

MOTION FOR CONTEMPT: What to Do with These Court Forms

If you are doing your own Motion for Contempt, please read this. It will help you know what to do with these court forms.

First, a few tips for filling out and handling the forms:

- Always use full legal names, not nicknames.
- Type or print neatly. If you have access to a computer, you may be able to fill out the forms on-line at www.ptla.org/forms.htm
- If any children involved in this case receive, have received, or are expected to receive AFDC, TANF, or Medicaid, you must mail a copy of your Motion to the Department of Human Services (DHS). The address is on the form. You should also do this if you have asked DHS to collect child support for you.

STEP ONE: Filling out the Forms

Motion for Contempt

The section at the top is called the “caption.” To complete the caption on each form, copy from your original Court Order. That is, the location, docket number and names of Plaintiff and Defendant stay the same. (If you were the Defendant before, you are still the Defendant, even though you are the one filing the Motion.) If you can’t find your original order, you can buy a copy from the clerk.

Check the Child Support Only box if child support is the **only** issue. Fill in the other blanks on the form. At the top of page 2, check the boxes to indicate what you want the Court to order.

You must sign this form in front of a Notary Public. You can find a Notary at a bank, a legal services office, through your town office, or at the clerk’s office.

Subpoena for Hearing on Motion for Contempt

You must use the form you received from the clerk, which contains the clerk’s original signature and seal.

(You cannot use a photocopy or on-line version of this form.)

Fill out the caption at the top of the page as you did with the Motion form. On the next line, after “To:”, enter the other party’s name, and indicate whether the other party is the Plaintiff or Defendant. (For now, leave the middle section, notice of hearing, blank.) If you want the other party to bring any documents to the hearing, list them in the next section. Leave the Return of Service section blank.

Order

Fill out the caption as you did on the other forms. In the large boxes add the Plaintiff’s address and the Defendant’s address. Leave the rest blank for the judge to fill out.

Summary Sheet

Fill out the **Summary Sheet**, which has its own instructions. This information helps the clerk to file and keep track of your case. The clerk will not accept your papers for filing without a completed Summary Sheet.

STEP TWO: File the Motion

Take these original forms back to the clerk:

- Motion for Contempt
- Subpoena for Hearing on Motion for Contempt
- Order
- Summary Sheet

There will be a \$25 fee to file your motion with the clerk. No fee is required if your Motion is for child support only. If you cannot afford court fees or Sheriff’s service, you can ask the clerk for an **Application to Proceed Without Payment of Fees** and an **Indigency Affidavit**. Fill out these forms and sign them. The Affidavit must be signed in front of a Notary

Public. Then file the forms with your Motion. A judge will review your financial information and decide whether you qualify for a fee waiver. If the waiver is denied, **you must pay the filing fee within 7 days**. If the waiver is granted, you can go forward with your Motion without paying court fees.

The clerk will show your papers to a judge. If you have done everything correctly, the Court will set a date and time for a hearing and sign the Order. The clerk will return the subpoena and a copy of the signed Order to you. The clerk may fill in the hearing time and court location on the Subpoena for you. If not, add that information to your Subpoena.

STEP THREE: Serve the Forms

Now you must serve copies of the papers on the other party. First, make two copies of the **Order** and **Subpoena**. Keep one copy of each form. Then make two packets of forms to send to the Sheriff for service. One packet will be the original Subpoena and copies of your Motion and the Order. The other will be copies of each of these forms.

In a letter, or in person, ask the sheriff’s office to deliver the papers to the other party. Give a home address--and workplace, or other alternative address, if you think the other party will be hard to find at home. **Remind the deputy that the papers must be served at least 10 days before the hearing date**. The deputy who “serves” the papers will return the packet of original forms to you, stating on the last page of the subpoena how and when the other party received the papers.

If you did not get a fee waiver (see above), the sheriff’s office will charge you for this service (about \$15-\$30).

STEP FOUR: File the Subpoena

After the other party has been “served,” mail or hand-deliver to the court clerk the packet of forms you got back from the deputy sheriff. The judge cannot hear your case until the Subpoena is filed, showing that the other party has been “served”.

STEP FIVE: Court Hearing

This is a formal court hearing. The judge will hear each side. You can testify for yourself, bring witnesses, and present documents. Court rules of evidence and procedure will be followed.

Prepare for the hearing by planning what you need to say. It will be your burden to prove that the other party has failed or refused to follow the earlier court order. You must also show, by “clear and convincing proof,” that the other party has the ability to comply with what the Court ordered. Go to the hearing, be on time, and be prepared.