



LYCOMING COUNTY

**CONTEMPT OF
CUSTODY ORDER
SELF-HELP KIT**

REMEMBER

The law often changes. Each case is different. This self-help kit is meant to give you general information and not to give you specific legal advice.

CONTEMPT OF ORDER

Sometimes problems arise after you have a Custody or Visitation Order. The other party may be violating the Order and you want to have that issue addressed.

Contempt is a very serious matter. However, as stated above, whenever possible, it is usually in the best interest of the child for the parties to reach an amicable solution without the necessity of Court intervention. The problem may be able to be resolved by negotiation or by changing or modifying the existing Order. (A form for Modification Of Existing Order is also available.)

THE LYCOMING COUNTY COURT REQUIRES THAT YOU TRY TO RESOLVE CONTEMPT MATTERS BEFORE GOING TO COURT. They require you to do this in writing, unless you would be harmed by trying to resolve the matter first. When the other party has an attorney you are required to try to resolve this matter by writing to the attorney for the other party and informing the attorney what the contempt involves and giving him/her an opportunity to try to correct it. When the other party does not have an attorney you must write directly to the opposing party, again, letting him/her know what you consider to be contempt and giving him/her a chance to correct it. You must also advise him/her that if he/she does not correct the problem, you will file for contempt of Court. We are enclosing a sample letter on page 9 which you can use. Proof that you sent these letters will be the Affidavits of Service located on page 10 and 11, which you will need to bring to the hearing if one is held.

These letters must be sent before you file contempt. You must give the other side time to correct the problem before you go to court. The Judge will question you on what you have done to try and fix the problem before you filed the contempt. The Court will reject your Petition if you do not follow this step. You cannot send the letter to Defendant and then file contempt before the Defendant has had a chance to fix the problem.

If the attorney or the opposing party fails to offer or give you sufficient remedial steps (that is defined as corrective action or a way in which he/she is going to fix the problem), and/or assurance that they will follow the Order in the future, and/or give you additional time to make up for any lost time, then you need to file a Contempt Petition to get the matter before the Court. It is a very serious matter and carries with it harsh penalties. The Court wants to be sure that these cases are not filed without serious thought.

When filling out these forms, use the same caption as appears on the original Order.

When you fill out the document entitled Petition for Contempt for Disobedience of a Custody or Visitation Order, you are considered the Petitioner because you are bringing this action in Court. You need to circle if you are the Plaintiff or the Defendant in the caption. **(Remember, the caption is always the same as appears on the original Order. Example: If you are the Defendant in the original caption, you will always be the Defendant, but you can be the Petitioner or the Respondent in future actions.)** The Respondent is the other person in this action. Circle whether he/she is the Plaintiff or Defendant in the caption.

You should attach a copy of your Custody Order to the Petition for Contempt for Disobedience of a Custody or Visitation Order and mark it Exhibit A.

Copies: After you have completed the forms, clip them together in order, with the Motion Cover Sheet on the front. You will then need to get copies made. You need a copy for yourself, one for the Defendant, one for any additional Defendant, and one for the Prothonotary. After you have copies made, staple them in order.

LYCOMING COUNTY COURT OF COMMON PLEAS
MOTION COVER SHEET

_____	:	Docket No. _____
Plaintiff	:	
	:	Case Assigned to Judge _____
vs.	:	<input type="checkbox"/> None
	:	<input type="checkbox"/> Family Court Hearing Officer
_____	:	
Defendant	:	

1. Name of Filing Party: _____
2. Filing Party's Attorney: _____
3. Type of Filing: _____

<p>4. The following is/are required:</p> <p>___ Argument</p> <p>___ Evidentiary Hearing</p> <p>___ Court Conference</p> <p>___ Rule To Show Cause</p> <p>___ Entry of Uncontested Order (attach supporting documentation)</p> <p>___ Expedited consideration. State the basis: _____</p> <p>___ Attach this cover sheet to original motion previously filed on: _____</p> <p>5. Time required: _____</p>	<p>6. Name and address of all counsel of record and unrepresented parties.</p>
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ORDER

1. An ___ argument ___ factual hearing ___ court conference is scheduled for _____ at ___ o'clock __.M., in Courtroom No. _____, Lycoming County Courthouse, Williamsport, PA.

