

Respond to a motion for contempt

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What can happen and how to respond if the other party claims you're not following (not obeying) a court order. (Forms and instruction)

1. Fast facts

Why did I get contempt papers?

If you received a Motion or Petition for Contempt for not obeying a court order, it's because the person who filed it believes that you're purposely not following the court's order. They're asking a judge to find you "in contempt" of the order.

A party can file a **Motion** for Contempt in the same court and case number as the order they want to enforce. The Prosecuting Attorney can start a new case with a **Petition** for Contempt to

enforce a child support order for the Division of Child Support. The process to respond is the same. We'll use the word "motion" here to refer to a petition or motion for contempt.

Do I have to respond to a motion for contempt?

Sí. No ignore estos papeles. Si no responde a tiempo, la otra parte probablemente obtendrá lo que está pidiendo.

¡Averigüe cuál es su plazo! El plazo para responder a las peticiones varía de un condado a otro. El plazo puede variar de **1 semana a 1 día** antes de la audiencia. Puede que no figure en los documentos que ha recibido. Póngase en contacto con la Oficina de la Secretaría del Tribunal Superior (https://www.courts.wa.gov/court_dir/?fa=court_dir.county) o con el Facilitador del Tribunal (https://www.courts.wa.gov/court_dir/?fa=court_dir.facils) para preguntar cuál es el plazo para responder. Dígale al funcionario de la secretaría qué tipo de petición ha recibido y cuándo será la audiencia.

Si cree que necesita más tiempo para responder, igual debería prepararse para la audiencia lo mejor que pueda. También comuníquese con la otra parte para ver si estarían de acuerdo en cambiar (aplazar) la audiencia para una fecha posterior.

If you can't respond in time, you can file a **Notice of Appearance** and ask the judge to reschedule your hearing to a later date. If the judge doesn't reschedule, you must go to the hearing as scheduled and be as ready as possible. If you don't go to the hearing, the judge might issue a bench warrant for your arrest.

Do I have a right to a free lawyer?

Sometimes the judge can send you to jail for contempt. If you receive **contempt papers asking for jail time** and you have a low income, you may have a "right to counsel" – a lawyer that you don't have to pay.

To find out if you qualify for a public defender or court-appointed attorney, contact your local public defender office (<http://www.opd.wa.gov/index.php/public-defender-offices>). If there's no local public defender, ask your family law facilitator (https://www.courts.wa.gov/court_dir/?fa=court_dir.facils), if your county has one, or your court clerk for a referral. If this doesn't work, ask for a court-appointed lawyer in your response and at the start of your hearing.

The public defender will probably represent you only for the contempt hearing. The public defender won't help you file your own motion or other action, such as a petition to modify child support order.

Even if you don't qualify for a public defender, you should still try to talk to a lawyer. A lawyer can advise you about important legal rights. **Example:** You might want to file your own motion for contempt or ask for a change in the order the other party claims you've violated. A lawyer can advise you what to do.

2. Step-by-step

Follow these steps to respond to a motion or petition for contempt.

Pregunte en la oficina de la secretaría judicial o al facilitador de la ley de la familia (https://www.courts.wa.gov/court_dir/?fa=court_dir.facils) (si lo hay) sobre cualquier requisito local que pudiera tener que seguir aparte de los pasos que indicamos aquí.

¿Necesita intérprete? Usted tiene derecho a los servicios de un intérprete en el juzgado sin costo alguno para usted. Cada juzgado debe tener una persona de contacto para solicitar intérpretes. Tan pronto se entere de una cita en el juzgado, póngase en contacto con el juzgado para pedir un intérprete.

¿Y si necesito una acomodación para una discapacidad? Pida una acomodación para una discapacidad que limite su capacidad de participar en el juicio. Cada juzgado debe tener una persona de contacto para las solicitudes de ADA. Puede usar el formulario estatal de Solicitud de Acomodación (<https://www.courts.wa.gov/forms/?fa=forms.contribute&formID=71>) . Tan pronto se entere de una cita en el juzgado, póngase en

contacto con el juzgado para pedir esto.

1. **Read the papers you received.** They should include an Order to Go to Court for Contempt Hearing (Order to Show Cause), which will list a court date. You may also have received other documents. **Read everything you were served with.**
2. **Gather your evidence and write a declaration.** You can write and file a declaration explaining why you're not in contempt of the court order.

