

WAKE COUNTY FAMILY COURT INSTRUCTIONS: MOTION FOR ORDER TO SHOW CAUSE AND MOTION FOR CONTEMPT

STEP 1 THE DOCUMENTS YOU NEED TO COMPLETE FOR SHOW CAUSE

- [Motion for Order to Show Cause and Motion for Contempt \(WAKE-DOM-05A\)](#)
- A copy of the original Court Order that is not being followed
- [Order to Appear and Show Cause \(WAKE-DOM-05B\)](#)
- [Custody Mediation Cover Sheet \(WAKE-DOM-06\)](#)
- [Order to Attend \(WAKE-DOM-07\)](#)

STEP 2 COMPLETING & FILING YOUR DOCUMENTS

1. You may handwrite or type the information required in these forms. It is preferred that you TYPE the information.
2. Please note that the *Motion for Order to Show Cause and Motion for Contempt* contains a “Verification” section which must be signed in the presence of a Notary Public. There are no notaries in the Family Court Office.
3. There may be a filing fee for this motion. To determine the amount of the fee, please refer to www.nccourts.org/Courts/Trial/Costs or contact the Clerk’s Office at (919) 792-4125.
4. Take the **original plus 3 copies** of all the documents you have completed to the Clerk’s Office in Room 102 of the Wake County Courthouse for filing. Please note that the Family Court Office cannot make photocopies for you. **If you do not bring the appropriate number of copies at the time of filing, the clerk’s office will make your copies at a cost of \$2.00 for the first page, and \$0.25 for each additional.**
5. The Clerk’s Office will file stamp the original and all copies of the **Motion only** (**do not** stamp the *Custody Mediation Cover Sheet* (WAKE-DOM-06), *Order to Attend* (WAKE-DOM-07), *Order to Appear and Show Cause* (WAKE-DOM-05B) or your underlying Order).
6. Take **1** copy of your *Motion for Order to Show Cause* (*including a copy of the underlying Court Order that is not being followed*), **3** copies of the *Order to Appear and Show Cause*, and, if applicable, **3** copies of both the *Custody Mediation Cover Sheet* and *Order to Attend* to your Assigned Judge’s Family Court Case Coordinator in Room 1112. If you have filed a *Motion and Order to Waive Custody Mediation* (AOC-CV-632), you should *also* have 3 copies of this Motion.

STEP 3

THE JUDGE’S DECISION REGARDING YOUR MOTION

1. Your Family Court Case Coordinator will contact you once your Judge renders his/her decision.
2. You must then return to the Family Court Office to retrieve your documents, and, if applicable, obtain a mediation date from the Custody Mediation Office on the 6th floor (919-792-4425).

STEP 4

SERVING THE OTHER PARTY

You are now ready to serve the other party. See Rules 4 and 5 of the North Carolina Rules of Civil Procedure regarding process and service and filing of pleadings and other papers. A copy of the North Carolina Rules of Civil Procedure is available on this website under *Domestic Rules & Forms*. If you are unclear as to how to serve the other party, you should speak to an attorney.

STEP 5

CUSTODY MEDIATION

Rule 8 of the Tenth Judicial District Family Court Rules for Domestic Court sets forth the procedures involved in Custody Mediation. A copy of the Tenth Judicial District Family Court Rules for Domestic Court is available on this website under *Domestic Rules & Forms*. If you have any questions about Custody Mediation, you may contact the Custody Mediation Office at (919) 792-4425.

STEP 6

APPEARING AT COURT ON THE DAY OF YOUR HEARING

1. The *Order to Appear and Show Cause* (WAKE-DOM-05B) will contain two court dates: one for an Advisement Hearing which the moving party does NOT need to attend. The second date is for the Show Cause Hearing, at which testimony will be taken and evidence may be produced.
2. Calendar call for both hearings will take place at 9:00 a.m. on the dates set forth in the *Order to Appear and Show Cause*. Please arrive at the assigned courtroom no later than 8:45 a.m. Make sure you allow yourself ample time to find parking (either on-street or in one of the public garages), go through courthouse security, and take the busy elevators up to your judge’s courtroom on the 2nd floor. It is recommended that you arrive downtown no later than 8:15 a.m. on the date of your hearing.
3. At calendar call, your Judge will tell you what time your case will be heard, or if your Show Cause Hearing is not reached, you may reschedule the hearing.
4. Your hearing will then be conducted. At the conclusion of the hearing, your Judge will render his/her ruling, or take the matter under advisement and announce his/her ruling at a later date.