2. _____ Briefs are to be filed by the following dates:

Filing party _____.

Responding party (ies) _____.

3. _____ A rule is issued upon Respondent to show cause why the Petitioner is not entitled to the relief requested.

4. _____ A response to the Motion/Petition shall be filed within _____ days.

5. _____ Other: _____.

_____ Judge _____ Date

c: ALL PARTIES OR OTHERS TO BE SERVED WITH NOTICE MUST BE DESIGNATED IN "6" ABOVE.

_____,
 Plaintiff
 vs.
 _____,
 Defendant

: IN THE COURT OF COMMON PLEAS OF
 : LYCOMING COUNTY, PENNSYLVANIA
 :
 : NO.
 : CIVIL ACTION - LAW
 : CUSTODY/VISITATION
 :

NOTICE AND ORDER TO APPEAR

Legal proceedings have been brought against you alleging that you have willfully disobeyed an Order of Court for (custody) (partial custody) (visitation).

If you wish to defend against the claim set forth in the following pages, you may but are not required to file in writing with the Court your defenses or objections.

Whether or not you file in writing with the court your defenses or objections, you must appear in person in court on the _____ day of _____, 20____, at _____ o'clock __.M., in Courtroom No. _____, Lycoming County Courthouse, 48 West Third Street, Williamsport, Pennsylvania.

IF YOU DO NOT APPEAR IN PERSON, THE COURT MAY ISSUE A WARRANT FOR YOUR ARREST.

If the Court finds that you have willfully failed to comply with its Order for (custody) (partial custody) (visitation), you may be found to be in contempt of court and committed to jail, fined, or both.

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER, GO TO OR TELEPHONE ONE OF THE OFFICES SET FORTH BELOW. THESE OFFICES CAN PROVIDE YOU WITH INFORMATION ABOUT HIRING A LAWYER. IF YOU CANNOT AFFORD TO HIRE A LAWYER, THESE OFFICES MAY BE ABLE TO PROVIDE YOU WITH INFORMATION ABOUT AGENCIES THAT MAY OFFER LEGAL SERVICES TO ELIGIBLE PERSONS AT A REDUCED FEE OR NO FEE.

<p>IF YOU DO NOT HAVE A LAWYER CONTACT:</p> <p>Pennsylvania Bar Association Lawyer Referral Service 100 South Street PO Box 186 Harrisburg, PA 17108-0186 (800) 692-7375</p>	<p>If you cannot afford a lawyer, you may be eligible for legal aid through:</p> <p>Legal Services Office 329 Market Street Williamsport, PA 17701 (570) 323-8741</p>
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BY THE COURT,

 Date _____ J.

AMERICANS WITH DISABILITIES
 ACT OF 1990

The Court of Common Pleas of Lycoming County is required by law to comply with the Americans With Disabilities Act of 1990. For information about accessible facilities and reasonable accommodations available to disabled individuals having business before the court, please contact the Court Administrator's office, telephone number (570) 327-2330. All arrangements must be made at least 72 hours prior to any hearing or business before the court.

_____,
 Plaintiff
 vs.
 _____,
 Defendant

: IN THE COURT OF COMMON PLEAS OF
 : LYCOMING COUNTY, PENNSYLVANIA
 :
 : NO.
 : CIVIL ACTION - LAW
 : CUSTODY/VISITATION
 :

**PETITION FOR CONTEMPT FOR DISOBEDIENCE OF A
 CUSTODY OR VISITATION ORDER**

Petitioner respectfully represents:

1. The Petitioner is the Plaintiff/Defendant, whose name, address, and phone
 (Circle One)
 number is _____.
 (name) (address) (phone no.)

2. The Respondent is the Plaintiff/Defendant, whose name, address, and
 (Circle One)
 phone number is _____.
 (name) (address) (phone no.)

3. The parties are the parents of:
 _____, born _____ Age: _____
 _____, born _____ Age: _____
 _____, born _____ Age: _____
 _____, born _____ Age: _____

4. The existing Order of Court is dated _____,
 a copy is attached hereto as Exhibit A.

5. The (Plaintiff) (Defendant) has willfully disobeyed or failed to comply with
(circle one)

said Order of Court in that: (describe contempt)

6. Pursuant to local rule L1915.12: (check one)

_____ Petitioner has attempted to resolve this matter without resort to
the Court,

_____ Petitioner has special circumstances which would cause harm or
prejudice to Petitioner if Petitioner attempted to resolve the
matter without going to Court.

