

CONTEMPT OF COURT

HELPFUL WEBSITES

www.courts.ca.gov - State Court - forms, etc.
www.kern.courts.ca.gov - Kern Court Website
www.kclawlib.org – Kern County Law Library
www.findlaw.com – Case Law
www.leginfo.ca.gov - Legislation/Codes
www.accesslaw.com - Forms, Cases, Codes

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.

Jury Trial: Constitutional Guarantees: “...However, the federal right to a jury trial applies if the court punishes multiple charges of civil contempt with a jail term longer than 6 months. [Codispoti v Pennsylvania \(1974\) 418 US 506, 41 L Ed 2d 912, 94 S Ct 2687](#). Thus, if the court desires the option of imposing a sentence longer than 6 months, it must permit the defendant to have a trial by jury; otherwise, the maximum punishment is 6 months. [In re Kreitman \(1995\) 40 CA4th 750, 755, 47 CR2d 595](#).” [Author’s Note: 6 months amounts to imprisonment of 35 counts x 5 days] (CEB ON-LINE §58.27)

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. The order must be valid and within the court's power to enter. [In re Misener \(1985\) 38 C3d 543, 213 CR 569](#); [In re Englebrecht \(1998\) 67 CA4th 486, 498, 79 CR2d 89](#).
2. The terms of the order must be specific and narrowly drawn and must be set by the court itself. [People v Moses \(1996\) 43 CA4th 462, 468, 50 CR2d 665](#) (no contempt for violation of visitation order as amplified by parents' agreement). Any ambiguity in the order must be resolved in favor of the alleged contemnor. [In re Marcus \(2006\) 138 CA4th 1009, 1014, 41 CR3d 861](#); [In re Blaze \(1969\) 271 CA2d 210, 212, 76 CR 551](#).
3. The order must be in writing and either filed with the clerk or entered in the court's minutes. [In re Marcus, supra](#) (oral stipulation and order insufficient); [Ketscher v Superior Court \(1970\) 9 CA3d 601, 604, 88 CR 357](#).

Of course, the order may not be one for which the legislature has excluded contempt as a sanction for a violation. See, e.g., [CCP §128\(f\)](#) and [Pen C §1203.1b\(d\)](#); [CCP§ 1209\(b\)](#) (Also see CEB On-Law §58.3 Limitations on Contempt Power)

A defendant may challenge the constitutional validity of any trial court order of contempt and may renew that challenge upon appellate review. [People v Gonzalez \(1996\) 12 C4th 804, 50 CR2d 74](#). (§58.6 CEB ON-LAW (2012)).

WHAT ORDERS ARE CONTEMPTABLE?

1. Civil Code of Procedure Section 1209 (et seq):
 - Disobedience of any lawful judgment, order, or process of the court.
2. Code of Procedure Section 1209.5:
 - Noncompliance with order for support of child.

*“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. Civil Code of Procedure Section 1210:
 - Re-entry after Judicial Ejection.

“Every person dispossessed or ejected from any real property by the judgment or process of any court of competent jurisdiction...reenters into or upon or takes possession of the real property...is guilty of a contempt of court...”

4. Civil Code of Procedure Section 1218.5:
 - Contempt for Failure to Pay Child, Family, or Spousal Support.

“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. Civil Code of Procedure Section 1218.5:
 - **Period of Limitation for Contempt Relating to Orders under Family Code.**

a) If the contempt alleges 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; and/or

b) *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.

Criminal contempt under [Pen C §166](#) is a misdemeanor. Proceedings under [§166](#) are conducted as in any misdemeanor. [In re Kreitman \(1995\) 40 CA4th 750, 755, 47 CR2d 595](#). The punishment is a maximum of 6 months in jail, a fine up to \$1000, or both. See [Pen C §19](#).

Proceedings for civil contempt are of two classes. The first type seeks to **preserve the power and vindicate the dignity of the court, and to punish anyone who disobeys the court's orders.** This type of contempt is criminal and punitive in nature.