STEP 7

FINAL SHOW CAUSE ORDER

1. Your Judge will then typically prepare a final order concerning the Show Cause. If one of the parties is represented by an attorney, the Judge may request that the attorney prepare a proposed order for the Judge's signature. Make sure that the opposing party's attorney has your address, telephone number, facsimile number, email address and any other pertinent contact information so that the attorney can share with you a proposed draft order prior to submission to the Judge. If there is no attorney on the other side, make sure that your contact information is correct in the Court file.
2. Your Family Court Case Coordinator will contact the parties when the final Order has been signed by the Judge. You (the moving party) will need to pick the Order up from the Family Court Office in Room 1112, and *serve* the other party with a copy.

QUESTIONS

After reading these instructions and reviewing the forms and all relevant statutory laws and procedural rules, if you feel that you are unable to represent yourself or complete the paperwork **ON YOUR OWN** (note: Family Court staff **CANNOT** assist you in preparing your paperwork), or if any of the instructions are unclear to you, you should speak with an attorney. If at any point during the process you should wish to proceed with the help of an attorney, please contact a private attorney directly. Some resource information is also available on this website under *Domestic Attorneys in Wake County*.

NORTH CAROLINA
COUNTY OF WAKE

IN THE GENERAL COURT OF JUSTICE
DISTRICT COURT DIVISION
FILE NO. _____

Assigned Judge: _____

_____, Plaintiff, v. _____, Defendant.
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**MOTION FOR ORDER TO SHOW CAUSE
AND
MOTION FOR CONTEMPT**

Name, address, telephone number of Plaintiff:

Name, address, telephone number of Defendant:

The undersigned, being first duly sworn, hereby moves the Court to require the Plaintiff Defendant to appear and show cause why he/she should not be held in contempt for failing to comply with a prior order of this Court dated _____. **A copy of this order is attached.**

IN THE ALTERNATIVE, the undersigned, being first duly sworn, hereby moves pursuant to North Carolina General Statutes § 5A-23(a1) that the Plaintiff Defendant be held in civil contempt for failing to comply with a prior order of this Court dated _____. **A copy of this order is attached.**

1. By the Order of this Court referenced above, the Plaintiff Defendant was required to:

2. The Plaintiff Defendant has willfully failed to comply with that Order in that:

3. I am informed and believe that the Plaintiff Defendant has the means to comply with that Order.

4. I am requesting an award of attorney's fees for the prosecution of this motion –
 Yes No. *(choose one)*

5. A Parenting Coordinator has been appointed in this case – Yes No. *(choose one)*

6. If the answer to #5 is yes, and the issue relates to custodial provisions in the Order, I have submitted these issues to the Parent Coordinator prior to filing this Motion - Yes No. *(choose one)*

Date: _____

Plaintiff Defendant

Other: _____

Daytime Telephone Number: _____

Email Address: _____

NORTH CAROLINA

VERIFICATION

COUNTY OF WAKE

_____, being first duly sworn, deposes and says that he/she is the Plaintiff Defendant in the above-entitled action, that he/she has read the foregoing document and knows the contents thereof, that the same are true of his/her own knowledge, except as to those matters and things stated upon belief, and as to those matters and things, he/she believes them to be true.

Date: _____

Plaintiff Defendant

NORTH CAROLINA

COUNTY OF _____

I certify that the following person personally appeared before me this day, and I have personal knowledge of the identity of the principal; *or* I have seen satisfactory evidence of the principal's identity, by a current state or federal identification with the principal's photograph in the form of a _____; *or* a credible witness has sworn to the identity of the principal; acknowledging to me that he/she voluntarily signed the foregoing document for the purpose stated therein, and in the capacity indicated: _____

Date: _____

(Official Signature of Notary Public)

_____, Notary Public
(Typed or Printed Name of Notary Public)

(Official Seal)

My commission expires: _____

CERTIFICATE OF SERVICE

I hereby certify that a copy of this Motion for Order to Show Cause and Motion for Contempt has been served pursuant to Rule 4 on the opposing party in the following manner:

By Sheriff

By certified mail properly addressed, to:

