

Circuit Court of Hampshire County

SONJA K. EMBREY, CLERK

Post Office Box 343

50 South High Street, Suite 157

Romney, West Virginia 26757



304-822-5022

304-822-8257-FAX

Email: sonja.embrey@courtsww.gov

Website: www.hampshirecircuitclerkwv.com

Beverly D. Shanholtz, Chief Deputy

Jessica L. MacBeth, Deputy

Katie L. Simmons, Deputy

Rachael E. Hiatt, Deputy

IMPORTANT NOTICE to ProSe Filers

- **READ ALL INSTRUCTIONS CAREFULLY**
- **MUST** file a copy of Marriage Certificate/License when filing for Divorce
- Circuit Clerk's Office cannot help fill out the forms or give legal advice
- CASH, MONEY ORDER or CREDIT CARD are accepted
 - Cash **MUST** be exact change
 - No Personal Checks
 - Credit Card service Fee when paying via credit card
- You must have a complete address for the Respondent
 - NO PO Boxes for services via Sheriff
- All forms must be completed before filing; including Notarization(s)
 - Please note that there isn't a Notary in Hampshire County Circuit Clerk's Office.
- The Hampshire County Circuit Clerk has transitioned to WV e-File as of January 2016. As a result of electronic filing it is not necessary to make additional copies of the paperwork you are filing. You will receive all of your original documents in return after filing.

Thank you,

Sonja K. Embrey
Circuit Clerk

Filing Fees

Divorce Cases	\$135	Modification	\$85
Child Support and/or Custody	\$200	Expedited Modification	\$35
Other Domestic Cases	\$200	Contempt - service fees only	N/A

Service and Other Fees

Service via Certified Mail	\$20	Parenting Class Fee	\$25
Service via WV Sheriff	\$25		

Contempt Petition

*** IMPORTANT INFORMATION ***

YOUR RIGHTS MAY BE BETTER PROTECTED WITH THE HELP OF AN ATTORNEY.

You may file a Petition for Contempt without the assistance of an attorney, and represent yourself in Family Court, **BUT** your rights may be better protected with the help of an attorney.

The staffs of the Circuit Clerk's Office and the Family Court are prohibited by law from providing legal advice.

Please notify the Circuit Clerk's Office in advance if you require any special arrangements to fully participate in court proceedings; for example, a language interpreter, hearing or visual aids, or accommodations for physical access.

The Contempt Petition Packet contains Instructions and a Contempt Petition form. Read the instructions carefully, and please write clearly when you fill in the form. If the instructions are not followed, or if the form is not properly completed, your Contempt Petition may be dismissed, or delayed. It's best to read all of the instructions before you start filling out the form. You may want to make a couple of spare copies of the blank form before you start filling it out. You can use these copies to practice on, or if you make an error.

The petition form requires you to provide your name, address, and telephone number. **If you believe your safety, liberty, or health, or the safety, liberty, or health of your children would be put a risk by the disclosure of this information, you may file an affidavit to have the information withheld from all persons except court employees who require the information to carry out their duties.** The affidavit you need to file is the Affidavit for Withholding Identifying Information. You can obtain the affidavit at the Circuit Clerk's Office. You can complete and file the affidavit in the Circuit Clerk's Office at any time, or you can ask the Family Court Judge to enter an order allowing you to withhold the information. If your identifying information is withheld, the other party's papers will be served through the Family Court, and not directly on you.

If the person you name in your Contempt Petition does not live in West Virginia, the Family Court may have limited power to enforce the order you believe is being violated.

DETERMINE IF A CONTEMPT PETITION IS RIGHT FOR YOUR SITUATION.

The first thing you need to do is determine if filing a Contempt Petition is the correct legal action for your situation. For example, if what you want to do is request the court to change the terms of an order, a Contempt Petition is not the correct course of action. To request a change in the terms of a court order, you need to file a Petition for Modification. Modification Packets are available in Family Court and Circuit Clerk offices.