These efforts and/or circumstances are described in a Certification attached as
Exhibit "B".

WHEREFORE, Petitioner requests that _____ be
(Respondent's Name)
held in contempt of Court.

I verify that the statements made in this Petition For Contempt are true and correct. I
understand that false statements herein are made subject to the penalties of 18 Pa. §4904
relating to unsworn falsification to authorities.

Petitioner

Date: _____

CERTIFICATION OF ATTEMPT TO RESOLVE CONTEMPT

Check either a or b:

a. _____ The opposing party is/is not represented by an attorney.
(Circle one)

I wrote the attorney/opposing party about the conduct which I believe to be
(Circle one)
Contempt of the Order. I warned the attorney/opposing party in writing that a
(Circle one)
Contempt Petition would be filed unless steps were offered to correct the
contempt.

The checked paragraph indicates the result of my contact.

The opposing party/attorney has refused to offer any corrective action.
(Circle one)

The opposing party/attorney offered the following corrective action:
(Circle one)

(state the offer)

But the offer did not resolve the contempt because:

(State why this would not resolve the action)

Corrective steps were offered by the opposing party/attorney but they
(Circle one)
were not followed through within a reasonable period of time.

b. _____ Due to special circumstances: _____
(List the special circumstances)

Exhibit B

An attempt to resolve the matter without filing a petition for contempt is likely to cause harm or prejudice to me. The reason(s) this would cause me serious harm or prejudice is/are: _____

_____.

I verify that the statements in the foregoing are true and correct. I understand that false statements herein are made subject to the penalties of 18 Pa. C.S. §4904 relating to unsworn falsification to authorities.

Date

Pro Se Petitioner

Exhibit B

(your address)

Date: _____

(address of the attorney for the opposing party)
(If the opposing party does not have an attorney, insert
the opposing party's address.)

RE: Filing for Contempt of Court
Case Caption and No.: _____

Dear _____:
(Attorney/opposing party)

Please be advised that the Custody Order in the above matter has been violated
and/or continues to be violated by _____.
has _____
(Opposing party) (Opposing party)
wilfully disobeyed the Court Order as follows:

_____.

You are warned and advised that failure to offer sufficient corrective steps in a timely
manner will result in my filing a petition for contempt of court without further notice to you.

Please contact me upon receipt of this letter to advise me of your intentions. Thank
you for your attention to this matter.

Sincerely,

(Your name, address, phone no.)

_____ Sent by Certified Mail/Return Receipt Requested

_____, : IN THE COURT OF COMMON PLEAS OF
 Plaintiff : LYCOMING COUNTY, PENNSYLVANIA
 :
 vs. : CIVIL ACTION - LAW
 : CUSTODY
 _____, : NO. _____
 Defendant :

AFFIDAVIT OF SERVICE BY REGULAR MAIL

I, _____, certify that on _____, I
 (your name) (date mailed)
 mailed a letter requesting corrective steps.

(opposing party or attorney)

(address)

Certificate of mailing is attached.

I verify that the foregoing is true and correct. I understand that false statements
 herein are made subject to the penalties of 18 Pa. C.S. §4904 relating to unsworn
 falsification to authorities.

Date

Petitioner

_____, : IN THE COURT OF COMMON PLEAS OF
 Plaintiff : LYCOMING COUNTY, PENNSYLVANIA
 :
 vs. : CIVIL ACTION - LAW
 : CUSTODY
 _____, : NO. _____
 Defendant :

AFFIDAVIT OF SERVICE BY CERTIFIED MAIL

I, _____, certify that on _____, I
 (Your name) (Date mailed)
 mailed a letter requesting corrective steps by certified mail, restricted delivery, return
 receipt requested, to:

 (opposing party or attorney)

 (address)

Defendant received the letter on _____. Sender's receipt
 (Date received)
 and return receipt are attached.

I verify that the foregoing is true and correct. I understand that false statements
 herein are made subject to the penalties of 18 Pa. C.S. §4904 relating to unsworn
 falsification to authorities.