Other: _____

Date: _____

Plaintiff

Attorney for Plaintiff

Other: _____

Defendant

Attorney for Defendant

NORTH CAROLINA
COUNTY OF WAKE

IN THE GENERAL COURT OF JUSTICE
DISTRICT COURT DIVISION

FILE NO. _____

Assigned Judge: _____

_____ Plaintiff,	
v. _____ Defendant.	

ORDER TO APPEAR AND SHOW CAUSE

TO THE PLAINTIFF DEFENDANT NAMED ABOVE:

Name and address of Person to be Served:

The Court finds probable cause to believe that you are in civil or criminal contempt for failing to comply with the Court's order as specified in the Motion for Order to Show Cause and Motion for Contempt (DATED: _____), **a copy of which is attached.** You are hereby ordered to appear at the dates, times and places set out below to show cause, if any, why the Court should not enter an order holding you in civil or criminal contempt. Your failure to appear as ordered may result in the issuance of an Order for Arrest.

ADVISEMENT HEARING:

At this hearing you will be advised of your legal rights regarding counsel. **The Moving Party is not required to be present for this hearing.**

<u>Date of Hearing</u>	<u>Time of Hearing</u>	<u>Length of Hearing</u>	Wake County Courthouse, Courtroom _____ 316 Fayetteville Street Raleigh, North Carolina 27601
	<input type="checkbox"/> a.m. <input type="checkbox"/> p.m.		

SHOW CAUSE HEARING:

<u>Date of Hearing</u>	<u>Time of Hearing</u>	<u>Length of Hearing</u>	Wake County Courthouse, Courtroom _____ 316 Fayetteville Street Raleigh, North Carolina 27601
	<input type="checkbox"/> a.m. <input type="checkbox"/> p.m.		

This the _____ day of _____, 20_____.

DISTRICT COURT JUDGE

CERTIFICATE OF SERVICE

I hereby certify that a copy of this Order to Appear and Show Cause has been served on the opposing party/counsel in the following manner:

By depositing a copy in the US Mail in a properly addressed, postpaid envelope to: _____

By certified mail, return receipt requested to: _____

[Note: the return receipt green card must be filed with the clerk's office to show proof of service]

By Sheriff to: _____

By facsimile to: _____ Fax No.: _____

Other: _____

Date: _____

Plaintiff

Defendant

Attorney for Plaintiff

Attorney for Defendant

SHERIFF COMPLETES THE FORM BELOW THIS BOX

I certify that this Order to Appear and Show Cause was received and served as follows:

Date Served:	Name of Obligor:
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By delivering to the Obligor named above a copy of this Order.

By leaving a copy of this Order at the dwelling house or usual place of abode of the obligor named above with a person of suitable age and discretion then residing therein.

Name And Address Of Person With Whom Copies Left:

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The obligor **WAS NOT** served for the following reason: _____

Date Received:	Name Of Sheriff:
Date Of Return:	County:
Service Fee:	Deputy Sheriff Making Return:

Assigned Judge: _____

_____, Plaintiff,
v.
_____, Defendant.

CUSTODY MEDIATION COVER SHEET

1. Have the parties previously attended a group orientation? YES NO
2. Have the parties previously attended custody/visitation mediation? YES NO
3. Is there a current, unexpired civil or criminal domestic violence order involving the same parties in North Carolina or any other State? YES NO
4. If yes, what is the file number? _____
5. Do either of the parties need an interpreter? YES NO
6. Which party needs an interpreter? Plaintiff Defendant
7. What language(s) does the party speak? _____

Instructions: Please COMPLETELY fill out the contact information for both parties and attorneys. All boxes must be completed for orientation and/or mediation to be scheduled.

Plaintiff's Address:	Defendant's Address:
Plaintiff's Telephone Number:	Defendant's Telephone Number:
Plaintiff's Email Address:	Defendant's Email Address:
Attorney for Plaintiff's Name and Address:	Attorney for Defendant's Name and Address:
Attorney for Plaintiff's Telephone Number:	Attorney for Defendant's Telephone Number:

Date: _____

Plaintiff Defendant
 Attorney for Plaintiff Attorney for Defendant

CUSTODY MEDIATION/FAMILY COURT OFFICE USE ONLY	
Orientation Date:	Mediation Date:

NORTH CAROLINA
COUNTY OF WAKE

IN THE GENERAL COURT OF JUSTICE
DISTRICT COURT DIVISION
FILE NO. _____

Assigned Judge: _____

Plaintiff,
v.