If you want the court to enforce the terms of an order you believe is being violated, filing a Contempt Petition may be the correct legal action. When you file a Contempt Petition, you are asking the court to hold the person named in the petition in contempt of court for failing to obey a court order; and you are asking the court to force that person to obey the order. These are some examples of failures to obey a court order. This is only a listing of a few examples, and does not cover all possibilities. 1. Failure to pay child support, or spousal support. 2. Failure to make payments ordered to carry out equitable distribution of marital property. 3. Failure to follow the terms of a court ordered Parenting Plan.

If you believe filing a Contempt Petition is the correct course of action for your situation, proceed to Step 2.

STEP 2. OBTAIN A COPY OF THE ORDER.

You will need a copy of the court order you believe is being violated, because a copy of the order must be attached to your Contempt Petition. If you do not have a copy of the order, obtain one from the Circuit Clerk's office.

STEP 3. FILL OUT THE PETITION FORM.

You must provide all requested information. The failure to provide all information required on the petition form may prevent you from obtaining a hearing before the court.

Tips on filling out the petition form.

1. Be certain you provide a complete and current address for the person you want the court to hold in contempt. The sheriff's department must serve the Petition on that person by delivering it in person. To do that, the sheriff's department must have a good address. If the sheriff's department cannot find the person and serve the petition, the case will not proceed.
2. If you are claiming the person named in your petition has failed to obey an order requiring the payment of child support, spousal support, or separate maintenance, you **must**: **A.** List the due dates and amounts of payments you claim were not made. **B.** State the total amount past due as of the date you sign the petition. **C.** Attach to your petition a copy of the court order which required the payments you claim have not been made.
3. If you are claiming the person named in your petition has failed to obey the terms of a court ordered Parenting Plan, you **must**: **A.** Explain how the person failed to obey the terms of the court ordered plan. Your explanation must be specific, and you must provide dates on which you

claim the person did not obey the terms of the plan. B. Attach to your petition a copy of the court ordered Parenting Plan.

4. If you are claiming the person named in your petition has failed to obey other terms and conditions of a court order, you **must**: **A. Explain how the person failed to comply with the terms and conditions of the order. Your explanation must be specific, and must include the dates upon which you claim these failures to obey occurred.** **B. Attach to your petition a copy of the order.**

5. After you have finished filling out the form, you must sign the petition, and you must sign the Verification at the end of the form. You must sign the Verification before a Notary Public, or other authorized public official such as a Deputy Circuit Clerk.

STEP 4. TAKE OR MAIL YOUR PETITION TO THE FAMILY COURT.

These are the papers you need to take or mail to the Family Court.

1. Your completed and verified Petition.
2. Copy of the order you believe is being violated.
3. Copies of any documents you believe will prove the order is being violated.

STEP 5. THE FAMILY COURT JUDGE REVIEWS YOUR PETITION.

The Family Court Judge will review your Petition and any documents you file with it, and determine whether to hold a hearing.

The Family Court Judge does not have to hold a hearing. The judge may dismiss your Petition without a hearing if: 1. You have failed to completely and properly fill out and verify the Petition. 2. The judge determines the information you have provided in your Petition fails to make a sufficient case that the person you name has violated a court order.

If the Family Court Judge determines your Petition requires a hearing, a hearing date and time will be set, a Notice of Contempt Hearing / Rule to Show Cause will be issued, the person named in your Petition will be served with a copy of your Petition and the Notice / Rule, and you will receive a copy of the Notice / Rule. **When you receive the Notice / Rule, you MUST immediately go to the Circuit Clerk's Office and pay the \$20 fee for personal service of the Petition and Notice / Rule on the opposing party. If you do not do this, the opposing party will not be served, and if the opposing party is not served, there will be no hearing, and your contempt case will end before it starts.** If you cannot afford to pay the \$20 fee, read the following paragraph. The Notice / Rule will state the date, time, and place of the hearing, and it will inform the person named in your Petition that he or she is required to come to the hearing. At the hearing, you and the person named in your Petition each will be given an opportunity to present your side of the case. Step 6 explains how to prepare for a hearing.

What to do if you cannot afford to pay fees.

