

INSTRUCTIONS FOR CONTEMPT MOTION PACKET (DIVORCE)

(Please read these instructions carefully and fully before beginning. Failure to complete the forms accurately will cause your motion to be dismissed, and you will have to start over)

Who may use this contempt motion packet:

These forms can be used if you were divorced in Manitowoc County and you require the court's intervention to enforce your Divorce Judgment because you believe your former spouse has intentionally failed to comply with a requirement of the Judgment.

Papers to be completed:

In order to bring a motion for contempt, you must complete three separate forms:

1. Notice of Motion and Motion to Enforce Judgment and for Remedial Contempt,
2. Affidavit, and
3. Order for Appearance.

Be sure to follow the following instructions in preparing the forms:

NOTICE OF MOTION AND MOTION TO ENFORCE JUDGMENT AND FOR REMEDIAL CONTEMPT

Lines 1 and 2: Fill in the complete name and current address of the petitioner and the respondent just as in your original divorce action. It is important to have your former spouse's address, since these documents will have to be personally served on your former spouse. Use the same format as your divorce papers.

Line 3: Type in the case number, which you can find in the caption on your Divorce Judgment.

Line 4: Fill in the current name and address of your former spouse.

Line 5: Fill in your own name on the first blank line, and your former spouse's name in the second blank line.

Line 6: Leave the date and time for the hearing blank. That information will be completed when the court accepts your papers for filing and assigns a court date.

Lines 7 and 8: Date the Notice of Motion, and sign it.

AFFIDAVIT

Line 1: Circle whether you are the petitioner or the respondent in this case.

Line 2: Circle whether your former spouse is the petitioner or the respondent in this action, and also circle whether the Divorce Judgment was granted by the judge or the family court commissioner. Fill in the date on which your Judgment of Divorce was granted.

Line 3: Circle whether your former spouse is the respondent or the petitioner. On the blank lines, describe in your own words how you believe your former spouse has failed to comply with the requirements of the Divorce Judgment. If you believe that your former spouse is in violation of the Divorce Judgment for failing to pay money owed, detail on these blank lines, or, on an additional sheet if necessary, the amounts owing and when they became due.

Line 4: Read only.

Line 5: Again, circle whether your former spouse is the respondent or the petitioner.

Line 6: You must sign the Affidavit before a Notary Public and have your signature notarized. Your papers cannot be accepted for filing if you do not sign the Affidavit in front of a Notary Public.

ORDER FOR APPEARANCE

Lines 1, 2 and 3: Complete this information as you did for the caption in the Notice of Motion.

Line 4: Circle whether you are the petitioner or the respondent in this action. Fill in the name of your former spouse on the line provided and circle whether your former spouse is the respondent or the petitioner in each of the two places provided at the end of the paragraph.

Line 5: Fill in the name of your former spouse. The court will fill in the date and time for the hearing when your papers are accepted.

Line 6: Circle whether your former spouse is the respondent or the petitioner.

What to do with the completed papers:

After completion of the forms listed in this packet, you must:

1. Make three copies of the forms in their entirety, including any attachments.
2. Submit the Original plus three copies to the Clerk of Court office for filing. The Clerk of Court will distribute them to the judge assigned to your case.
3. If the forms are approved, the judge will assign a date and time to hear your motion and the appropriate blanks on your Motion and Order for Appearance will be filled in.
4. The original papers will be sent down to the Clerk of Court office for filing. The family clerk will authenticate the three remaining copies and will contact you personally, by telephone, to let you know when they are ready for you to pick up and begin the service process. PLEASE BE SURE YOUR TELEPHONE NUMBER IS ATTACHED TO OR WRITTEN ON YOUR PAPERWORK.

Serving your papers:

Be aware that **both** parties must appear in court. If your former spouse does not voluntarily appear, the court cannot proceed unless you have had that person served with your motion.

There are laws governing the conduct of process servers, limiting the hours and places they can serve, and the specific procedures for out of state service in addition to the requirements listed below. **IT IS STRONGLY RECOMMENDED** that you have the Sheriff's Department or a private process server serve your papers. Without service, or if service is not done properly, your action will be dismissed and you will have to start all over again.

1. To get service, a file-stamped (authenticated) copy of the papers must be placed in the hands of your former spouse at least seven days prior to the scheduled hearing. **BY LAW, YOU CANNOT SERVE YOUR FORMER SPOUSE YOURSELF.**
2. Who should serve the papers?
 - a. Manitowoc County Sheriff's Department, 1025 South 9th St. Give them two authenticated copies of your forms and pay their service fee. Manitowoc County requires a deposit before they will attempt service. There may be additional fees for more than one attempt at service. If the Sheriff's Department is doing your service, fill in the Data Sheet for them and take it to them with the other papers.

- b. Private process server. Any private law firm can give you the name of a private process server and how they can be contacted. Be advised that if your documents are not properly served, your action will be dismissed.
- c. **ALL PROOFS OF SERVICE MUST BE NOTARIZED AND FILED WITH THE CLERK OF COURT OFFICE PRIOR TO THE HEARING.**

Important Reminders:

1. As a 'pro se' litigant, you assume the responsibility for bringing your action. You are expected to complete all of the necessary steps yourself. Court clerks and staff in the family court commissioner's office cannot fill out your papers or advise you on how to proceed with your action.
2. Be prompt for your hearing. If you are not on time, your action will be dismissed. If you have not obtained service on the other party before the hearing date, contact the judge's judicial assistant either for a new date or request that the matter be removed from the calendar.
3. Prepare as if you are your own attorney. This means bringing with you any information that will make your case more believable. Have with you all documents and witnesses to prove your case.
4. CAUTION: If you brought this matter to court to harass, to "get even," or for any other reason beyond your claims and the court finds your claims insincere or false, you can be penalized by a requirement to pay the other person's attorney fees and costs of defending the action.
5. The judge's office, the clerk of court's office, nor the family court commissioner's office can give you legal advice. If you are uncertain of your legal rights, contact an attorney.