 Date

 Petitioner

HOW TO SERVE THE PETITION FOR CIVIL CONTEMPT

It is not adequate to simply talk to the other party (Plaintiff/Defendant) about the custody action or the conference date. A copy of the papers must be sent to the Plaintiff/Defendant, following the instructions below. You must give the Plaintiff/Defendant legal notice that you have filed for custody. This kind of notice is described as "service."

Service of the Motion Cover Sheet, Notice and Order To Appear, and Petition For Contempt is **YOUR** responsibility. The documents may be served by certified mail or personal service.

CERTIFIED MAIL:

To serve by this method, you must send the Motion Cover Sheet, Notice And Order To Appear, and Petition For Contempt, by **certified mail, return receipt requested, restricted delivery** to the Plaintiff/Defendant's address. "Restricted delivery" means that the return receipt must be signed by the Plaintiff/Defendant only.

When you go to the post office, someone at the window can give you the forms to send the certified mail. The cost **MUST** be paid at that time.

When you send the certified mail, you will be given a "sender's receipt" (a little white receipt). Keep this receipt to include with your proof of service. For the time being, put this receipt into your folder of papers to save.

You should mail the documents to the Plaintiff/Defendant as soon as possible after you pick them up from the Prothonotary's Office. The Plaintiff/Defendant must receive them ***at least ten (10) days before the conference date.***

Once the Plaintiff/Defendant has signed the green receipt, indicating that he or she has received the documents, service is complete. You will have proof that service is complete when you receive the green receipt with the Plaintiff/Defendant's signature on it. When you receive that green receipt, you must save it. It is to be included with your original receipt and attached to the Affidavit of Service.

The Affidavit of Service for certified mail should be completed and filed with the Prothonotary as soon as you receive the return receipt from the Plaintiff/Defendant. The sender's receipt (the little white receipt that you got at the post office) and the green card with the Plaintiff/Defendant's signature should be stapled to the Affidavit of Service when it is filed.

The Affidavit of Service is quite simple to fill out. It states that on a certain date you mailed a correct copy of the Motion Cover Sheet, Notice And Order To Appear, and Petition For Contempt, by certified mail to the Plaintiff/Defendant's address. It also says that the Plaintiff/Defendant received it on a specific date. That date is on the green receipt. Go to the next section to find out how to prepare and file the Affidavit of Service.

PERSONAL SERVICE:

You can have a person who is 18 years of age or older, who is neither a party to the action nor an employee or relative of a party to the action serve the papers. Therefore, if you are the person filing the Petition for Contempt, you cannot serve the papers yourself, and you cannot have anyone who is related to you or who works for you, serve the papers.

The person who serves the legal papers on the opposing party(ies) must do it in the manner required by law. The person can serve the papers by:

- (a) handing a copy to the other party; or
- (b) handing a copy to an adult member of the family with whom the other party resides; or
- (c) handing a copy of the papers to an adult person in charge of the residence at the time (example: babysitter, etc.); or
- (d) going to the opposing party's usual place of business and handing a copy to the opposing party's agent (one that acts for or representative of) or to the person in charge.

If you have the funds to do so, you can pay the Sheriff, Constable, or process server to serve the papers for you and to file an Affidavit of Service for you.

IT IS IMPORTANT TO SERVE THE OTHER PARTY AS SOON AS POSSIBLE. You want to make every effort to serve the other party as soon as possible so that the other party has notice in time for the hearing. If you did not serve the other party in time for them to have a reasonable notice and opportunity to prepare for the hearing, the Court may take adverse action against you and/or may schedule the hearing for a later date. Service **must occur within 30 (thirty) days from the date you filed the Petition for Contempt for Disobedience of a Custody or Visitation Order**. (Otherwise, you will need to reinstate the Petition.)

You will also need to prove to the Court that you served the other side or his/her attorney with the letter to fix the contempt. You should send that letter certified mail/return receipt requested, and another copy by regular mail, with a certificate of mailing. Bring your proof of service to the hearing with you.

HOW TO FILL OUT AND FILE THE AFFIDAVIT OF SERVICE

Choose ONE of the three Affidavit of Service forms that follow these instructions. There is one for service by certified mail, one for regular mail and one for personal service. You have to fill out and file one of these forms with the Prothonotary after you serve the other parent/party, unless you paid a sheriff or constable to do it for you. If you are serving more than one person, you have to complete and file a separate Affidavit for each one.

