put in the *Petition* is true and correct.
- Print or type your full name next to the word “Petitioner.”
- Print or type the full name of the person disobeying the order next to the word “Respondent.”
- Where it says: “I _____,” print or type your full name.
- Where it says: “This ____ day of _____, 20____,” fill in the current date, month, and year.
- Print or type your full name where indicated and fill in your address and telephone number.
- **DO NOT SIGN THIS DOCUMENT.** You may only sign this document in front of a public notary. Public notaries are available at banks, the post office, grocery stores, or the Cherokee County Superior Court Clerk’s Office.

Step 3:

Rule Nisi

- This document is used to set a hearing date.
- Fill in your full name as the “Petitioner” and the other person’s full name as the “Respondent.”
- You must have a hearing date attached to your petition. In Order to get one, you should take these documents to the Cherokee County Superior Court Clerk’s Office. The clerk will instruct you on how to get a hearing date.
- The remaining information on this document will be filled in by the Court clerk when you take the papers to be filed.

Step 4:

Service

- The *Petition for Citation of Contempt* must be *served* on the opposing party. You can either

have the Sheriff serve the papers, or you may personally serve the papers if the Respondent is willing to sign an *Acknowledgement of Service* form.

- **Sheriff's Entry of Service:** This document is used by the Sheriff when s/he serves a copy of the documents on the Respondent.
 - Write your address under "Petitioner's Address" on the left.
 - Write the Respondent's full name and address under "Name and Address of Party to be served."
 - On the right, write your full name on the line above "Petitioner."
 - On the right, write the Respondent's full name on the line above "Respondent."

Step 5: Original Order

- Make a copy of the Court Order that the opposing party disobeyed, and attach it to the *Petition for Citation of Contempt*.

Step 6: Putting the Documents in Order

- Put the documents in the following order:
 - *Sheriff's Entry of Service*
 - *Petition*
 - Copy of the pre-existing Court Order that was disobeyed
 - *Verification*
 - *Rule Nisi*
- Make three (3) copies of all documents in the package.

Step 7: Filing

- Take the document package to the Cherokee County Superior Court Clerk's Office to file. Have the clerk fill in the case number and *Rule Nisi* form for all three (3) copies. Be sure to tell the clerk that you need a hearing date for your *Rule Nisi* form. Have the clerk stamp your copies. Keep a copy of the document package for your records.
- Take one copy of the document package to the Sheriff's Office so that the Sheriff can serve it upon the opposing party. You will have to pay a service fee. Check with the Sheriff's Office for the schedule fee.

Step 8: Court Appearance

- Come to Court on the hearing date and time that is indicated on the *Rule Nisi* form. You should go to the courtroom indicated on this document, and let the case manager know that you are there. Then, wait for your case to be called by the judge.
- When you schedule your Final Hearing, make sure you completely fill out the enclosed *Final Order on Motion to Contempt* as completely as possible. Bring these forms to your hearing and present them to the judge.

Fees are subject to change. Please check with the Clerk's Office.

**IN THE SUPERIOR COURT OF CHEROKEE COUNTY
STATE OF GEORGIA**

Petitioner: _____

and

Civil Action File No.: _____

Respondent: _____

PETITION FOR CITATION OF CONTEMPT

NOW COMES _____ (your full name), Petitioner in the above-styled action, and submits this *Petition for Citation of Contempt* and shows the Court as follows:

1. An Order was entered in the Superior Court of _____ County as follows: The case name as it appeared in the prior action: _____ Civil Action File Number (use the letter and number from that case): _____ The date the Order was filed in the Court: _____ A copy of that Order is attached.

 2. Respondent is subject to the jurisdiction of this Court (where Respondent lives in Georgia or can be personally served in Georgia) and may be personally served with a copy of this *Petition* and *Rule Nisi* at _____.

 - Respondent is not a resident of Cherokee County. Respondent lives in _____ County, Georgia and shall be served with a copy of this *Petition* and *Rule Nisi* by second original.

 - Respondent is subject to the jurisdiction of this Court pursuant to the Georgia Domestic Relations Long Arm Statute (where Respondent is a non-resident of Georgia and you are seeking a *Contempt* action against the opposing party for failure to pay child support/alimony, to obtain health/life insurance coverage, to pay medical expenses, to turn over property, or to pay other expenses) and may be personally served with a copy of this *Petition* and *Rule Nisi* at _____ by second original.
3. In the prior Order, Respondent was ordered: (check all that apply)
- to pay to Petitioner the amount of \$ _____ per _____ per children in child support, and owes \$ _____ to Petitioner as of the date of the filing of this *Petition*.
 - to allow Petitioner to visit with the minor children but has refused to do so.
 - to give to Petitioner the following possessions but has refused to do so: _____

 - Other: _____
4. Respondent was able to do what the Court Ordered. Respondent's refusal to do so is willful.
 5. Respondent should be held in contempt of this Court's Order and confined to the common jail of Cherokee County until s/he purges him/herself of said contempt.

6. Respondent should be Ordered to reimburse Petitioner for payment of filing this action and cost of service.

WHEREFORE, Petitioner demands:

- (a) That process and summons issue as provided by law;
- (b) That Respondent be served with a copy of Petitioner's *Petition for Citation of Contempt*;
- (c) That Respondent be held in contempt for failure to obey the terms of the Court's Order;
- (d) That a *Rule Nisi* hearing be set ordering Respondent to come to Court and tell the Judge why Petitioner's *Petition* should not be granted;
- (e) That Respondent be Ordered to reimburse Petitioner for the cost of filing and serving this action;
- (f) That Petitioner be awarded any other relief this Court finds right and proper.

Signed this _____ day of _____
[day] [month] [year]

(Sign your name here) Petitioner, *Self-Represented*

Petitioner's Name (print or type): _____

Petitioner's Address: _____

Petitioner's Telephone Number: _____

IN THE SUPERIOR COURT OF CHEROKEE COUNTY

STATE OF GEORGIA

Plaintiff, * CIVIL ACTION
* NO. _____
*
VS. *
*

Defendant. *

RULE NISI

The parties in the above-styled action are hereby directed to appear before the
Honorable _____ on the ____ day of _____,
20__ at _____ o'clock ____ a.m / ____ p.m. in Courtroom _____ of the
Cherokee County Justice Center, 90 North Street Canton, GA 30114 for a hearing on
_____.

SO ORDERED this ____ day of _____, 20__.

Judge / Clerk
Superior Court of Cherokee County
Blue Ridge Judicial Circuit

Presented by:

____ Plaintiff or ____ Defendant

CERTIFICATE OF SERVICE

I hereby certify that I mailed a copy of this Rule Nisi to the parties listed below in a properly addressed envelope with adequate postage to ensure delivery to:

Plaintiff / Counsel for Plaintiff:

Defendant / Counsel for Defendant:

Mailed on the _____ day of _____, 20____.

Signature

Printed Name

**IN THE SUPERIOR COURT OF CHEROKEE COUNTY
STATE OF GEORGIA**

Petitioner: _____

and

Respondent: _____

Civil Action File No.: _____

FINAL ORDER ON MOTION FOR CONTEMPT

This action came before the Court on _____, 20_____.

The Petitioner appeared *Self-Represented*.

- The Respondent also appeared.
- The Respondent did not appear.

The Court heard evidence and considered the matter. It is hereby Ordered and Adjudged that:

[Choose only one (1) of the following.]

1.

- The Court finds that the Respondent is in willful/ non-willful contempt of this Court's *Order*, dated

_____. Specifically, Respondent is in contempt as follows: _____

- The Court finds that the Respondent is not in willful contempt of this Court's *Order*, dated _____.

2.