In re the marriage of:

1. _____,
Petitioner
Address _____

**NOTICE OF MOTION
AND MOTION TO ENFORCE
JUDGMENT AND FOR
REMEDIAL CONTEMPT**

and

2. _____
Respondent
Address _____

3. Case No. ____ FA ____

4. TO: _____

5. I, _____, will move, based on the attached affidavit, that _____ be ordered to purge himself/herself of his/her contemptuous conduct or have one or more of the remedial sanctions requested below be imposed on him/her, or, in the alternative, that the court order enforcement of the Divorce Judgment in this case.

6. This motion will be heard as follows:

BEFORE: _____, Circuit Judge, Branch ____
PLACE: Manitowoc County Courthouse
1010 South 8th Street
Manitowoc, WI 54220

DATE: _____
TIME: _____

7. The basis for this motion is stated in the attached affidavit.

Dated: _____, 20__.

8. _____
Signature

AFFIDAVIT

STATE OF WISCONSIN)
)
MANITOWOC COUNTY)

I hereby state as follows:

1. I am the (petitioner/respondent) [circle one] in this divorce action.

2. The (petitioner/respondent) [circle one] and I were granted a Judgment of Divorce in this matter which was signed by the (Judge/Family Court Commissioner) [circle one] on _____

3. The (respondent/petitioner) [circle one], has intentionally failed to comply with following requirements of the Judgment of Divorce: Please describe how the other party has violated these requirements.

4. This conduct constitutes disobedience of the authority of the court and impairs my legal rights.

5. I request that the (respondent/petitioner) [circle one] be ordered to comply with the Judgment of Divorce and/or terminate the above-stated contempt of court and purge himself/herself by complying with the Judgment in such manner as the court directs, or that, alternatively, the court impose one or more of the remedial sanctions provided for in sec. 785.04, Stats., be imposed.

6. _____
Signature

Signed and sworn to before me this _____ day of _____, 200__.

Notary Public, State of Wisconsin
My commission _____

In re the marriage of:

1. _____,
Petitioner
Address _____

ORDER FOR APPEARANCE

and

2. _____
Respondent
Address _____

3. Case No. ____ FA ____

4. Upon the notice and motion, and the affidavit of the (petitioner/respondent) [circle one] in this action requesting remedial sanctions pursuant to sec. 785.03(1), Stats., against _____ (Former Spouse's Name), the (respondent/petitioner) [circle one] in this action, it appears that the personal attendance of the (respondent/petitioner) [circle one] is required for the hearing.

5. IT IS ORDERED that _____ (Former Spouse's Name) appear in person at the hearing as follows:

BEFORE: _____, Circuit Judge, Branch ____
PLACE: Manitowoc County Courthouse
1010 South 8th Street
Manitowoc, WI 54220
DATE: _____
TIME: _____

and be prepared to give evidence if required to do so by this court.

6. IT IS FURTHER ORDERED that a copy of this order and the annexed motion and supporting affidavit be personally served on the (respondent/petitioner) [circle one] not less than seven (7) days before the hearing.

IF YOU FAIL TO APPEAR, A WARRANT MAY BE ISSUED FOR YOUR ARREST.

Dated: _____, 200__.

BY THE COURT:

Circuit Judge

AFFIDAVIT OF SERVICE

The undersigned, being first duly sworn upon oath, states that on the ___ day of _____, _____ at _____ (AM) (PM), at the location of _____ (s)he did serve the attached Order to Show Cause and Affidavit on _____ known by this deponent to be the identical respondent in said order, by delivering to and leaving with said person an authenticated copy of said order and affidavit, and further that (s)he endorsed on the copy so served, the date of service and by whom served.

Process Server

Subscribed and sworn to before me
this ___ day of _____, 20__.

Notary Public
My commission expires _____.

MANITOWOC COUNTY SHERIFF'S DEPARTMENT
INFORMATION SHEET FOR CIVIL PROCESS/PAPER SERVICE

To the Petitioner/Submitter:

You are requested to provide, to the best of your ability the following information. It is understood that all information may not be available to you. However, all information provided will assist us in the service of your papers.

Court Date: _____ Court Time: _____ Serve By (Date): _____

Please Print Clearly

INFORMATION ON THE PERSON TO BE SERVED

Paper Service for: Name _____ Date of Birth _____ or Age _____

Present address _____ Home Phone # _____

Temporary address _____ Cell Phone # _____

Vehicle _____ Color _____ License Plate # _____

Place of Employment _____

Address _____

Shift/Hours _____ Work Phone # _____

Suggested time to serve papers _____

Comments:

*****COMPLETE FOR DOMESTIC ABUSE SERVICE ONLY*****

Does the Respondent possess any firearms? Yes / No How many? _____

Where are the firearms stored? _____

Must the Respondent be removed from the residence? Yes / No ~ 72 hr. no contact in effect? Yes / No

Notify me when service is complete. Yes / No (Must provide telephone number below.)

Person Requesting Service/Billing Information *Must be completed!*

I understand that I will be billed for this service, unless I have provided an Indigency Order.

Your Name: _____ Date of Birth: _____ Sex: M / F
Last Name First Name MI

Mailing Address: _____

Telephone # _____ Cell # _____

There is no fee for serving Temporary Restraining Orders or Injunctions.