BY CERTIFIED MAIL:

- Fill in the caption.
- Fill in the blanks.
- Staple your sender's receipt (the white receipt) and the green card you got back in the mail to the Affidavit.
- Sign and date at the bottom and make one copy of everything.
- File at the Prothonotary's Office before the conference and keep a time-stamped copy for your records.

BE SURE TO BRING IT WITH YOU TO THE CONFERENCE.

BY REGULAR MAIL:

- Fill in the caption.
- Fill in the blanks
- Staple your sender's receipt (certificate of mailing) to the Affidavit.
- Sign and date at the bottom and make one copy of everything.
- File at the Prothonotary's Office before the conference and keep a time-stamped copy for your records.

BE SURE TO BRING IT WITH YOU TO THE CONFERENCE.

BY PERSONAL SERVICE:

This form is completed by someone else who serves the papers for you, and then you file it with the Prothonotary before the conference.

- Fill in the caption.
- Fill in the blank spaces.
- Check the paragraph that best describes how the papers were served.
- Have the person who served the papers sign and date and write his/her address and telephone number at the bottom.
- Make one copy and file at the Prothonotary's Office before the conference. Keep a time-stamped copy for your records.
- Remember to fill out an Affidavit for each person who has been served.

BE SURE TO BRING IT WITH YOU TO THE CONFERENCE.

_____, : IN THE COURT OF COMMON PLEAS OF
 Plaintiff : LYCOMING COUNTY, PENNSYLVANIA
 :
 vs. : CIVIL ACTION - LAW
 : CUSTODY
 _____, : NO. _____
 Defendant :

AFFIDAVIT OF SERVICE BY CERTIFIED MAIL

I, _____, certify that on _____, I
 (Your name) (Date mailed)
 mailed a true and correct copy of the Motion Cover Sheet, Order/Notice, and Petition for
 Contempt of an existing Order by certified mail, restricted delivery, return receipt requested,
 to:

 (Other parent/party's name and address)

Defendant received the Petition on _____. Sender's receipt
 (Date received)
 and return receipt are attached.

I verify that the foregoing is true and correct. I understand that false statements herein
 are made subject to the penalties of 18 Pa. C.S. §4904 relating to unsworn falsification to
 authorities.

 Date

 Petitioner

_____, : IN THE COURT OF COMMON PLEAS OF
 Plaintiff : LYCOMING COUNTY, PENNSYLVANIA
 :
 vs. : CIVIL ACTION - LAW
 : CUSTODY
 _____, : NO. _____
 Defendant :

AFFIDAVIT OF SERVICE BY REGULAR MAIL

I, _____, certify that on _____, I
 (your name) (date mailed)
 mailed a true and correct copy of the Motion Cover Sheet, Order/Notice, and Petition for
 Contempt of an existing Order to:

 (Other parent/party's name and address)

Certificate of mailing is attached.

I verify that the foregoing is true and correct. I understand that false statements herein
 are made subject to the penalties of 18 Pa. C.S. §4904 relating to unsworn falsification to
 authorities.

 Date

 Petitioner

_____, : IN THE COURT OF COMMON PLEAS OF
 Plaintiff : LYCOMING COUNTY, PENNSYLVANIA
 :
 vs. : CIVIL ACTION - LAW
 : CUSTODY
 _____, : NO. _____
 Defendant :

AFFIDAVIT OF PERSONAL SERVICE

I, _____, certify that I am a competent adult who is 18 years
 (Person serving other parent/party)
 of age or older, and I am not a party to this action or an employee or relative of a party to
 this action. On _____, I served a true and correct copy of the Motion
 (Date)
 Cover Sheet, Notice/Order, and Petition for Contempt of Existing Order upon
 _____, by
 (other parent/party)

- handing a copy to him/her;
- handing a copy to an adult family member at his/her residence by the name of _____;
- handing a copy to an adult in charge of his/her residence by the name of _____;
- handing a copy to an adult in charge at his/her place of employment by the name of _____.

at this address/location: _____
 (Place served)
 at approximately _____.
 (Time of day)

I verify that the foregoing is true and correct. I understand that false statements herein are made subject to the penalties of 18 Pa. C.S. § 4904 relating to unsworn falsification to authorities.

 Date (server's signature)
 Name: _____
 Address: _____
 Phone: _____