If you cannot afford to pay fees, you should ask a Deputy Circuit Clerk for an affidavit to waive fees and costs. You can fill out the affidavit in the clerk's office. The affidavit requires you to list some basic information about your financial situation. A Deputy Clerk can review your completed affidavit while you wait, and tell you if you meet the legal requirements to have your fees and costs waived. If you don't meet these requirements, you must pay fees and costs, but you can ask the Court to review your affidavit later. Criminal charges can be filed against you if you provide false information on this affidavit.

STEP 6. HOW TO PREPARE FOR A HEARING.

If the Family Court Judge decides to hold a hearing on your Petition, you will need to prepare for the hearing. The following paragraphs explain what you should do to make sure you are ready to present your case.

1. Witnesses If you need a witness to testify at the hearing, and you are not certain the witness will come to the hearing voluntarily, you need to obtain a witness subpoena to require that witness will attend. You should request witness subpoenas at least 10 days before the hearing. Witness subpoenas are handled by the Circuit Clerk's Office. To obtain a witness subpoena, you need to provide the Deputy Circuit Clerk with the name and address of the witness, and pay a Clerk's fee of 50¢ per subpoena, and a service fee of \$20 per subpoena. If you cannot afford to pay the fees, read the last paragraph in Step 5.

2. Make a plan for how you will present your case. At the hearing, you will be required to show the person named in your Petition has failed to obey the order you claim is being violated. Depending on the nature of your case, you may need to show that money has not been paid, or that the person has failed in some other way to obey the terms of an order. You prove these things by your testimony, by the testimony of other witnesses, or by documents and records. Make a plan for how you will present your case. Make a list of the things you want to prove, and for each thing you want to prove, list how you will prove it, by witness testimony, or a document, for example.

End

PLACES WHERE YOU CAN GET HELP

West Virginia State Bar

The **Lawyer Referral Service** at the State Bar will refer you to a lawyer who will discuss your situation with you for up to one-half hour for only \$25!

1-304-558-7991 or www.lawyerreferral.org

Free Online Legal Help

Free legal assistance online for civil matters for low-income West Virginians at www.wvonlinelegalhelp.org

Tuesday Legal Connect – Free Live Legal Help

Tuesdays between 6:00pm and 8:00pm 1-800-642-3617

Volunteer lawyers will provide *general* legal information.

Attorneys cannot provide direct legal advice!

West Virginia Judiciary

Main Number: 1-304-558-0145

Home web page: www.courtswv.gov

The Judiciary website offers a variety of resources for self-help including links to the various courts in West Virginia and a variety of downloadable court forms at: www.courtswv.gov/legal-community/court-forms.html

Additional assistance can be found by contacting Claudia Townsend at the Clerk's Office at:
1-304-558-2601 (main telephone)
1-304-558-4219 (TTY for hearing impaired)
claudia.townsend@courtswv.org (email)

Family Court Mediation Services

An approved list of mediators can be obtained through Family Court Services at the Supreme Court of Appeals or on the website. 1-304-558-0145
www.courtswv.gov/lower-courts/pdfs/Mediator-by-County.pdf

The Court's **State Law Library** located at the State Capitol in Charleston has books for research, computers to use, and law librarians that can help you. www.courtswv.gov/public-resources/law-library/law-library-contact_us.html or call 1-304-558-2607

The West Virginia Library Commission

Public libraries throughout West Virginia may have computers, forms, books, and other information that can help you. 1-800-642-9021

WVU College of Law Clinical Program

Free legal assistance by law students under the supervision of attorneys in a variety of areas, including family law, immigration, veterans assistance, domestic violence, and others. Their contact information is: <https://law.wvu.edu/clinics> or call 1-304-293-7249 or email cliniclaw@mail.wvu.edu

The **WV Coalition Against Domestic Violence** is a statewide network of community-based domestic violence programs working to end violence in the lives of women, children and men. www.wvcadv.org or call 1-800-799-7233 (National Domestic Violence Hotline)

Legal Aid of West Virginia provides legal services in certain kinds of cases if your income meets certain guidelines. www.lawv.net or 1-800-642-8279

Mountain State Justice is a non-profit public interest law office dedicated to pursuing impact and significant litigation on behalf of low-income West Virginians. They provide free legal services in certain areas of practice to qualifying individuals. www.msjlw.org or 800-319-7132

Senior Legal Aid Services provides free legal assistance to seniors, 60 and older. www.seniorlegalaid.com or 1-800-229-5068

WV Attorney General's Office - Consumer Hotline

Offering consumer protection assistance including downloadable consumer complaint forms and a Consumer Protection Hotline at 1-800-368-8808 www.ago.wv.gov/consumerprotection/pages/default.aspx

MEMORANDUM

Filed
Date 5/26/11
Clerk

14
243

TO: Pro Se Litigants
FROM: Glen R. Stotler, Family Court Judge 
DATE: May 25, 2011
RE: Telephonic Appearances and Motions for Continuance

Effective immediately, the following procedures shall be followed for requests to appear by telephone at hearings or to request a continuance of a hearing:

1. Any party requesting to appear by telephone at a hearing or to continue an upcoming hearing shall file his/her request in writing with the Circuit Clerk and shall include specific reasons why the Court should consider the request. Copies of said request shall be served upon all other interested litigants, counsel, and agencies by the party requesting the telephonic appearance or continuance, and the request should contain a certificate of service verifying that the requesting party has completed said service; said service shall be the responsibility of the person requesting the telephonic appearance or continuance.

2. All requests to appear telephonically shall include the appropriate phone number where the requesting party is to be reached at the commencement of his/her hearing. Any litigant appearing by phone shall be responsible for ensuring his/her availability to appear by phone at the scheduled time of his/her hearing, just the same as if he/she were appearing in person before the Court.

3. The Court shall respond to all written motions to appear telephonically or to continue by an Order, which will be served on all interested parties.

4. Excepting unforeseeable emergency circumstances, all motions to continue or to appear by telephone shall be filed with the Circuit Clerk and served upon all other parties no later than seven (7) days prior to the date of the hearing in question to ensure timely and proper notice on all other interested parties.

5. Failure to comply with the above procedures may result in a denial of the request.

2013 JAN -8 PM 3:16

SONJA K. EMMETT CLERK
HAMPSHIRE COUNTY CIRCUIT COURT

IN THE FAMILY COURTS OF HAMPSHIRE, MINERAL, AND MORGAN COUNTIES

**ADMINISTRATIVE ORDER
RE: CERTIFICATES OF SERVICE REQUIRED ON ALL FILINGS**

WHEREAS, pursuant to Rule 5(a) of the West Virginia Rules of Civil Procedure, "every pleading subsequent to the original complaint...every written motion other than one which may be heard ex parte, and every written notice, appearance, demand, offer of judgment, designation on record of appeal, and similar paper shall be served upon each of the parties."

WHEREAS, pursuant to Rule 5(d) of the West Virginia Rules of Civil Procedure, "all papers after the complaint required to be served upon a party together with a certificate of service shall be filed with the court within a reasonable time after service."

WHEREAS, private letters and correspondence to the Court are not proper, and any document intended to be filed must be disclosed to all parties and/or counsel of record.

It is, therefore, **ORDERED** that all documents presented to the Circuit Clerk for filing subsequent to the original complaint shall be accompanied by a properly completed and signed Certificate of Service, a form for which is attached to this Order.

It is further **ORDERED** that no document presented for filing subsequent to the original complaint shall be accepted for filing that does not have a properly completed and signed Certificate of Service.

It is further **ORDERED** that neither the Circuit Clerk's staff nor the Family Court staff shall be responsible for arranging and completing service for such subsequent filings.

The Circuit Clerks shall post and distribute copies of this Order at their discretion.

ENTERED this 8th day of January, 2013.

**GLEN R. STOTLER
FAMILY COURT JUDGE
23rd FAMILY COURT CIRCUIT**

FOR YOUR INFORMATION

READ THE ORDER BELOW BEFORE ENTERING THE COURTROOM

**IN THE FAMILY COURT OF
MORGAN, HAMPSHIRE AND MINERAL COUNTIES, WEST VIRGINIA**

RE: APPROPRIATE DRESS AND CONDUCT IN THE COURTROOM

ORDER

Effective immediately, no person, juror, attorney, plaintiff, defendant, petitioner, respondent, witness, juvenile or audience member shall appear in a hearing room or Courtroom wearing shorts, cut-offs, short-shorts, pajamas, tank tops, tube tops, halter tops, bathing suits, swimming trunks, Bermuda shorts, see-through or revealing clothing of any kind, or clothing with vulgar, obscene or sexually explicit language, pictures or scenes.