The second type consists of actions instituted to **preserve and enforce the rights of the parties to suits, and to compel obedience to orders and decrees made to enforce the rights and administer the remedies to which the court has found the parties to be entitled. This type is remedial and coercive in nature;** the parties chiefly interested in its prosecution are the individuals whose rights and remedies the proceedings were instituted to protect or enforce, which may sometimes include prosecutors or other government agencies. [Morelli v Superior Court \(1969\) 1 C3d 328, 333, 82 CR 375](#); [Crawford v WCAB \(1989\) 213 CA3d 156, 165, 259 CR 414](#). (§58.4 CEB ON-LAW (2012)).

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

GETTING STARTED

1. The forms may be hand printed with black or blue ink. **READ THE FORMS CAREFULLY.**
2. There is an Affidavit for Contempt used for contempt to pay child support, spousal support, family support, attorney 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.

The insufficiency of the initiating affidavit cannot be cured by presenting proof of contempt at a hearing. [In re Cowan \(1991\) 230 CA3d 1281, 281 CR 740](#). (§58.31 CEB ON-LAW)).

3. **There is a FEE for filing the papers. If you cannot afford the filing fee, Fee Waiver forms are available. See current fee schedule for list of fees.**
(Fee Waiver & Order form number FW-001 & FW-003)

4. **PREPARE AND FILE ORDER TO SHOW CAUSE AND AFFIDAVIT FOR CONTEMPT:**
 - A. Complete and sign the forms:
 - a. **mandatory** Order to Show Cause and Affidavit for Contempt, FL-410;
 - b. Affidavit of Facts Constituting Contempt, Financial and Injunctive Orders, FL-411; and/or
 - c. Affidavit of Facts Constituting Contempt, Domestic Violence, Custody and Visitation, FL 412;
 - d. **optional** Income and Expense Declaration, FL-150 (when requesting for attorney's fees or cost);
 - e. provide other party *blank* Responsive Declaration, FL-320;
 - f. **mandatory** Proof of Personal Service, FL-330 (to be completed by server);
 - g. Any other documents, exhibits you think necessary to support the Contempt;
and
 - h. **(After Hearing) mandatory** Findings and Order Regarding Contempt, FL-415.
 - B. Make sufficient number of copies – original + 2 or 3;
 - C. Take Order to Show Cause and Affidavit for Contempt packet and copies with filing fee or Fee Waiver to Family Law. The Clerk will set the hearing date and stamp the copies.

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 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 with the blank Responsive Declaration is to be served on the opposing party **AT LEAST 21 CALENDAR DAYS** before the hearing date (CCP § 1005(b)). If the cite has an attorney, the attorney and cite needs to be served personally (CCP §§ 1015, 1016; see also FC § 215 (postjudgement proceedings));
- Server completes the Proof of Personal Service for each person served;
- YOU file the original and 1 copy of the Proof of Personal Service with the Family Law Clerk.

6. **GO TO THE HEARING AT THE APPOINTED TIME. PRESENT YOUR CASE AND MEET YOUR BURDEN OF PROOF – BEYOND A REASONABLE DOUBT:**

A. Basically, the rights of the alleged contemnor are the same as those of a criminal defendant, including the right to counsel, except that there is no general right to a jury trial. [CCP §1217](#); [Govt C §27706\(a\)](#); [In re Witherspoon \(1984\) 162 CA3d 1000, 209 CR 67](#); [In re Morelli \(1970\) 11 CA3d 819, 850, 91 CR 72](#). There is an exception: Alleged contemnors have the right to a jury trial if the potential jail sentence exceeds 6 months. [Mitchell v Superior Court \(1989\) 49 C3d 1230, 1243, 265 CR 144](#). (§58.32 CEB ON-LAW)

B. Practitioners are well advised to ask the court to clarify *at the beginning* of the contempt proceeding whether it will result in a punitive or a coercive order, so counsel will know who has the burden of proof. (§58.9 CEB ON-LAW).

C. The proponent of the contempt has the burden of proving every element necessary to show that contempt occurred. Those elements include a valid order, knowledge of the order, ability to comply, and willful disobedience of the order. [Anderson v Superior Court \(1998\) 68 CA4th 1240, 1245, 80 CR2d 891](#). (§58.9 CEB ON-LAW).

D. **DEFENSES:** inability to comply (preponderance of the evidence)(58.9 CEB ON-LAW).

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

a. **Punitive (criminal in nature):** Fine of up to \$1000 (generally payable to the court); imprisonment for up to 5 days, or both; pay reasonable attorney fees and costs (CCP §1218).

b. **Civil Coercive Contempt (Preserve and Enforce Rights of Parties);** 5 days in jail for each contempt; fine of up to \$1000; or both; imprisonment until contemnor performs act (CCP§1219(a)).

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

The order must recite a finding that the court has unmistakably found to be true all the facts constituting contempt of the court's authority, including the contemnor's knowledge of the prior order, ability to obey it, and willful disobedience. [In re Koehler \(2010\) 181 CA4th 1153, 1169, 104 CR3d 877](#); [Hanson v Superior Court \(2001\) 91 CA4th 75, 83, 109 CR2d 782](#). (§58.34 CEB ON-LAW)

FAMILY LAW COURTHOUSE IN KERN COUNTY

Kern County Superior Court
1215 Truxtun Avenue
Bakersfield, CA 93301
Branch Name: Metro-Justice Building
(661) 868-5393

Kern County Superior Court
132 East Coso Street
Ridgecrest, CA 93555
Branch Name: East Kern Division – Ridgecrest Branch
(760) 384-5900

Kern County Superior Court
325 Central Valley Highway
Shafter, CA 93263
Branch Name: North Kern Division – Shafter/ Wasco Branch
(661) 746-7500

Kern County Superior Court
1773 Highway 58
Mojave, CA 93501
Branch Name: East Kern Division – Mojave Branch
(661) 824-7100

Kern County Superior Court
1122 Jefferson Street
Delano, CA 93215
Branch Name: North Kern Division – Delano Branch
(661) 720-5800

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, state bar number, and address): YOUR NAME YOUR ADDRESS CITY, STATE, and ZIP CODE TELEPHONE NO.: PHONE NUMBER FAX NO.: ATTORNEY FOR (Name): IN PRO PER	FOR COURT USE ONLY
SUPERIOR COURT OF CALIFORNIA, COUNTY OF KERN STREET ADDRESS: (SEE ATTACHED LIST OF MAILING ADDRESS: KERN COURT'S ADDRESSES) CITY AND ZIP CODE: BRANCH NAME:	
PETITIONER/PLAINTIFF: PETITIONER'S NAME RESPONDENT/DEFENDANT: RESPONDENT'S NAME OTHER PARENT:	
ORDER TO SHOW CAUSE AND AFFIDAVIT FOR CONTEMPT	CASE NUMBER: CASE NUMBER

<p style="text-align: center;">NOTICE!</p> <p>A contempt proceeding is criminal in nature. If the court finds you in contempt, the possible penalties include jail sentence, community service, and fine.</p> <p>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.</p>	<p style="text-align: center;">¡AVISO!</p> <p>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.</p> <p>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.</p>
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1. TO CITEE (name of person you allege has violated the orders):
(NAME OF PERSON WHO VIOLATED COURT ORDERS)
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: **LEAVE BLANK** Time: **LEAVE BLANK** Dept.: **LEAVE BLANK** Rm.:

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

Date: CHECK IF YOUR ARE ATTACHING FL-411 or FL-412 _____
 JUDICIAL OFFICER

AFFIDAVIT SUPPORTING ORDER TO SHOW CAUSE FOR CONTEMPT

3. An Affidavit Supporting Contempt (form FL-411 or FL-412) is attached.
4. Citee has written the reasons of this court as set forth in this affidavit and any attached affidavits.

5. a. Citee had the ability to pay for the costs of this proceeding at the time the order was made.
 - (1) citee was able to pay for the costs of this proceeding 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):

CHECK THE BOXES THAT APPLY TO YOUR CASE ON #5a(1),(2),(3),(4)

IF YOU'VE CHECK #5a(4), YOU MUST SPECIFY IN THIS SPACE. SAMPLE STATEMENT: "CITEE HAD THE ABILITY TO PAY BUT WILLFULLY DISOBEYED THE COURT'S ORDER OF ___(DATE) or CITEE HAS FAILED TO ALLOW ME TO SEE MY CHILDREN PER THE COURT ORDER OF ___(DATE)."

- 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 CHECK 6a OR 6b test 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):

IF YOU'VE CHECK 6b, YOU MUST SPECIFY HERE THE DATE FILED AND RESULTS OF THAT CONTEMPT.

Continued on Attachment 6b.

PETITIONER/PLAINTIFF: PETITIONER'S NAME RESPONDENT/DEFENDANT: RESPONDENT'S NAME OTHER PARENT:	CASE NUMBER: CASE NUMBER
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7. Citee has previously been found in contempt of a court order (*specify case, court, date*):
(CHECK AND COMPLETE #7 IF THE PARTY WAS PREVIOUSLY FOUND IN CONTEMPT OF A COURT ORDER)

CHECK #8a, b, and/or c AND
 ATTACH FL-411 AND/OR FL-412
 AS NEEDED

8. Continued on Attachment 8a.
 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*):

SAMPLE STATEMENTS :

"THE CITEE, _____, FAILED TO MAKE COURT ORDERED CHILD SUPPORT PAYMENTS AS SPECIFIED ON THE DATES LISTED IN ATTACHMENT FL-411 (attach FL-411)"

---and/or---

"THE CITEE, _____, FAILED TO ALLOW ME TO SEE MY CHILDREN AS SPECIFIED ON THE DATES LISTED IN ATTACHMENT FL-412 (attach FL-412)"

Continued on Attachment 8c.
 d. Other material facts, including facts indicating that the violation of the orders was without justification or excuse (*specify*):

SAMPLE STATEMENT:

"THE CITEE HAS FAILED TO PAY CHILD SUPPORT AND CLAIMS TO HAVE NO FUNDS. HOWEVER, THE CITEE HAS HAD A HOME BUILT AND HAS PURCHASED THREE NEW CARS IN THE LAST SIX MONTHS. I AM INFORMED AND BELIEVE THAT THE CITEE HAS BEEN EMPLOYED DURING THE PERIOD OF THE VIOLATIONS. THIS DEMONSTRATES THE CITEE'S ABILITY TO COMPLY WITH THE COURT'S ORDER AND THE TOTAL DISREGARD FOR THAT ORDER. ON SEVERAL OCCASIONS, I HAVE VERBALLY REQUESTED PAYMENT BUT WAS TOLD I WOULD NEVER SEE A DIME OF IT." ***OR*******

"THE CITEE HAS FAILED TO ALLOW ME TO SEE MY CHILDREN ON THE SCHEDULED VISITATIONS. THERE ARE ALWAYS EXCUSES OF WHY THEY ARE NOT HOME DURING THE VISITATIONS. THIS IS FRUSTRATING AND DENYING ME MY VISITATION IS HURTING MY RELATIONSHIP WITH MY CHILDREN."

(COMPLETE THIS SECTION REGARDING FACTS THAT THE VIOLATION OF THE ORDERS WAS WITHOUT JUSTIFICATION OR EXCUSE.)

CHECK IF REQUESTING FOR ATTORNEY FEES AND COSTS AND ATTACH FL-150

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: **DATE YOU SIGN**

PRINT YOUR NAME _____
 (TYPE OR PRINT NAME)

SIGN HERE

**INFORMATION SHEET FOR ORDER TO SHOW CAUSE
AND AFFIDAVIT OF FACTS CONSTITUTING 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 OF FACTS CONSTITUTING 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 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 21 calendar days before the court 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: PETITIONER'S NAME RESPONDENT/DEFENDANT: RESPONDENT'S NAME OTHER PARENT:	CASE NUMBER: CASE NUMBER
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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
06/01/2011	CHILD SUPPORT 06/01/2011 FOR ALL ENTRIES	PETITIONER	200.00	0.00	200.00
07/01/2011		PETITIONER	200.00	0.00	200.00
08/01/2011		PETITIONER	200.00	0.00	200.00
09/01/2011		PETITIONER	200.00	0.00	200.00
10/01/2011		PETITIONER	200.00	0.00	200.00
11/01/2011		PETITIONER	200.00	0.00	200.00
<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: 6 COUNTS Spousal support: Family support: Attorney fees: Court and other costs:			1,200.00	0.00	1,200.00
Total			\$ 1,200.00	\$ 0.00	\$ 1,200.00

- b. Other orders (*specify which order was violated, how the order was violated, and when the violation occurred*):
(SAMPLE STATEMENT: "ON 06/01/2011, THE COURT MADE THE FOLLOWING ORDER: "RESPONDENT SHALL PAY CHILD SUPPORT IN THE AMOUNT OF \$200.00 PER MONTH TO PETITIONER COMMENCING 06/01/2011." CITEE FAILED TO PAY CHILD SUPPORT ON 06/01/2011; 08/01/2011; 09/01/2011; 10/01/2011; 11/01/2011)

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 6 OF THE PLEADINGS, RESPECTIVELY. THE RESPONDENT WAS PRESENT AT THE HEARING AND WILLFULLY DISOBEYED THE COURT 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: **DATE YOU SIGN**

PRINT YOUR NAME _____
 (TYPE OR PRINT NAME)



 (SIGNATURE)

PETITIONER/PLAINTIFF: PETITIONER'S NAME RESPONDENT/DEFENDANT: RESPONDENT'S NAME OTHER PARENT:	CASE NUMBER: CASE NUMBER
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(CHECK AND COMPLETE AS 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)*: **06/01/2011** by violating the following custody or visitation order *(specify which order was violated, how the order was violated, and when the violation occurred)*:
ON 06/01/2011, 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: **DATE YOU SIGN**

PRINT YOUR NAME _____
(TYPE OR PRINT NAME)

(SIGNATURE)

SHORT TITLE: PETITIONER'S NAME VS. RESPONDENT'S NAME	CASE NUMBER: CASE NUMBER
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"ATTACHMENT 6, FL-412"

THE RESPONDENT HAS HAD COURT ORDERED SCHEDULED VISITATION ON 06/18/2011, 07/16/2011, 08/20/2011, 09/17/2011, AND 10/15/2011. THE PETITIONER HAS CONTINUALLY FAILED TO ALLOW ME TO SEE MY CHILDREN ON THESE DATES.

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

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

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

Page _____

ATTORNEY OR PARTY WITHOUT ATTORNEY OR GOVERNMENTAL AGENCY (under Family Code, §§ 17400, 17406) <i>(Name, State Bar number, and address).</i>	FOR COURT USE ONLY
YOUR NAME YOUR ADDRESS CITY, STATE, and ZIP CODE TELEPHONE NO.: PHONE NUMBER FAX NO.: ATTORNEY FOR (Name): IN PRO PER	
SUPERIOR COURT OF CALIFORNIA, COUNTY OF KERN STREET ADDRESS: (SEE ATTACHED LIST OF MAILING ADDRESS: KERN COURT'S ADDRESSES) CITY AND ZIP CODE: BRANCH NAME:	
PETITIONER/PLAINTIFF: PETITIONER'S NAME RESPONDENT/DEFENDANT: RESPONDENT'S NAME OTHER PARENT/PARTY:	CASE NUMBER: CASE NUMBER <i>(If applicable, provide):</i> HEARING DATE: DATE OF HEARING HEARING TIME: TIME OF HEARING DEPT.: DEPARTMENT NUMBER
PROOF OF PERSONAL SERVICE	

1. I am at least 18 years old, not a party to this action, and not a protected person listed in any of the orders.
2. Person served (name): **OTHER PARENT'S NAME (IF DCSS INVOLVED, COMPLETE A SEPARATE ONE FOR DCSS)**
3. I served copies of the following documents (specify):
ORDER TO SHOW CAUSE AND AFFIDAVIT FOR CONTEMPT; AFFIDAVIT OF FACTS CONSTITUTING CONTEMPT; BLANK RESPONSIVE DECLARATION

(LIST THE NAMES OF ANY OTHER ATTACHMENTS TO THE ORDER TO SHOW CAUSE)
4. By personally delivering copies to the person served, as follows:
 - a. Date: **DATE PERSON SERVED** b. Time: **TIME PERSON SERVED**
 - c. Address: **ADDRESS OR LOCATION WHERE THE PERSON WAS SERVED INCLUDING CITY, STATE, AND ZIP CODE**
5. I am

<ol style="list-style-type: none"> a. <input checked="" type="checkbox"/> not a registered California process server. b. <input type="checkbox"/> a registered California process server. c. <input type="checkbox"/> an employee or independent contractor of a registered California process server. 	<ol style="list-style-type: none"> d. <input type="checkbox"/> exempt from registration under Business & Profession Code section 22350(b). e. <input type="checkbox"/> a California sheriff or marshal.
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6. My name, address, and telephone number, and, if applicable, county of registration and number (specify):
SERVER'S NAME
STREET ADDRESS
CITY, STATE, AND ZIP CODE
PHONE NUMBER
7. I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.
8. I am a California sheriff or marshal and I certify that the foregoing is true and correct.

Date: **DATE SERVER SIGNS THIS FORM**

PRINT SERVER'S NAME _____
 (TYPE OR PRINT NAME OF PERSON WHO SERVED THE PAPERS)

SERVER SIGNS HERE _____
 (SIGNATURE OF PERSON WHO SERVED THE PAPERS)

ATTORNEY OR PARTY WITHOUT ATTORNEY <i>(Name, State Bar number, and address):</i> TELEPHONE NO.: _____ FAX NO. <i>(Optional):</i> _____ E-MAIL ADDRESS <i>(Optional):</i> _____ ATTORNEY FOR <i>(Name):</i> _____	FOR COURT USE ONLY (LEAVE BLANK, TO BE SERVED WITH FILED COPY OF ORDER TO SHOW REGARDING CONTEMPT)
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
PETITIONER/PLAINTIFF: RESPONDENT/DEFENDANT: OTHER PARTY:	
RESPONSIVE DECLARATION TO REQUEST FOR ORDER	CASE NUMBER: _____
HEARING DATE: _____ TIME: _____ DEPARTMENT OR ROOM: _____	

1. **CHILD CUSTODY**
 - a. I consent to the order requested.
 - b. I do not consent to the order requested, but I consent to the following order:

2. **CHILD VISITATION (PARENTING TIME)**
 - a. I consent to the order requested.
 - b. I do not consent to the order requested, but I consent to the following order:

3. **CHILD SUPPORT**
 - a. I consent to the order requested.
 - b. I consent to guideline support.
 - c. I do not consent to the order requested, but I consent to the following order:
 - (1) Guideline
 - (2) Other *(specify):*

4. **SPOUSAL OR PARTNER SUPPORT**
 - a. I consent to the order requested.
 - b. I do not consent to the order requested.
 - c. I consent to the following order:

PETITIONER/PLAINTIFF: RESPONDENT/DEFENDANT: OTHER PARTY:	CASE NUMBER:
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- 5. **ATTORNEY'S FEES AND COSTS**
 - a. I consent to the order requested.
 - b. I do not consent to the order requested.
 - c. I consent to the following order:

- 6. **PROPERTY RESTRAINT**
 - a. I consent to the order requested.
 - b. I do not consent to the order requested.
 - c. I consent to the following order:

- 7. **PROPERTY CONTROL**
 - a. I consent to the order requested.
 - b. I do not consent to the order requested.
 - c. I consent to the following order:

- 8. **OTHER RELIEF**
 - a. I consent to the order requested.
 - b. I do not consent to the order requested.
 - c. I consent to the following order:

- 9. **SUPPORTING INFORMATION**
 - Contained in the attached declaration. (You may use *Attached Declaration* (form MC-031) for this purpose).

NOTE: To respond to domestic violence restraining orders requested in the *Request for Order (Domestic Violence Prevention)* (form DV-100), you must use the *Answer to Temporary Restraining Order (Domestic Violence Prevention)* (form DV-120).

