

CONTEMPT

This packet contains forms and information on:

How to File a Petition for Citation of Contempt

IMPORTANT

IF THERE IS ANY QUESTION in your mind concerning these forms, the use of these forms, or your legal rights, it is strongly recommended that the services of an attorney be obtained. If you do not know an attorney you should contact your local Bar Association.

If you are financially unable to afford the services of an attorney, you should contact the following organization to see if you are eligible for its services:

- Georgia Legal Services Program, Piedmont Regional Office (404) 894-7707

DUE TO THE CHANGING NATURE OF THE LAW, the forms and information contained in these packets may become outdated. Therefore, you should review and research statutes and rules of procedure referenced in the instructions to ensure that the forms are accurate and current.

IN NO EVENT will the Clerk of Court or ADR Office or anyone contributing to the production of these forms, commentary, instructions, and appendices be liable for any indirect or consequential damages resulting from the use of the booklet.

USE THESE FORMS AT YOUR OWN RISK. THESE FORMS MAY OR MAY NOT BE APPROPRIATE IN YOUR PARTICULAR CASE. ANY DESIRED OUTCOME FROM THE USE OF THESE FORMS CANNOT BE PREDICTED OR GUARANTEED. IT IS STRONGLY RECOMMENDED THAT YOU SEEK LEGAL ADVICE.

NOTE: ALL contested domestic cases except domestic violence cases must be submitted to the ADR Office for mediation prior to ANY court hearing. **IF** there is no mediation, there will be no court hearing unless mediation is excused in writing by the ADR Office. You may contact the ADR Office at 770-288-8448 to initiate the mediation process.

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 Henry County and you have a Superior Court Order from a Georgia Court which orders your ex-spouse or the other parent of your child(ren) 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 child(ren) 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 or other 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: For service, most petitions require a summons to be attached to your Petition. 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 or give to the clerk for delivery to the deputy who serves summonses.
- STEP 10:** Come to Court on the date and time indicated on the Rule Nisi form and bring completed final order.

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. You may attach an additional page at the end if you need to list more items.
 - If you did not get medical insurance or have not been repaid 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 YET.** 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 Henry 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 Henry 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 Henry 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 (or in Henry County, the Clerk's office will arrange for Sheriff's service) so that the Sheriff can serve it upon the opposing party. You will have to pay a service fee. Check with the Sheriff's or Clerk'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. Dress appropriately. 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 for Contempt as completely as possible. Bring these forms to your hearing and present them to the judge when requested.

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

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

Petitioner: _____ and Respondent: _____	Civil Action File No.: _____
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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 the following address:

 Respondent is not a resident of Henry 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 by second original at the following address: _____

3. In the prior Order, Respondent was ordered: (check all that apply)
 to pay to Petitioner the amount of \$ _____ per _____ per child in child support, and has failed to pay \$ _____ to Petitioner as of the date of the filing of this Petition.
 to allow Petitioner to visit with the minor child(ren) but has refused to do so.
 to give to Petitioner the following items 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.

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

Petitioner: _____

and

Respondent: _____

Civil Action File No.: _____

RULE NISI

This action has been filed. Therefore, let the parties appear before the Honorable Judge _____ of the Superior Court of Henry County, Flint Judicial Circuit in Courtroom _____, in the Henry County Courthouse, One Courthouse Square, McDonough, Georgia, on _____, 20____ at _____ o'clock ____m. to show cause why the relief sought should not be granted.

Issued on _____, 20____.

JUDGE
Superior Court of Henry County
Flint Judicial Circuit

Presented by:

 Petitioner Respondent, *Pro se*

**IN THE SUPERIOR COURT OF HENRY 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 *Pro Se*.

- 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 past-due amount of \$_____. The Respondent shall be incarcerated in the common jail of Henry 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 Henry 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, Henry Superior Court
Flint Judicial Circuit