All persons appearing before the Court shall conduct themselves in a proper, civil and dignified manner showing proper deference to the Court, as well as respect for the process and all persons participating in these proceedings.

**PERSONS VIOLATING THIS ORDER MAY BE BARRED OR REMOVED FROM
THE COURTROOM OR HEARING ROOM AND/OR MAY BE SUBJECT TO FINES OR
OTHER SANCTIONS, INCLUDING, BUT NOT LIMITED TO, HAVING THEIR
HEARING POSTPONED.**

ENTERED on this 8th day February, 2017.



**JUDGE DEANNA ROCK
23RD FAMILY COURT DISTRICT**

IN RE:
The Marriage / Children Of:

Case No. _____

Judge: _____

_____, and _____
 Petitioner (First/Middle/Last) Respondent (First/Middle/Last)

**PETITIONER'S CIVIL CASE INFORMATION STATEMENT
 DOMESTIC RELATIONS CASES**

PETITIONER'S IDENTIFYING INFORMATION	IMPORTANT NOTICE
Street Address _____ City / State / Zip Code _____ () - _____ <input type="checkbox"/> Male / <input type="checkbox"/> Female Phone Number _____ / _____ / _____ Social Security Number _____ Date of Birth _____ Race: <input type="checkbox"/> American Indian/Alaskan Native <input type="checkbox"/> Hispanic <input type="checkbox"/> Asian or Pacific Islander <input type="checkbox"/> Black <input type="checkbox"/> Unknown <input type="checkbox"/> White	<input type="checkbox"/> Check this box if you wish to keep the information in this box CONFIDENTIAL because you fear for your safety and/or the safety of your children. If the box above is checked, this page is sealed in the file and NOT TRANSMITTED with the Petition and Summons. You must complete the form, Affidavit To Withhold Identifying Information, and file it at the Circuit Clerk's Office.

List all minor children affected by this action:

Name	Date of Birth	Social Security Number
	/ /	- -
	/ /	- -
	/ /	- -
	/ /	- -

YES NO Do you or any of your clients or witnesses in this case require special accommodations due to a disability?

- IF YES, SPECIFY:*
- Wheelchair accessible hearing room and other facilities;
 - Interpreter or other auxiliary aid for the hearing impaired;
 - Reader or other auxiliary aid for the visually impaired;
 - Spokesperson or other auxiliary aid for the speech impaired;
 - Other: _____

Original and _____ copies of petition enclosed/attached.

PETITIONER: _____

Case No. _____

RESPONDENT: _____

Days To Answer: _____ Type of Service: _____

1. RESPONDENT'S IDENTIFYING INFORMATION	
Street Address _____	
City / State / Zip Code _____	
() - _____	<input type="checkbox"/> Male / <input type="checkbox"/> Female
Phone Number _____	/ / _____
Social Security Number _____	Date of Birth _____
Race: <input type="checkbox"/> American Indian/Alaskan Native <input type="checkbox"/> Hispanic	
<input type="checkbox"/> Asian or Pacific Islander <input type="checkbox"/> Black	
<input type="checkbox"/> Unknown <input type="checkbox"/> White	

2. TYPE OF CASE RELIEF
(Check All That Apply)

- Divorce Without Children
- Divorce With Children
- Grandparent Visitation
- Annulment
- Separate Maintenance
- Child Support Only
- Child Custody Without Divorce
- Paternity
- Modification
- Contempt
- Infant Guardianship
- Other *(specify):* _____

3. YES NO Is either party seeking child support or alimony?
4. YES NO Is a Domestic Violence Protective Order in effect now?
5. YES NO Is there an active Child Protective Services (CPS) investigation of the children or was an investigation conducted in the last year prior to filing this action?
6. I am proceeding without an attorney.
OR
 I have an attorney. *(Complete attorney information below.)*
- Attorney Name: _____
- Firm: _____
- Address: _____
- Telephone: () - _____
- Dated: _____
- Signature _____

IMPORTANT NOTICE FOR PERSONS WITH PROTECTIVE ORDERS

You may be able to EXTEND THE TIME PERIOD OF YOUR PROTECTIVE ORDER beyond 180 days if:

1. YOU CURRENTLY HAVE A PROTECTIVE ORDER IN EFFECT, and then,
2. YOU FILE OR REOPEN AN ACTION IN FAMILY COURT for divorce, annulment, separate maintenance, custodial responsibility, paternity, child support or a similar action brought under Chapter 48 of the West Virginia Code, and
3. YOU AND THE RESPONDENT SUBJECT TO THE PROTECTIVE ORDER ARE THE PARTIES TO THE FAMILY COURT CASE.

If you meet all three requirements listed above, your Protective Order will be in effect until the Family Court enters a non-procedural Temporary Order or a Final Order in your Family Court case, whichever is first.

TO PROVIDE NOTICE TO LAW ENFORCEMENT AGENCIES and the RESPONDENT regarding the extended time period of your Protection Order, you must notify the circuit clerk that you meet all three requirements above. The Circuit Clerk shall complete the form *FDVXNOT*, and serve said form on law enforcement and the Respondent as provided in Rule 11 of the Rules of Practice and Procedure for Domestic Violence Civil Proceedings. The Circuit Clerk shall immediately, upon completion of form *FDVXNOT*, forward said form to the Magistrate Court for inclusion in the National Domestic Violence Registry and the WV Domestic Violence State Database.

IN THE FAMILY COURT OF _____ COUNTY, WEST VIRGINIA

In Re:

The Marriage / Children of:

Civil Action No. _____

_____,
Petitioner

and

_____.
Respondent

Address

Address

Daytime phone

Daytime phone

PETITION FOR CONTEMPT

1. Your name: _____. List any other name(s) you were known by during this case. _____

Your current address: _____

2. Name of the person you want the court to hold in contempt: _____

Address: _____

Daytime telephone number: _____ Social Security number: _____

3. Your Reasons for Making this Contempt Petition

A. Failure to Make Payments of Money

___ I believe the person I want the court to hold in contempt has failed to make court ordered payments of:

___ Child support

___ Spousal support

___ Separate maintenance

___ Equitable distribution

___ Medical support

___ Other (List, and be specific.) _____

You must attach a copy of the order requiring these payments.

List the due dates and amounts for all payments that have not been made.

List the total amount due and unpaid on the date you sign this petition: \$_____.

B. Failure to Obey Court Ordered Parenting Plan

___ I believe the person I want the court to hold in contempt has failed to abide by the terms and conditions of a court ordered Parenting Plan. For each instance you believe the person has failed to abide by the Parenting Plan, you must list the date, and explain *specifically* how the person failed to abide by the plan; and you MUST attach a copy of the Parenting Plan.

C. Failure to Obey *Other* Terms, Conditions, or Requirements of a Court Order

___ I believe the person I want the court to hold in contempt has failed to abide by the terms, conditions, or requirements of a court order in some way other than those listed in items A. and B. above. For each instance you believe the person has failed to abide by the terms, conditions, or requirements of an order, you must list the date, and explain *specifically* how the person failed to abide by the order; and you MUST attach a copy of the order.

- 4.** I have attached to this Petition documents I believe prove the person I have named has failed to obey a court order. The documents I have attached are:

For the reasons stated above, I request that the Court issue a Notice of Contempt Hearing / Rule to Show Cause setting a hearing to determine if the person named in this Petition should be held in Contempt of Court.

Your Signature / Petitioner

Date

VERIFICATION of CONTEMPT PETITION

I, _____, after making an oath or affirmation to tell the truth, say that the facts I have stated in this Contempt Petition are true of my personal knowledge; and if I have set forth matters upon information given to me by others, I believe that information to be true.

Signature

Date

This Verification was sworn to or affirmed before me on the ____ day of _____, 200__.

Notary Public / Other Official

My commission expires:_____.