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

Date:

_____ _____
(TYPE OR PRINT NAME) (SIGNATURE OF DECLARANT)

PETITIONER/PLAINTIFF: PETITIONER'S NAME RESPONDENT/DEFENDANT: RESPONDENT'S NAME OTHER PARENT:	CASE NUMBER: CASE NUMBER
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7. a. Citee is not guilty of contempt of court for the following counts (defaults/violations) alleged in the *Order to Show Cause and Affidavit for Contempt* (form FL-410) (*specify*): **(COUNT 1)**
- b. Citee has a previous finding of contempt (*specify*):
8. Citee waived time for sentencing.
9. Citee waived time for trial.
10. Citee failed to appear as ordered.
11. Other (*specify*):

THE COURT ORDERS

12. a. That the following counts alleged in the *Order to Show Cause and Affidavit for Contempt* (form FL-410) (*specify*): **(COUNT 1)**
 are dismissed with prejudice without prejudice.
- b. That the request to dismiss the following counts alleged in the *Order to Show Cause and Affidavit for Contempt* (form FL-410) (*specify*): is denied.
13. Citee must perform _____ hours of community service for counts (*specify*):
- a. To commence on (*date*): _____ to be completed by (*date*): _____
 Citee must report to (*specify*): _____
 on (*date*): _____ at (*time*): _____
- b. Citee must pay an administrative fee of \$ _____
 as determined by the community service agency
14. Citee must serve **72** hours in the county jail for counts (*specify*): **(1, 2, 3, 4, AND 5)**
- To commence on (*date*): **(12/01/2011)** to be completed by (*date*): _____
 Citee must report to (*specify*): _____
 on (*date*): _____ at (*time*): _____
15. Citee must pay:
- a. attorney fees in the total amount of \$ **(5000.00)** payable to (*specify name*): **(LIST ATTORNEY'S NAME)**
- b. fines in the total amount of \$ **(100.00)**
16. a. The contempt proceedings are suspended on condition that citee comply with all terms and conditions of this order.
- b. Imposition of sentence is suspended on condition that citee comply with all terms and conditions of this order.
17. Execution of sentence for hours of community service hours in county jail will be suspended for a period of _____ and citee is placed on court probation on condition that citee comply with all terms and conditions of this order, and
- a. Comply with current support order.
- b. Pay at least \$ _____ per month on current support order, payable to (*specify name*): _____ commencing (*date*): _____
- c. Pay at least \$ _____ per month on arrears commencing (*date*): _____
- d. Serve any remaining hours not suspended as specified in items 13 and 14.
18. Citee must seek and maintain employment and must keep written records, copies of which must be forwarded by the 5th day of each month as follows to the Local Child Support Agency court other (*specify*):
- a. Records of efforts to gain employment must include the name, address, and telephone numbers of individuals and firms contacted regarding employment, the dates of such contact and the anticipated results.
- b. Records of all actual employment must include the name of the employer, dates, and hours worked and the gross and net amounts of income from each employer.

PETITIONER/PLAINTIFF: PETITIONER'S NAME RESPONDENT/DEFENDANT: RESPONDENT'S NAME OTHER PARENT:	CASE NUMBER: CASE NUMBER
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19. Orders for payments required to be made as conditions of probation or suspension of sentence in this order do not modify a court ordered support obligation.
20. Citee must provide written notification to the superior court clerk of any change in residence and to
 the local child support agency the other party
 of any change of residence, income, or employment within 10 days of the change.
21. A wage and earnings assignment will issue.
22. This matter is continued to *(date)*: _____ at *(specify time)*: _____
 in court department *(specify)*: _____ room *(specify)*: _____ of this court for further hearing
 compliance review. Citee is ordered to personally appear in court on that date and time.
WARNING: Failure to appear may result in issuance of a bench warrant for citee's arrest.
23. A *Warrant of Attachment* will issue for citee's arrest. Bail is set in the sum of: \$ _____
 Execution of the *Warrant of Attachment* is stayed until *(date)*: _____
 at *(specify court name)*: _____
24. Other *(specify)*:
(LIST ANY OTHER ORDERS THAT THE JUDGE ORDERED AT THE TIME OF THE TRIAL)

25. Number of pages attached: _____

Date: **LEAVE BLANK**

LEAVE BLANK - TO BE SIGNED BY JUDICIAL OFFICER
(JUDICIAL OFFICER OF THE SUPERIOR COURT)

Signature follows last attachment

Approved as conforming to court order and findings:
 Date: _____

▶ _____
(SIGNATURE OF ATTORNEY FOR CITEE)

The citee agrees to the above terms:
 Date: _____

▶ _____
(SIGNATURE OF CITEE)