The Court finds the Respondent is in willful contempt. The Court further finds that the Respondent owes the sum of \$_____. The Respondent shall be incarcerated in the common jail of Cherokee County for his/her failure to pay the aforementioned amount. The incarceration is stayed and the Respondent shall have until _____, 20_____ to pay these monies. The monies shall be paid directly to the Sheriff of Cherokee County. The Sheriff shall release any and all sums collected to _____ upon the showing of proper identification. If the Respondent fails to pay the money due, s/he shall be incarcerated until such time as the money is paid or released by appropriate court order.

3.

This Court DOES / DOES NOT set a Compliance Hearing in this case for _____,
20_____.

4.

Other: _____

This Order entered on _____ day of _____, 20_____.

JUDGE, Superior Court
Cherokee Judicial Circuit

General Civil and Domestic Relations Case Filing Instructions

1. Provide the class of court and county in which the case is being filed.
2. Provide the plaintiff's and defendant's names.
3. Provide the plaintiff's attorney's name and State Bar number. If you are representing yourself, provide your own name and check the self-represented box.
4. Provide the primary type of case by checking only *one* appropriate box. Cases can be either general civil or domestic relations and only *one* type of primary case within those categories. Check the case type that most accurately describes the primary case. If applicable, check one sub-type under the primary case type. If you are making more than one type of claim, check the case type that involves the largest amount of damages or the one you consider most important. See below for definitions of each case type.
5. Provide an answer to the four questions by checking the appropriate boxes and/or filling in the appropriate lines.

Case Type Definitions

General Civil Cases

Automobile Tort: Any tort case involving personal injury, property damage, or wrongful death resulting from alleged negligent operation of a motor vehicle.

Civil Appeal: Any case disputing the finding of a limited jurisdiction trial court, department, or administrative agency.

Contempt/Modification/Other Post-Judgment: Any case alleging failure to comply with a previously existing court order, seeking to change the terms of a previously existing court order, or any other post-judgment activity in a general civil case.

Contract: Any case involving a dispute over an agreement between two or more parties.

Garnishment: Any case where, after a monetary judgment, a third party who has money or other property belonging to the defendant is required to turn over such money or property to the court.

General Tort: Any tort case that is not defined or is not attributable to one of the other types of torts listed.

Habeas Corpus: Any case designed to review the legality of the detention or imprisonment of an individual, but not the question of his or her guilt or innocence.

Injunction/Mandamus/Other Writ: Cases involving a written court order directing a specific person to perform or refrain from performing a specific act.

Landlord/Tenant: Any case involving a landlord/tenant dispute if the landlord removed a tenant and his or her property from the premises or placed a lien on the tenant's property to repay a debt.

Medical Malpractice Tort: Any tort case that alleges misconduct or negligence by a person in the medical profession acting in a professional capacity, such as doctors, nurses, physician's assistants, dentists, etc.

Product Liability Tort: Any tort case that alleges an injury to a person was caused by the manufacturer or seller of an article due to a defect in, or the condition of, the article sold or an alleged breach of duty to provide suitable instructions to prevent injury.

Real Property: Any case involving disputes over the ownership, use, boundaries, or value of land.

Restraining Petition: Any petition for a restraining order that does not result from a domestic altercation or is not between parties in a domestic relationship.

Other General Civil: Any case that does not fit into one of the other defined case categories in which a plaintiff is requesting the enforcement or protection of a right or the redress or prevention of a wrong.

Domestic Relations Cases

Adoption: Cases involving a request for the establishment of a new and permanent parent-child relationship between persons not biologically parent and child.

Contempt: Any case alleging failure to comply with a previously existing court order. If the contempt action deals with the non-payment of child support, medical support, or alimony, also check the corresponding sub-type box.

Dissolution/Divorce/Separate Maintenance/Alimony: Any case involving the dissolution of a marriage or the establishment of alimony or separate maintenance.

Family Violence Petition: Any case in which a protective order from a family member or domestic partner is requested.

Modification: Any case seeking to change the terms of a previously existing court order. If the modification deals with custody, parenting time, or visitation, also check the corresponding sub-type box.

Paternity/Legitimation: Cases involving establishment of the identity and/or responsibilities of the father of a minor child or a determination of biological offspring.

Support – IV-D: Cases filed by the Georgia Department of Human Services to request maintenance of a minor child by a person who is required under Title IV-D of the Social Security Act of 1973 (42 USC §§ 651-669b) to provide such maintenance.

Support – Private (non-IV-D): Cases filed to request maintenance of a parent/guardian or a minor child by a person who is required by a law other than Title IV-D of the Social Security Act of 1973 (42 USC §§ 651-669b) to provide such maintenance.

Other Domestic Relations: Domestic relations cases that do not adequately fit into any of the other case types, including name changes.

Please note: This form is for statistical purposes only. It shall have no legal effect in a case. The information collected on this form is used solely for court administration purposes. This form does not supplement or replace the filing and service of pleadings or other papers as required by law or court rules. Information on this form will not be entered into evidence.

General Civil and Domestic Relations Case Disposition Form Instructions

1. Provide the class of court and county in which the case is being disposed.
2. Provide the plaintiff's and defendant's names.
3. Provide the reporting party (the individual completing the form).
4. Provide the attorneys' names and State Bar numbers. If parties represented themselves, provide their names and check the self-represented box.
5. Provide the manner of disposition by checking the appropriate box. See below for definitions.
6. Provide an answer to the three questions by checking the appropriate boxes.

Manner of Disposition Definitions

Jury Trial: Cases in which a jury is impaneled to determine the issues of fact in the case. A jury trial should be counted when the jury has been sworn, regardless of whether a verdict is reached.

Bench/Non-Jury Trial: Cases in which a judge or judicial officer is assigned to determine both the issues of fact and law in the case. A bench/non-jury trial should be counted when the first evidence is introduced, regardless of whether a judgment is reached.

Non-Trial Disposition: Cases in which the disposition does not involve either a jury trial or a bench trial.

Alternative Dispute Resolution: If a case was disposed of via a non-trial disposition and the method of disposition was alternative dispute resolution. If this box is checked, then the Non-Trial Disposition box must also be checked. Only check if the whole case was resolved via alternative dispute resolution.

General Civil and Domestic Relations Case Disposition Information Form

Superior or State Court of _____ County

For Clerk Use Only

Date Disposed _____
MM-DD-YYYY

Case Number _____

Case Style _____

Plaintiff(s)

Last First Middle I. Suffix Prefix

Last First Middle I. Suffix Prefix

Last First Middle I. Suffix Prefix

Last First Middle I. Suffix Prefix

Defendant(s)

Last First Middle I. Suffix Prefix

Last First Middle I. Suffix Prefix

Last First Middle I. Suffix Prefix

Last First Middle I. Suffix Prefix

Reporting Party _____

Plaintiff's Attorney _____ State Bar Number _____ Self-Represented

Defendant's Attorney _____ State Bar Number _____ Self-Represented

Manner of Disposition

Check Only One

Jury Trial

Bench/Non-Jury Trial

Non-Trial Disposition, such as:

Alternative Dispute Resolution

Check if any party was self-represented at any point during the life of the case.

Check if the court ordered an interpreter for any party, witness, or other involved individual.

Check if the case was referred/ordered to a court-annexed alternative dispute resolution process.

**IN THE SUPERIOR COURT OF CHEROKEE COUNTY
STATE OF GEORGIA**

Petitioner: _____

and

Respondent: _____

Civil Action File No.: _____

SUMMONS

TO THE ABOVE NAMED RESPONDENT:

You are hereby summoned and required to file with the Clerk of said Court and serve upon the Petitioner, whose name and address is:

and *Answer* to the *Complaint* which is herewith served upon you, within 30 days after service of this *Summons* upon you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the *Complaint*.

If a hearing has already been scheduled in this case, you must appear at that scheduled hearing, regardless of whether the 30 days for filing an answer has elapsed.

This _____ day of _____, 20_____.

PATTY BAKER,
Clerk of Superior Court

By _____
Clerk

To Respondent upon whom this *Petition* is served:

This copy of *Complaint and Summons* was served upon you, _____, 20_____.