

Motion for Contempt

Sample Form Packet

Legal Aid of Arkansas & Center for Arkansas Legal Services Arkansas Legal Services Partnership

This self-help resource was created by Legal Aid of Arkansas, Center for Arkansas Legal Services and the Arkansas legal Services Partnership. We provide these sample forms and information free of charge to low-income Arkansans. These forms are intended as samples and will need to be modified for your specific situation. **READ ALL INSTRUCTIONS IN THIS PACKET VERY CAREFULLY.**

This form packet includes a sample “Motion for Contempt” for use in cases where the opposing party is not following a Court Order. Some examples are when the opposing party is not allowing visitation of a child as stated in the Court Order or paying child support as stated in the Court Order.

When the Court makes an Order, the Court does that with the full force and authority of the State of Arkansas, and the Order is the law. If someone disobeys the Order, the Court has the power to hold that person in “contempt of court.” When you file a Motion for Contempt, you tell the Court that the other person has disobeyed the Order.

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Disclaimer

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SAMPLE DEMAND LETTER

(DATE)

(ADVERSE PARTY'S NAME)

(ADVERSE PARTY'S ADDRESS)

Dear (ADVERSE PARTY'S NAME):

On (DATE OF COURT ORDER), you were ordered by the Court to (STATE WHATEVER THE COURT ORDERED THAT THE ADVERSE PARTY IS REFUSING TO DO). I have attached a copy of the Court's Order to this letter for you.

You have not yet complied with the Court's order, despite my verbal demand to you on (DATE OF VERBAL REQUEST). Please comply with the court's order and do (WHATEVER THE COURT ORDER REQUIRES). If you continue to disobey the order, I will file a Motion for Contempt with the Court.

Sincerely,

(YOUR FULL NAME)

(YOUR FULL ADDRESS)

IN THE CIRCUIT COURT OF (COUNTY NAME) COUNTY, ARKANSAS
_____ DIVISION

PLAINTIFF NAME

PLAINTIFF

v.

Case No. _____

DEFENDANT NAME

DEFENDANT

MOTION FOR CONTEMPT

COMES NOW the (PLAINTIFF/DEFENDANT), (FULL NAME), proceeding pro se, and for (HIS/HER) Motion for Contempt, states and alleges as follows:

1. On (DATE OF COURT ORDER), this Court entered an Order in this case. The Order is attached to this motion as Exhibit A.
2. The Order required the (ADVERSE PARTY) to (STATE WHATEVER THE COURT ORDERED THAT THE ADVERSE PARTY IS REFUSING TO DO).
3. On (DATE OF VERBAL REQUEST), the (MOVING PARTY) demanded that (ADVERSE PARTY) comply with the Court's Order, and the (ADVERSE PARTY) refused. On (DATE OF DEMAND LETTER), the (MOVING PARTY) wrote the (ADVERSE PARTY) demanding compliance with the order. The letter is attached to this motion as Exhibit B, and the return receipt from the letter is attached as Exhibit C.
4. The (ADVERSE PARTY) has not yet complied with the Court's Order despite the (MOVING PARTY'S) requests.
5. As a result of all the above, the (ADVERSE PARTY) should be ordered to appear before this Court to show cause why (HE/SHE) should not be held in contempt of this Court for failing to (WHATEVER THE COURT ORDERED THAT THE ADVERSE PARTY IS REFUSING TO DO) as ordered.

WHEREFORE, premised considered, the (MOVING PARTY) prays that the (ADVERSE PARTY) be ordered to appear before this court for violating the Order of this Court, that (HE/SHE) recover costs and attorneys' fees expended on this motion, and that (HE/SHE) be granted all other relief to which (HE/SHE) is entitled.

Respectfully submitted,
(MOVING PARTY'S NAME), (PLAINTIFF/DEFENDANT)

_____ (sign)

Name: _____

Address: _____

Phone: _____

IN THE CIRCUIT COURT OF (COUNTY NAME) COUNTY, ARKANSAS
_____ DIVISION

PLAINTIFF NAME

PLAINTIFF

v.

Case No. _____

DEFENDANT NAME

DEFENDANT

ORDER TO SHOW CAUSE

Before this Court is the Motion for Contempt filed by the (PLAINTIFF/DEFENDANT) in this matter, requesting that the (ADVERSE PARTY) be ordered to appear before this Court to show cause why (HE/SHE) should not be held in contempt of this Court for (WHATEVER THE ADVERSE PARTY IS FAILING TO DO) as ordered.

The Court finds that the motion should be granted.

IT IS THEREFORE ORDERED that the (ADVERSE PARTY) shall appear before this Court on the ____ day of _____, 20____, at the hour of _____ (am/pm) to show cause why (HE/SHE) should not be found in contempt of this Court. The sheriff of any county, or his deputy, is hereby ordered to serve a copy of this order upon the (ADVERSE PARTY), along with a copy of the motion of the (MOVING PARTY), and make his return of service to this court in accordance with law.

IT IS SO ORDERED.