Defendant.

**ORDER TO ATTEND CHILD CUSTODY MEDIATION
ORIENTATION and PARENTING EDUCATION**

(A copy of this form **MUST** be sent by the Moving Party to the other parties and it shall operate as an Order to Attend for all parties.)

THIS MATTER comes before the undersigned Judge of the District Court, and the Court hereby FINDS that pursuant to N.C.G.S. §50-13.1, the child custody and / or visitation issues in this case have been referred to mandatory custody mediation and parenting education, and ORDERS that:

The parties named above are to appear for and participate in Custody Mediation Orientation and Parenting Education (CMO/PE) on **Wednesday**, _____ at **10:00 a.m.** by joining the Zoom link (an internet-based video conferencing tool) below. **ALL** parties will participate via videoconference. The CMO/PE session is scheduled for approximately **2 hours**. To complete the CMO/PE requirement:

- Prior to** the date and time above, **complete and return** the Custody Mediation Intake Form
 - Download a copy to your computer: <https://www.nccourts.gov/documents/forms/custody-mediation-intake-form>. Complete the form and save the completed form to your computer.
 - Attach a copy of the form to an email and send it to D10.custodymediation@nccourts.org
- Prior to** the date and time above, **click** the links below and **review** each booklet:
 - [Putting Children First: Orientation Booklet for Families in Transition](https://www.nccourts.gov/documents/publications/putting-children-first-orientation-booklet-for-families-in-transition) or copy and paste: <https://www.nccourts.gov/documents/publications/putting-children-first-orientation-booklet-for-families-in-transition>
 - [The Most Important Job: Parenting Information for Families Living Apart](https://www.nccourts.gov/documents/publications/the-most-important-job-parenting-information-for-families-living-apart-north-carolina-parent-education-handbook) or copy and paste: <https://www.nccourts.gov/documents/publications/the-most-important-job-parenting-information-for-families-living-apart-north-carolina-parent-education-handbook>
- On the date above**, sign into the videoconference and attend the Zoom CMO/PE session until the end. Use the following information to join the videoconference no later than **10:00 a.m.** You are advised to begin the process 15 minutes before the videoconference to allow time for the application to download.
 - Use this link to join from PC, Mac, Linux, iOS or Android:
<https://nccourts.zoom.us/j/98425682467> Meeting ID: 98425682467
 - Use phone numbers below only if you cannot connect **both** audio and video through your device using the link above. Dial: (669) 900-6833 (US Toll) or (646) 876-9923 (US Toll).

This video-conferenced orientation is for the purpose of resolving child custody. Only the plaintiff(s) and defendant(s) listed in the caption above are allowed to be at orientation. No children, family, friends, personal interpreters (unless court approved), nor attorneys may attend. The CMO/PE session may not be recorded. Do not participate in the videoconference in a running vehicle or in any unsafe situation.

Contact the Custody Mediation Office at D10.custodymediation@nccourts.org.

FAILURE BY EITHER PARTY TO COMPLY WITH THIS COURT ORDER MAY RESULT IN SANCTIONS, INCLUDING THE CONTEMPT POWERS OF THE COURT.

/s/ Ned Mangum

Ned Mangum
Chief District Court Judge
10th Judicial District

CERTIFICATE OF SERVICE

I hereby certify that a copy of this Order to Attend has been served on the opposing party/counsel in the following manner:

By depositing a copy in the US Mail in a properly addressed, postpaid envelope to: _____

By certified mail, return receipt requested to: _____

[Note: the return receipt green card must be filed with the clerk's office to show proof of service]

By Sheriff to: _____

By facsimile to: _____ Fax No.: _____

Other: _____

Date:

Plaintiff
 Attorney for Plaintiff

Defendant
 Attorney for Defendant

SHERIFF COMPLETES THE FORM BELOW THIS BOX

I certify that this Order to Attend was received and served as follows:

Date Served:	Name of Responding Party:
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By delivering to the Responding Party named above a copy of this Order.

By leaving a copy of this Order at the dwelling house or usual place of abode of the Responding Party named above with a person of suitable age and discretion then residing therein.

Name And Address Of Person With Whom Copies Left:

The Responding Party **WAS NOT** served for the following reason:

Date Received:	Name Of Sheriff:
Date Of Return:	County:
Service Fee:	Deputy Sheriff Making Return: