



# SUPERIOR COURT OF CALIFORNIA COUNTY OF SAN JOAQUIN

## Family Law Division

180 East Weber Avenue, 4th Floor  
Stockton, California 95202

### INFORMATION REGARDING CONTEMPT ACTIONS

This packet provides important information regarding filing for a contempt action. A contempt action does not modify your Order. If the other party is found to be in contempt, they may be ordered to pay a fine and/or serve jail time. The other party has the right to be represented by an attorney and may have the Public Defender appointed to represent them. It is recommended that you consult with an attorney.

#### **WHAT IS “CONTEMPT OF COURT”?**

When a party is ordered to do something and fails to do it, the other party can file a Contempt of Court Order to Show Cause. The Judge then determines if the party is in contempt of a Court Order. If a party is found in contempt, the Judge will sentence the Citee as appropriate. The punishment can include fine, community service and/or imprisonment. “It is well settled that the court has inherent power to enforce compliance with its lawful orders through contempt. \*\*\*150 (*Shillitani v. United States* (1966) 384 U.S. 364, 370, 86 S.Ct. 1531, 16 L.Ed.2d 622; *In re Michael G.* (1988) 44 Cal.3d 283, 288–289, 243 Cal.Rptr. 224, 747 P.2d 1152.)” *In re Nolan W.* (2009) 45 Cal.4th 1217, 1230 [91 Cal.Rptr.3d 140, 149–150, 203 P.3d 454, 462].

**Jury Trial:** Constitutional Guarantees: “There is no right to a jury trial in a civil contempt proceeding under the California Constitution. However, civil contempt proceedings are quasi-criminal because of the penalties that may be imposed, and there is a federal constitutional right to a jury trial in criminal contempt cases involving serious punishment. Crimes carrying a sentence of more than six months are serious crimes, and those carrying a sentence of six months or less are petty; consequently, under the Federal Constitution, a contemner is entitled to a jury trial if the penalty exceeds six months’ imprisonment. Imposition of a fine of sufficient magnitude also constitutes a serious criminal sanction that renders the contempt serious, triggering the federal constitutional right to a jury trial. Moreover, one who is prosecuted for contempt under the Penal Code has a state constitutional and statutory right to a jury trial. A waiver of a contemner’s right to a jury must be express.” (14 Cal. Jur. 3d Contempt § 70)

#### **WHAT ARE THE ELEMENTS OF CONTEMPT?**

Disobedience of a Court Order may be punished as a contempt only if the Order meets several prerequisites.

1. Valid Court Order. “It is clear that disobedience of any lawful order of the superior court is constructive contempt (Code Civ.Proc. §1209(5)). But, under Code of Civil Procedure section 1003, a court order is defined as ‘Every direction of a court or judge, Made or entered in writing, and not included in a judgment \* \* \*.’ (Emphasis added.) Thus, it has been consistently stated that an order is ineffective unless it is either in writing filed with the clerk or entered in the minutes (*Jablon v. Henneberger*, 33 Cal.2d 773, 205 P.2d 1; *In re Gilreath*, 167 Cal.App.2d 655, 656—657, 335 P.2d 203).” *Ketscher v. Superior Court* (1970) 9 Cal.App.3d 601, 604 [88 Cal.Rptr. 357, 359].

2. Terms of Order Must be Specific. “A most basic premise in the law of contempt is that such

punishment can only rest upon clear, intentional violation of a specific, narrowly drawn order. Specificity is an essential prerequisite of a contempt citation. (E.g., *In re Coleman* (1974) 12 Cal.3d 568, 572, 116 Cal.Rptr. 381, 526 P.2d 533; *Brunton v. Superior Court* (1942) 20 Cal.2d 202, 205, 124 P.2d 831; *Sorenson v. Superior Court* (1969) 269 Cal.App.2d 73, 78, 74 Cal.Rptr. 597.)” *Wilson v. Superior Court* (1987) 194 Cal.App.3d 1259, 1272–1273 [240 Cal.Rptr. 131, 140]. “Any ambiguity in a decree or order must be resolved in favor of an alleged contemnor.” (*In re Blaze* (1969) 271 Cal.App.2d 210, 212, 76 Cal.Rptr. 551.) *In re Marcus* (2006) 138 Cal.App.4th 1009, 1015 [41 Cal.Rptr.3d 861, 865].

3. Order Must be In Written Form or Contained in Court’s Minutes. “Thus, it has been consistently stated that an order is ineffective unless it is either in writing filed with the clerk or entered in the minutes (*Jablon v. Henneberger*, 33 Cal.2d 773, 205 P.2d 1; *In re Gilreath*, 167 Cal.App.2d 655, 656—657, 335 P.2d 203).” *Ketscher v. Superior Court* (1970) 9 Cal.App.3d 601, 604 [88 Cal.Rptr. 357, 359].

4. Not All Orders are Enforceable by Contempt Proceedings. “An order pursuant to a division of the community estate requiring a spouse to make specified payments in satisfaction of a community liability is a “debt” not enforceable by contempt ... unless the obligation is an integral part of a support order. [*In re Fontana* (1972) 24 CA3d 1008, 1010-1011, 101 CR 465, 467—obligation to make automobile payments under court order based upon integrated property settlement agreement not enforceable by contempt; compare *Bushman v. Sup.Ct. (Bushman)* (1973) 33 CA3d 177, 181-183, 108 CR 765, 767-769—obligation to pay monthly mortgage on CP business premises was integral part of pendente lite spousal support plan and thus enforceable by contempt].” B. Enforcement Remedies and Procedures. Cal. Prac. Guide Family L. Ch. 18-B.

5. Constitutional Challenges. A defendant may constitutionally challenge the validity of a trial court order of contempt and may seek appellate review of same. *People v. Gonzalez* (1996) 12 Cal.4th 804, 50 Cal.Rptr.2d 74.

## **WHAT ORDERS ARE CONTEMPTIBLE?**

1. Code of Civil Procedure §1209, et seq., sets forth the acts or omissions that constitute contempt and specifically provides in subsection (a)(5) that contempt includes: “Disobedience of any lawful judgment, order, or process of the court.”

2. Code of Civil Procedure §1209.5 provides that proof that a parent did not comply with a child support order after the order was entered, filed, and served on the parent is prima facie evidence of contempt of court. That section reads:

*“When a court of competent jurisdiction makes an order compelling a parent to furnish support or necessary food, clothing, shelter, medical attendance, or other remedial care for his or her child, **proof** that the order was made, filed, and served on the parent or **proof** that the parent was present in court at the time the order was pronounced and **proof** that the parent did not comply with the order is prima facie evidence of a contempt of court.”*

3. Code of Civil Procedure §1210 governs re-entry after judicial ejectment and provides, in part:

*“Every person dispossessed or ejected from any real property by the judgment or process of any court of competent jurisdiction, who, not having right so to do,*

*reenters into or upon or takes possession of the real property, or induces or procures any person not having right so to do, or aids or abets such a person therein, is guilty of a contempt of the court by which the judgment was rendered or from which the process issued.”*

4. Code of Civil Procedure §1218.5(a) governs contempt for failure to pay child, family or spousal support and provides:

*“If the contempt alleged is for failure to pay child, family, or spousal support, each month for which payment has not been made in full may be alleged as a separate count of contempt and punishment imposed for each count proven.”*

5. Code of Civil Procedure §1218.5(b) sets forth the limitation period for contempt proceedings related to Orders under the Family Code and provides:

*“(b) If the contempt alleged is the failure to pay child, family, or spousal support, the period of limitations for commencing a contempt action is **three years from the date that the payment was due**. If the action before the court is enforcement of another order under the Family Code, the period of limitations for commencing a contempt action is **two years from the time that the alleged contempt occurred**.”*

6. Differences Between Criminal and Civil Contempt.

Penal Code §166 states that a person who is found guilty of any of the contempts of court set out in that section is guilty of a misdemeanor. The proceedings for actions filed under Penal Code §166 are conducted the same as any misdemeanor proceeding. *In re Kreitman* (1995) 40 Cal.App.4th 750, 47 Cal.Rptr.2d 595. Penal Code §19 provides that the punishment for a misdemeanor offense is a maximum sentence of 6 months in county jail, or a fine of up to \$1,000, or both.

“Thus, in *Shillitani v. United States* (1966) 384 U.S. 364, 370, 86 S.Ct. 1531, 1535, 16 L.Ed.2d 622, the United States Supreme Court set forth the following test: “[W]hat does the court primarily seek to accomplish by imposing sentence?” ***If the purpose of the sentence is to vindicate the dignity or authority of the court, then the proceeding is criminal.*** (*People v. Lombardo* (1975) 50 Cal.App.3d 849, 852, 123 Cal.Rptr. 755; 7 *Witkin*, Cal.Procedure (3d ed. 1985) Trial, § 176, pp. 172–173.) If, on the other hand, ***the sentence is intended to protect and enforce the rights of private parties by compelling obedience to court orders and decrees, then the proceeding is said to be civil.*** (*Morelli v. Superior Court* (1969) 1 Cal.3d 328, 333, 82 Cal.Rptr. 375, 461 P.2d 655; *People v. Lombardo, supra*, 50 Cal.App.3d at pp. 852–853, 123 Cal.Rptr. 755; 7 *Witkin, supra*, §175, p. 172.) In other words criminal contempt punishes whereas civil contempt coerces.” *People v. Derner* (1986) 182 Cal.App.3d 588, 592 [227 Cal.Rptr. 344, 346]. (Emphasis added.)

Penal Code §654 forbids multiple initiation of petitions for the same act or course of conduct.

## **GETTING STARTED**

- 1 Documents must be typed or neatly hand printed, using blue or black ink only. Lined paper or colored paper is not acceptable for filing. **READ THE FORMS CAREFULLY.**
- 2 There is an Affidavit for Contempt used for contempt to pay child support, spousal support,

family support, attorney's fees, and court or other litigation costs. There is also an Affidavit for Contempt used for contempt of Domestic Violence Restraining orders and Child Custody and Visitation. Make sure you fill out the correct Affidavit.

"In a prosecution for constructive contempt the affidavit on which the proceeding is based constitutes the complaint, *Frowley v. Superior Court*, 158 Cal. 220, 222, 110 P. 817; *Mitchell v. Superior Court*, 163 Cal. 423, 424, 125 P. 1061, the affidavit of defendant constitutes the answer or plea, *Hotaling v. Superior Court*, 191 Cal. 501, 505, 217 P. 217 P. 73, 29 A.L.R. 127, and the issues of facts are thus framed by the respective affidavits serving as pleadings. 12 Cal.Jur.2d s 67, p. 89; *Uhler v. Superior Court*, 117 Cal.App.2d 147, 151, 255 P.2d 29, 256 P.2d 90." *Freeman v. Superior Court, San Diego County* (1955) 44 Cal.2d 533, 536 [282 P.2d 857, 859].

"No intendments or presumptions may be indulged in to aid the sufficiency of the affidavit required by section 1211 of the Code of Civil Procedure as the basis of a proceeding to punish for constructive contempt. [The cited section provides that 'When the contempt is not committed in the immediate view and presence of the court, or of the judge or justice at chambers, an affidavit shall be presented to the court or judge of the facts constituting the contempt'.] Such an affidavit is fatally defective if it fails to allege that the accused had notice or knowledge of the existence of the order at the time he is claimed to have violated it.' *Phillips v. Superior Court*, 22 Cal.2d 256, 257-258, 137 P.2d 838, 839. "It is settled law \* \* \* that \* \* \* the absence of essential facts, the existence of which are necessary to be shown in the affidavit as a condition precedent to the exercise of jurisdiction to proceed in contempt, cannot be cured by proof upon the hearing. Having failed to acquire jurisdiction, the court had no authority to proceed to a hearing at all.' *Frowley v. Superior Court, supra* [158 Cal. 220, 110 P. 817]. Under such circumstances the proceeding is void ab initio. *Ex parte Von Gerzabek*, 63 Cal.App. 657, 219 P. 479." *Ex parte Du Bois* (1953) 120 Cal.App.2d 890, 892 [262 P.2d 340, 341].

3. There is a **FEE** for filing the contempt papers. You must provide the correct filing fee for your documents to be processed. ***(If you cannot afford to pay the court fees and costs, you may ask the Court to waive all or part of your fees by completing a Fee Waiver Application, from FW-001. See Fee Waiver Packet Information located on the Court's website at: [www.sjcourts.org/form-packets/form-packets-fee-waiver/](http://www.sjcourts.org/form-packets/form-packets-fee-waiver/).)*** For a list of current fees go to [www.sjcourts.org/forms-filing/court-fee-schedule/](http://www.sjcourts.org/forms-filing/court-fee-schedule/).

4. **PREPARE AND FILE ORDER TO SHOW CAUSE AND AFFIDAVIT FOR CONTEMPT:**

A. Complete and sign the forms:

- 1. **Mandatory** Order to Show Cause and Affidavit for Contempt, FL-410 ([www.courts.ca.gov/documents/fl410.pdf](http://www.courts.ca.gov/documents/fl410.pdf));
- 2. Affidavit of Facts Constituting Contempt, Financial and Injunctive Orders, FL-411 ([www.courts.ca.gov/documents/fl411.pdf](http://www.courts.ca.gov/documents/fl411.pdf));
- 3. Affidavit of Facts Constituting Contempt, Domestic Violence, Custody and Visitation, FL-412 ([www.courts.ca.gov/documents/fl412.pdf](http://www.courts.ca.gov/documents/fl412.pdf));
- 4. **Optional** Income and Expense Declaration, FL-150 (when requesting for attorney's fees or cost);
- 5. Provide the other party with a *blank* Responsive Declaration, FL-320

[www.courts.ca.gov/documents/fl320.pdf](http://www.courts.ca.gov/documents/fl320.pdf));

- 6. **Mandatory** Proof of Personal Service (to be completed by server) for each person served, FL-330 ([www.courts.ca.gov/documents/fl330.pdf](http://www.courts.ca.gov/documents/fl330.pdf));
- 7. Any other documents, exhibits you think necessary to support the Contempt; and
- 8. **Mandatory (after hearing)** Findings and Order Regarding Contempt, FL-415 ([www.courts.ca.gov/documents/fl415.pdf](http://www.courts.ca.gov/documents/fl415.pdf)).

B. Submit the original **plus** at least two (2) sets of copies for yourself. Failure to provide copies may result in additional fees.

C. Take the Order to Show Cause and Affidavit for Contempt packet and copies, along with the filing fee or Fee Waiver, to the Family Law Clerk's windows on the 4<sup>th</sup> floor of the courthouse; or, you may mail the documents or drop them in the drop box. You must include a self-addressed stamped envelope (SASE) with adequate postage in order to have your copies returned to you. Failure to include a SASE will result in your copies being placed in the pick-up cabinet located at the Information Desk on the first floor of the courthouse. Documents not picked up within 30 days may be destroyed.

5. **HAVE THE OTHER PARTY SERVED WITH THE ORDER TO SHOW CAUSE AND AFFIDAVIT FOR CONTEMPT PACKET:**

The OSC **MUST** be personally served on the Citee, in the same manner as a Summons and Complaint. [CCP §415.10; FC §2331; and CRC Rule 5.110(b).]

- One copy of the Order to Show Cause and Affidavit for Contempt is for you;
- One copy of the Order to Show Cause and Affidavit for Contempt is to be served on the opposing party **AT LEAST 16 COURT DAYS BEFORE** the hearing date [CCP §1005(b)].
- Server completes the Proof of Personal Service (FL-330) for each person served;
- YOU file the original and one (1) copy of the Proof of Personal Service with the Family Law Clerk.

6. **ATTEND THE HEARING AT THE DESIGNATED TIME. PRESENT YOUR CASE AND MEET YOUR BURDEN OF PROOF - BEYOND A REASONABLE DOUBT:**

A. A contemnor has the same rights as those of a criminal defendant charged with a misdemeanor offense, including the right to counsel, except there is no absolute right to a jury trial. [CCP §1217; Government Code §27706(a); *In re Morelli* (1970) 11 Cal.App.3d 819, 91 Cal.Rptr.72.] The Court has held that a contemnor is entitled to a jury trial if the penalty exceeds six months. [See *Mitchell v. Superior Court* (1989) 49 Cal.3d 1230, 1244, 265 Cal.Rptr. 144, 783 P.2d 731; *In re Morelli* (1970) 11 Cal.App.3d 819, 850, 91 Cal.Rptr. 72; and *In re Kreitman* (1995) 40 Cal.App.4th 750, 753 [47 Cal.Rptr.2d 595, 597].]

B. The attorney for the contemnor or the contemnor should ask the Court at the beginning of the hearing to clarify whether the order will be coercive or punitive. A coercive contempt order consists of the contemnor being imprisoned until the act ordered is performed. A

punitive contempt order consists of the contemnor being punished by imprisonment or a fine, or both.

C. The burden of proving every element necessary to show contempt of a court order is the responsibility of the moving party who must prove: (1) the issuance of a valid order; (2) the contemnor's knowledge of the order; (3) the contemnor's ability to obey it; and (4) the contemnor's willful disobedience of the order. (Koehler v. Superior Court (2010) 181 Cal.App.4th, 1153, 1169, 104 Cal.Rptr.3d 877, 890.) In a civil contempt action, the moving party has the burden of establishing "by clear and convincing evidence that the contemnors violated a specific and definite order of the court. The burden then shifts to the contemnors to demonstrate why they were unable to comply." In re Count Liberty, LLC (Bankr. C.D. Cal. 2007) 370 B.R. 259, 273.

D. **DEFENSES:** The defenses to a contempt action include: (1) invalid or unconstitutional order (People v. Gonzalez (1996) 12 Cal.4th 804, 815, 50 Cal.Rptr.2d 74, 81); and inability to comply with the order (Koehler v. Superior Court (2010) 181 Cal.App.4th, 1153, 104 Cal.Rptr.3d 877.)

7. **PUNISHMENT FOR CONTEMPT - ON EACH COUNT:**

a. **Punitive (criminal in nature):** a fine not exceeding \$1,000, or imprisonment for up to five (5) days, or both; or community service of up to 120 hours for each count of contempt in a family law action; pay reasonable attorney's fees and costs. (Code of Civil Procedure §1218.)

b. **Civil Coercive Contempt (preserve and enforce the rights of the parties):** a fine not exceeding \$1,000, or imprisonment for up to five (5) days, or both; or imprisonment until the contemnor performs the act. (Code of Civil Procedure §1219(a).)

8. **COMPLETE A FINDINGS AND ORDER REGARDING CONTEMPT (FL-415) FOLLOWING THE COURT HEARING:**

The order must state evidentiary facts supporting a finding of each of the elements of contempt [(1) the issuance of a valid order; (2) the contemnor's knowledge of the order; (3) the contemnor's ability to obey it; and (4) the contemnor's willful disobedience of the order] except that it need not state facts in support of the finding of willfulness, which may be inferred from the circumstances. (Koehler v. Superior Court (2010) 181 Cal.App.4th, 1153, 1169 104 Cal.Rptr.3d 877, 890.)

***THIS FORM AND INFORMATION IS NOT INTENDED TO BE A COMPLETE STATEMENT OF ALL OF YOUR LEGAL RESPONSIBILITIES AND IS NOT INTENDED TO SUBSTITUTE FOR LEGAL ADVICE.***

ATTORNEY OR PARTY WITHOUT ATTORNEY (name, State Bar number, and address):  
**YOUR NAME**  
**YOUR ADDRESS**  
**CITY, STATE AND ZIP CODE**

TELEPHONE NO.: (XXX) XXX-XXXX FAX NO. (optional):  
 E-MAIL ADDRESS (optional): **YOUR EMAIL ADDRESS**  
 ATTORNEY FOR (name): **IN PRO PER**

FOR COURT USE ONLY

**SAMPLE ONLY**

**DO NOT FILE**

**SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN JOAQUIN**  
 STREET ADDRESS: **180 EAST WEBER AVENUE, 4TH FLOOR**  
 MAILING ADDRESS:  
 CITY AND ZIP CODE: **STOCKTON, CA 95202**  
 BRANCH NAME: **STOCKTON JUDICIAL BRANCH**

PETITIONER/PLAINTIFF: **PETITIONER'S NAME**  
 RESPONDENT/DEFENDANT: **RESPONDENT'S NAME**  
 OTHER PARTY/PARENT: **OTHER PARTY'S/PARENT'S NAME**

**ORDER TO SHOW CAUSE AND AFFIDAVIT FOR CONTEMPT**

CASE NUMBER:

**NOTICE!**

A contempt proceeding is criminal in nature. If the court finds you in contempt, the possible penalties include jail sentence, community service, and fine.

You are entitled to the services of an attorney, who should be consulted promptly in order to assist you. If you cannot afford an attorney, the court may appoint an attorney to represent you.

**¡AVISO!**

Un proceso judicial por desacato es de índole criminal. Si la corte le declara a usted en desacato, las sanciones posibles incluyen penas de prisión y de servicio a la comunidad, y multas.

Usted tiene derecho a los servicios de un abogado, a quien debe consultar sin demora para obtener ayuda. Si no puede pagar a un abogado, la corte podrá nombrar a un abogado para que le represente.

1. TO CITEE (name of person you allege has violated the orders):  
**OTHER PARTY'S NAME**
2. YOU ARE ORDERED TO APPEAR IN THIS COURT AS FOLLOWS, TO GIVE ANY LEGAL REASON WHY THIS COURT SHOULD NOT FIND YOU GUILTY OF CONTEMPT, PUNISH YOU FOR WILLFULLY DISOBEYING ITS ORDERS AS SET FORTH IN THE AFFIDAVIT BELOW AND ANY ATTACHED *AFFIDAVIT OF FACTS CONSTITUTING CONTEMPT*; AND REQUIRE YOU TO PAY, FOR THE BENEFIT OF THE MOVING PARTY, THE ATTORNEY FEES AND COSTS OF THIS PROCEEDING.

a. Date: \_\_\_\_\_ Time: \_\_\_\_\_ Dept.: \_\_\_\_\_ Rm.: \_\_\_\_\_

b. Address of court:  same as noted above  other (specify): \_\_\_\_\_

Date: \_\_\_\_\_

JUDICIAL OFFICER

**AFFIDAVIT SUPPORTING ORDER TO SHOW CAUSE FOR CONTEMPT**

3.  An *Affidavit of Facts Constituting Contempt* (form FL-411 or FL-412) is attached.
4. Citee has willfully disobeyed certain orders of this court as set forth in this affidavit and any attached affidavits.
5. a. Citee had knowledge of the order in that
  - (1)  citee was present in court at the time the order was made.
  - (2)  citee was served with a copy of the order.
  - (3)  citee signed a stipulation upon which the order was based.
  - (4)  other (specify) : \_\_\_\_\_

Continued on Attachment 5a(4).
- b. Citee was able to comply with each order when it was disobeyed.
6. Based on the instances of disobedience described in this affidavit
  - a.  I have not previously filed a request with the court that the citee be held in contempt.
  - b.  I have previously filed a request with the court that the citee be held in contempt (specify date filed and results) : \_\_\_\_\_

Continued on Attachment 6b.

**ORDER TO SHOW CAUSE AND AFFIDAVIT FOR CONTEMPT**

PETITIONER/PLAINTIFF: PETITIONER'S NAME	CASE NUMBER:
RESPONDENT/DEFENDANT: RESPONDENT'S NAME	
OTHER PARTY/PARENT: OTHER PARTY'S/PARENT'S NAME	

7.  Citee has previously been found in contempt of a court order (specify case, court, date):

Continued on Attachment 7.

8.  Each order disobeyed and each instance of disobedience is described as follows:

a.  Orders for child support, spousal support, family support, attorney fees, and court or other litigation costs (see attached *Affidavit of Facts Constituting Contempt* (form FL-411))

b.  Domestic violence restraining orders and child custody and visitation orders (see attached *Affidavit of Facts Constituting Contempt* (form FL-412))

c.  Injunctive or other order (specify which order was violated, how the order was violated, and when the order was violated):

Continued on Attachment 8c.

d.  Other material facts, including facts indicating that the violation of the orders was without justification or excuse (specify): **EXPLAIN WHAT THE PARTY DID TO VIOLATE THE COURT ORDER. BE SPECIFIC.**

Continued on Attachment 8d.

e.  I am requesting that attorney fees and costs be awarded to me for the costs of pursuing this contempt action. (A copy of my *Income and Expense Declaration* (form FL-150) is attached.)

**WARNING: IF YOU PURSUE THIS CONTEMPT ACTION, IT MAY AFFECT THE ABILITY OF THE DISTRICT ATTORNEY TO PROSECUTE THE CITEE CRIMINALLY FOR THE SAME VIOLATIONS.**

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date: XX-XX-XXXX

PRINT YOUR NAME \_\_\_\_\_  
(TYPE OR PRINT NAME)

▶ SIGN YOUR NAME HERE \_\_\_\_\_  
(SIGNATURE)

## INFORMATION SHEET FOR ORDER TO SHOW CAUSE AND AFFIDAVIT FOR CONTEMPT

(Do NOT deliver this Information Sheet to the court clerk.)

Please follow these instructions to complete the *Order to Show Cause and Affidavit for Contempt* (form FL-410) if you do not have an attorney to represent you. Your attorney, if you have one, should complete this form, as well as the *Affidavit of Facts Constituting Contempt* (form FL-411 or form FL-412). You may wish to consult an attorney for assistance. Contempt actions are very difficult to prove. An attorney may be appointed for the citee.

### INSTRUCTIONS FOR COMPLETING THE ORDER TO SHOW CAUSE AND AFFIDAVIT FOR CONTEMPT (TYPE OR PRINT FORM IN INK):

If the top section of the form has already been filled out, skip down to number 1 below. If the top section of the form is blank, you must provide this information.

Front page, first box, top of form, left side: Print your name, address, telephone number, and fax number, if any, in this box. If you have a restraining order and wish to keep your address confidential, you may use any address where you can receive mail. **You can be legally served court papers at this address.**

Front page, second box, left side: Print the name of the county where the court is located and insert the address and any branch name of the court building where you are seeking to obtain a contempt order. You may get this information from the court clerk. This should be the same court in which the original order was issued.

Front page, third box, left side: Print the names of the Petitioner, Respondent, and Other Party/Parent (if any) in this box. Use the same names as appear on the most recent court order disobeyed.

Front page, first box, top of form, right side: Leave this box blank for the court's use.

Front page, second box, right side: Print the court case number in this box. This number is also shown on the most recent court order disobeyed.

Item 1: Insert the name of the party who disobeyed the order ("the citee").

Item 2: The court clerk will provide the hearing date and location.

Item 3: Either check the box in item 3 and attach an *Affidavit of Facts Constituting Contempt* (form FL-411 for financial orders or form FL-412 for domestic violence, or custody and visitation orders), or leave the box in item 3 blank but check and complete item 8.

Item 5: Check the box that describes how the citee knew about the order that has been disobeyed.

Item 6: a. Check this box if you have not previously applied for a contempt order.

b. Check this box if you have previously applied for a contempt order and briefly explain when you requested the order and results of your request. If you need more space, check the box that says "continued on Attachment 6b" and attach a separate sheet to this order to show cause.

Item 7: Check this box if the citee has previously been found in contempt by a court of law. Briefly explain when the citee was found in contempt and for what. If there is not enough space to write all the facts, check the box that says "continued on Attachment 7" and attach a separate sheet to this order to show cause.

Item 8: a. Check this box if the citee has disobeyed orders for child support, custody, visitation, spousal support, family support, attorney fees, and court or litigation costs. Refer to item 1a on *Affidavit of Facts Constituting Contempt* (form FL-411).

b. Check this box if the citee has disobeyed domestic violence orders or child custody and visitation orders. Refer to *Affidavit of Facts Constituting Contempt* (form FL-412).

## Information Sheet (continued)

- Item 8: c. If you are completing this item, use facts personally known to you or known to the best of your knowledge. State the facts in detail. If there is not enough space to write all the facts, check the box that says "continued on Attachment 8c" and attach a separate sheet to this order to show cause, including facts indicating that the violation of the orders was without justification or excuse.
- d. Use this item to write other facts that are important to this order. If you are completing this item, insert facts personally known to you, or known to the best of your knowledge. State facts in detail. If there is not enough space to write all the facts, check the box that says "Continued on Attachment 8d" and attach a separate sheet to the order to show cause.
- e. If you request attorney fees and/or costs for pursuing this contempt action, check this box. Attach a copy of your *Income and Expense Declaration* (form FL-150).

Type or print and sign your name at the bottom of page 2.

If you checked the boxes in item 3 and item 8a or 8b, complete the appropriate *Affidavit of Facts Constituting Contempt* (form FL-411), following the instructions for the affidavit above.

Make at least three copies of the *Order to Show Cause and Affidavit for Contempt* (form FL-410) and any supporting *Affidavit of Facts Constituting Contempt* (form FL-411 or FL-412) and the *Income and Expense Declaration* (form FL-150) for the court clerk, the citee, and yourself. If the district attorney or local child support agency is involved in your case, you must provide a copy to the district attorney or local child support agency.

Take the completed form(s) to the court clerk's office. The clerk will provide hearing date and location in item 2, obtain the judicial officer's signature, file the originals, and return the copies to you.

Have someone who is at least 18 years of age, who is not a party, serve the order and any attached papers on the disobedient party. For example, a process server or someone you know may serve the papers. **You may not serve the papers yourself. Service must be personal; service by mail is insufficient.** The papers must be served at least 16 court days before the hearing. The person serving papers must complete a *Proof of Personal Service* (form FL-330) and give the original to you. Keep a copy for yourself and file the original *Proof of Personal Service* (form FL-330) with the court.

*If you need assistance with these forms, contact an attorney or the Family Law Facilitator in your county.*

PETITIONER/PLAINTIFF: <b>PLAINTIFF'S/PETITIONER'S NAME</b> RESPONDENT/DEFENDANT: <b>DEFENDANT'S/RESPONDENT'S NAME</b> OTHER PARENT: <b>OTHER PARTY'S/PARENT'S NAME</b>	CASE NUMBER: <b>CASE NUMBER</b>
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**AFFIDAVIT OF FACTS CONSTITUTING CONTEMPT**  
**Financial and Injunctive Orders**  
**Attachment to Order to Show Cause and Affidavit for Contempt (form FL-410)**

1. a. Orders for child support, spousal support, family support, attorney fees, and court and litigation costs (*separately itemize each default on installment payments*):

DATE DUE	TYPE OF ORDER AND DATE FILED	PAYABLE TO	AMOUNT ORDERED	AMOUNT PAID	AMOUNT DUE
01/01/2021	CHILD SUPPORT 12/01/2020 FOR ALL ENTRIES	PETITIONER	200	0	200
02/01/2021		PETITIONER	200	0	200
03/01/2021		PETITIONER	200	0	200
04/01/2021		PETITIONER	200	0	200
05/01/2021		PETITIONER	200	0	200
06/01/2021		PETITIONER	200	0	200
					0
					0
					0
					0
					0
					0
<input type="checkbox"/> Continued on Attachment 1a.			TOTAL AMOUNT ORDERED	TOTAL AMOUNT PAID	TOTAL AMOUNT DUE
Summary of contempt counts alleged (including all attachments):					
Child support: <b>6 COUNTS</b>			1,200	0	1,200
Spousal support:					0
Family support:					0
Attorney fees:					0
Court and other costs:					0
<b>Total</b>			<b>\$ 1,200</b>	<b>\$ 0</b>	<b>\$ 1,200</b>

- b.  Other orders (*specify which order was violated, how the order was violated, and when the violation occurred*):  
**(SAMPLE STATEMENT: ON 12/01/2020, THE COURT MADE THE FOLLOWING ORDER: "RESPONDENT SHALL PAY CHILD SUPPORT IN THE AMOUNT OF \$200.00 PER MONTH TO PETITIONER COMMENCING 12/01/2020." CITEE FAILED TO PAY CHILD SUPPORT ON 01/01/2021; 02/01/2021; 03/01/2021; 04/01/2021; 05/01/2021; AND 06/01/2021.)**

Continued on Attachment 1b.

- c.  Other material facts (*specify*):  
**(SAMPLE STATEMENT: FAILURE TO PAY CHILD SUPPORT FOR SIX MONTHS CONSTITUTES COUNTS 1, 2, 3, 4, 5, AND 5 OF THE PLEADINGS, RESPECTIVELY. THE RESPONDENT WAS PRESENT AT THE HEARING AND WILLFULLY DISOBEYED THE COURT'S ORDER.)**

Continued on Attachment 1c.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date: **XX-XX-XXXX**

**PRINT YOUR NAME** \_\_\_\_\_  
(TYPE OR PRINT NAME)

**SIGN YOUR NAME HERE** \_\_\_\_\_  
(SIGNATURE)

PETITIONER/PLAINTIFF: NAME OF PLAINTIFF/PETITIONER  
RESPONDENT/DEFENDANT: NAME OF DEFENDANT/RESPONDENT  
OTHER PARENT: NAME OF OTHER PARENT/PARTY

CASE NUMBER:  
CASE NUMBER

**CHECK AND COMPLETE  
ALL THAT APPLY AND USE  
ATTACHMENT AS NEEDED**

**AFFIDAVIT OF FACTS CONSTITUTING CONTEMPT  
Domestic Violence/Custody and Visitation**

Attachment to Order to Show Cause and Affidavit for Contempt (form FL-410)

- 1.  The Citee has violated the restraining order issued on (date): \_\_\_\_\_ by contacting, molesting, harassing, attacking, striking, threatening, sexually assaulting, battering, telephoning, sending any messages to, following, stalking, destroying the personal property of, disturbing the peace of, keeping under surveillance, or blocking movements in public places and thoroughfares of me or any other person protected by the restraining order. (Specify which order was violated, how the order was violated, and when the violation occurred):  
  
 Continued on Attachment 1.
- 2.  The Citee has violated the restraining order issued on (date): \_\_\_\_\_ by not moving from and staying away from the residence as ordered by the court. (Specify how the order was violated and when the violation occurred):  
  
 Continued on Attachment 2.
- 3.  The Citee has violated the restraining order issued on (date): \_\_\_\_\_ by not staying (specify): \_\_\_\_\_ yards away from me, the other protected persons, my residence, my place of work, the children's school or place of child care, my vehicle, or other (specify): \_\_\_\_\_ (Specify which order was violated, how the order was violated, and when the violation occurred):  
  
 Continued on Attachment 3.
- 4.  The Citee has violated the restraining order issued on (date): \_\_\_\_\_ by not relinquishing his or her firearm(s) as ordered by the court. (Specify which order was violated, how the order was violated, and when the violation occurred):  
  
 Continued on Attachment 4.
- 5.  The Citee has violated the restraining order issued on (date): \_\_\_\_\_ by failure to complete court-ordered batterer's treatment/anger management class (specify how the order was violated):  
  
 Continued on Attachment 5.
- 6.  The Citee has violated order issued on (date): 12/20/2021 by violating the following custody or visitation order (specify which order was violated, how the order was violated, and when the violation occurred):  
**(SAMPLE STATEMENT: ON 06/01/2021, THE COURT MADE THE FOLLOWING ORDER, "THE RESPONDENT HAS VISITATION WITH THE CHILDREN ON THE 3RD SUNDAY OF EVERY MONTH FROM 8 AM TO 8 PM.")**  
 Continued on Attachment 6.
- 7.  The Citee has violated the order issued on (date): \_\_\_\_\_ by violating other orders (specify which order was violated and how the order was violated):  
  
 Continued on Attachment 7.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date: XX-XX-XXXX

PRINT YOUR NAME

(TYPE OR PRINT NAME)

SIGN YOUR NAME HERE

(SIGNATURE)

SHORT TITLE:  
NAME OF CASE

CASE NUMBER:  
CASE NUMBER

1 "ATTACHMENT 6 TO FL-412"

2

3

4 THE RESPONDENT HAS HAD COURT ORDERED SCHEDULED VISITATION ON 01/17/2021,  
5 02/21/2021, 03/21/2021, 04/18/2021, 05/16/2021, AND 06/20/2021. THE PETITIONER HAS  
6 CONTINUALLY FAILED TO ALLOW ME TO SEE MY CHILDREN ON THESE DATES.

7

8 FAILURE TO ALLOW THESE VISITATIONS CONSTITUTES COUNTS 1, 2, 3, 4, AND 5 OF  
9 THE PLEADINGS, RESPECTIVELY. THE PETITIONER WAS AT THE HEARING AND  
10 WILLFULLY DISOBEYED THE COURT'S ORDER.

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26 *(Required for verified pleading)* The items on this page stated on information and belief are *(specify item numbers, not line numbers)*:

27 This page may be used with any Judicial Council form or any other paper filed with the court.

Page \_\_\_\_\_

**ADDITIONAL PAGE SAMPLE ONLY- DO NOT FILE**