CIRCUIT JUDGE

DATE

PACKET INSTRUCTIONS

Overview: How a Court Enforces an Order:

If someone disobeys a Court Order, then that Court has the power to hold the person in “contempt of court.” When you file a Motion for Contempt, you tell the Court that the other person has disobeyed the Order. You can file a “motion for contempt” with the Court. The filing fee is currently \$50.00 (as of July 2012). If you win, however, the Court may force the person refusing to follow the Order to reimburse you. Punishments for contempt of court can include any of the following:

- A fine;
- Jail time until the other party agrees to follow the Order; or
- Ordering the other person to pay your court costs.

Step 1: (Before Filing a Motion for Contempt)

Before you file a Motion for Contempt there are some steps you will need to make in order to use the motion and order included in this packet. Also, it is a good idea to keep a notebook so you can record each time that you have asked that the opposing party to follow the court order. This will provide a record for you to show to the court if you have to file Motion for Contempt. It is best to do following things, if there is not an emergency, BEFORE you file the motion:

1. Get a copy of the Court Order from the court clerk if you do not have a copy. Make at least three copies of the Court Order: one is to attach to the Demand Letter (see page 2); a second copy is needed to attach as Exhibit A in the Motion for Contempt (see page 3 in paragraph 1); and a third copy for your records.
2. Find the other party’s current address.
3. Send a letter to the other party by certified mail, return receipt requested, demanding that he or she comply with the Order (see page 2 for a sample letter and the Step 2 for more details about sending the letter).

Step 2: (The Demand Letter)

If the opposing party continues to refuse to follow the court’s order you can decide to send a certified letter enclosing a **copy of your court order** and give specifics about how and when you would like for him or her to follow the order. **Keep a copy of this letter and any other letters for your records.**

The sample letter has “place holders” that look like this (DATE) or (ADVERSE PARTY’S NAME). When you see such a place holder replace it with the information needed for your situation. For example replace (DATE) with the date you send the letter and the (ADVERSE PARTY’S NAME) with the name of the person not following the order. So an example may look like the following:

January 1, 2014

John Doe
123 Sesame Street
Jonesboro, AR 72401

Dear John,

Remember: be specific, attach a copy of the order, and send by certified mail

Step 3: (Writing a Motion for Contempt)

If the opposing party continues to refuse to follow the court's order after you have sent you demand letter then your next step may be to file a contempt action (meaning the Motion for Contempt).

To file a motion for contempt citation you must set out the reasons that he or she should be held in contempt and file it with the court. A judge will review this motion and will issue an Order to Show Cause, which you may have to prepare (see page 5 for an example).

- Have the sample motion included in the packet handy to use as a guide in writing your motion
- Make sure the caption of your case is correct. The caption is the top part of the order with the court information, the parties' names, and the case number.
- IMPORTANT:** You may be the Plaintiff or Defendant in the original case. It should remain the same as it was originally. So you may be listed as the defendant and the opposing party (also called the adverse party) may be the Plaintiff. Either way, if you are filing the motion then you are the moving party.
- The Motion for Contempt has "place holders" like the sample letter did. Reread the directions for the sample letter and look at the example if you have questions. You should remove all the parentheses (the shapes around this) from the forms. You do not have to use all capital letters except for the case caption mentioned above.

Step 4: (Supporting Documents for the Motion for Contempt)

To use this motion you will need to gather the following supporting documents to attach to the Motion.

- A copy of the Order you want to enforce, label "Exhibit A"
- A copy of your demand letter, label "Exhibit B"
- The return receipt "green card" from your demand letter, stapled to a blank, white sheet of paper, label "Exhibit C"
- Put together the completed, original motion, and the Exhibits (in order)
- Make three copies and staple each set

Step 5: (Filing the Motion for Contempt)

- Gather the four sets (three copies and the original) and a completed "Order to Show Cause." The Order to Show Cause sample is on page 4 in this packet. Follow the same place holder instructions as before. Make sure to leave the date and time sections blank in paragraph two. The judge will fill these in and also sign and date the document at the bottom. You fill in the rest.
- Write a check money order to the Court Clerk for \$50.00 to reopen the case.
- Take the motions, order, and check or money order to the circuit clerk's office
- Ask the clerk to file the motion
- The clerk will stamp your motions and give two copies back to you
- The clerk may ask if you want to wait for the judge to review your motion
- If a judge reviews your motion immediately and signs the Order, you will probably be given the signed order and then will take it to the sheriff's office to have it served
- If a judge does not review your motion right away, you may need to call the judge's case coordinator later to see if your motion is granted

Step 6: (Preparing for Your Hearing)

When the judge signs the Order to Appear and Show Cause he or she will include a court date in that order. The other party must be served with the Motion and Order. Take the order to the sheriff's department and ask them to serve them.

At your hearing, be sure to bring any evidence you have that the other party has not complied with the Court's Order. Examples would be a witness who personally saw the violation or heard the other party refuse to comply, a voicemail or email in which the other party says he or she does not plan to follow the order, or photographs, documents or anything that proves your version of what has happened (or not happened).

The Court will allow both you and the other party to present your side of the story. Once the Court has heard all the evidence, the Court will decide whether to hold the other party in contempt of court.

Punishments for contempt of court can include any of the following: a fine, jail time until the other party agrees to follow the Order, or order the other person to pay your court costs.

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