You can also have other people write declarations if they have helpful information. Think carefully about what information can help show what you are telling the judge is correct, or what the other side is saying isn't true.

If you have other documents that help prove your points, you can attach them as "Exhibits" to your declaration. Organize your Exhibits so the judge can understand them. Add labels and dates to pictures, texts or emails.

Examples to attach as Exhibits: text messages, photos, bills, school grades, daycare records, criminal history, law enforcement records.

Algunos documentos confidenciales deben presentarse por separado bajo una portada bajo sello. Esto los mantiene fuera del archivo público del tribunal. No obstante, igual deberá realizar la notificación oficial de estos documentos a la otra parte. **Ejemplos:** talones de pago, declaraciones de impuestos, estados de cuentas bancarias, extractos de prestaciones, historiales médicos o de tratamientos, registros de educación especial, evaluaciones o informes confidenciales

Si teme por su seguridad o la de sus hijos, puede bloquear la información que identifique su ubicación en las copias que presente ante el tribunal y entregue a la otra parte.

If you received a **Petition** for Contempt from the State (on behalf of DCS), you should also file a Notice of Appearance. If the State gave you a Response to Petition form, fill that out too.

3. **Haga copias.** Haga copias. Debe tener una copia de cada formulario que haya completado para usted, una para el juez y una para cada parte involucrada en su caso.

Organice las copias en juegos de documentos, de manera que tenga un juego para cada persona que los necesite. No es necesario que proporcione a la otra parte una copia del comprobante de envío por correo o de la notificación personal. Coloque cada juego de documentos en un sobre dirigido a cada una de las partes, con su dirección como remitente. Estos juegos de documentos serán utilizados para la

notificación oficial.

4. **File with the court clerk by the response deadline.** File the originals with the Superior Court Clerk. Ask the clerk to stamp your copies to show the date you filed the originals. Take the stamped copies back from the clerk. The clerk keeps the original.

Deliver working copies to the judge, if required in your county.

5. **Have copies served on the other party by the response deadline.**

If the other party has a lawyer, serve the lawyer instead.

Unless there's a restraining order against you, you can serve the papers yourself, but it is better to have someone else do it. Ask an adult friend or relative to do it for you.

You can serve by hand delivery or first class mail. You can only serve by email or fax if the other party has put in writing that they agree to accept legal papers for this case in that way. Follow the rules to serve papers after a case starts.

6. **Haga que el notificador llene el Comprobante de Envío por Correo o Entrega en Mano.** Haga dos copias. Presente el original en la Secretaría del Tribunal Superior. Lleve sus copias a la audiencia.

7. **Go to the hearing.** Read chapter 4 for how to get ready and what to expect at the hearing.
8. **Get copies of any orders the judge signs.** Ask the clerk how to get the copies you need.

If the judge found you in contempt, the Contempt Hearing Order should say how you can correct (purge) the contempt. The judge may have set a review hearing to see if you're following the order. You risk further punishment if you don't correct the contempt or attend future hearings. Ask the judge if you're not sure what you need to do to follow the order.

9. **Si no está de acuerdo con la decisión del juez, trate de hablar con un abogado de inmediato**

Tal vez quiera presentar una petición de modificación o reconsideración. Estas peticiones tienen que presentarse dentro del **plazo de 10 días** desde que se dictó la orden que desea cambiar.

Aquí, "Juez" se refiere a jueces y comisionados del juzgado.

3. Defenses

Here are some arguments you can make to fight (some defenses to) a contempt motion:

- **The Court order isn't legal (it's invalid).** This may be because the court had no authority to act (no subject matter jurisdiction), or you didn't receive legal notice in the original case (the court doesn't have personal jurisdiction over you).
- **You didn't violate the order.** Example: The motion claims you owe back due child support. But you have proof that you paid the support it says you owe.
- **It isn't your fault you can't follow the order.**

Example 1: The motion says you didn't pay child support. You're unable to pay. You must prove you tried hard to get work, save money, or otherwise follow the order.

Example 2: The motion says you violated your parenting plan. You must prove you're unable to follow the parenting plan, or you have a reasonable excuse for not doing so.

- **You didn't know about the order.** You should use this defense **only** if you can prove you never got proper notice of the hearing that led to the order.
- **The order is unclear or seems to have more than one possible meaning.** You may still have to try to follow the order as you interpret it, or get clarification. You can't just ignore it.

- **The court order has ended.** Examples: A temporary family law order has ended (expired). The court has changed a final parenting plan.
- **You weren't properly served with the Order to go to Court for Contempt Hearing (Order to Show Cause),** or you were served late, with not enough time to respond. Most judges require "personal service" of contempt motions — that you or another adult living in your household have the papers handed to you. If this didn't happen, you may have a defense. Try to talk to a lawyer to find out if you should have been "personally served."

This is only a temporary defense. The other side can fix this by giving you the proper notice and enough time to respond.

What's not a good defense to a contempt motion?

- Someone (lawyer, friend, relative, other) advised you to violate the order.
- You disagree with the order.
- You believe the judge made a mistake by signing the order.
- The other parent violated their own responsibilities under the order. ("They didn't follow it either.") **Example:** The other parent refuses to allow you visitation. That doesn't excuse you from paying child support.
- You thought you and the other party agreed to ignore the order.

4. Hearing

Prepárese para la audiencia

Intente ir al juzgado antes del día de su audiencia o consulte la página web de la secretaría judicial para ver si puede ver una audiencia por Internet. Observe cómo el juez realiza las audiencias. Trate de preparar algunos apuntes sobre los puntos principales que va a querer presentar en su audiencia.

Organice su documentación. Planee llevar su juego de documentos judiciales y sus copias de cualquier papel que las otras partes le hayan dado en respuesta. Lleve copias adicionales de cualquier orden propuesta que quiera que firme el juez.

Llegue temprano a su audiencia. Intente planificar antes del día de la audiencia cómo va a ir y cuánto tardará. Dese tiempo para pasar por seguridad y llegar a la sala correcta. Si no llega a tiempo, el juez podría cancelar la audiencia o la otra parte podría ganar.

Lleve su documentación, un bloc de papel y una pluma de tinta oscura para tomar apuntes. Trate de no llevar a sus niños si puede hacer otros arreglos para ellos. Por lo general, los jueces no permiten que niños se sienten en la sala del juzgado.

Cuando llegue a la sala del juzgado, diga a la persona a cargo (al secretario del juez o al alguacil) su nombre y el nombre y número de su caso. Tome asiento. Cuando el juez entre a la sala, póngase de pie.

Si su audiencia es en línea, siga estos [consejos para las audiencias por teléfono y por video](#).

Su caso será uno de varios programados para la misma hora. Escuche al juez y espere a que diga su nombre. Cuando digan su nombre, diga que está

presente. Permanezca en la sala hasta que llamen su caso para la audiencia.

Cuando llamen a su caso

En la mayoría de los casos, el juez habrá leído sus papeles antes de la audiencia. El juez tomará una decisión basándose en la documentación presentada con antelación por ambas partes.

Normalmente no podrá testificar, hacer que testifiquen testigos ni aportar pruebas de alguna otra manera en la audiencia. Usted solo tendrá la oportunidad de decirle al juez brevemente lo que quiere y por qué. Esto significa que debe prepararse de antemano y apuntar los puntos principales que quiere decirle al juez.

Si la otra parte obtiene un abogado. Si el abogado de la otra parte se pone en contacto con usted o se presenta a una audiencia, puede ser que usted decida obtener uno propio. Si es así, dígame al abogado y al juez que usted necesita posponer (aplazar) la audiencia. Que no le entre el pánico. Puede que el abogado le pida que firme algunos documentos. **No firme nada que no entienda.** Si el juez aplaza la audiencia, puede pedir una orden provisional con vigencia hasta la nueva fecha de audiencia.

Si la otra parte se presenta a la audiencia, cada uno podrá presentar su lado del caso. Póngase de pie mientras habla. Dígame al juez brevemente lo que quiere y por qué. Trate de que su argumento sea breve. Solo resuma sus puntos principales. Puede que tenga tan solo 5 minutos para hablar. No repita

todo lo que esté en sus documentos. Si lleva órdenes propuestas, pida permiso para entregárselas al juez.

Si el juez le hace una pregunta, trate de contestarla de manera directa. **No interrumpa al juez.**

Escuchando la decisión del juez

Una vez que el juez ha escuchado a ambas partes, el juez decide sobre lo que se pide. Escuche atentamente. Tome apuntes. Normalmente, el juez dicta su decisión en voz alta, y luego debe ponerse por escrito en una orden judicial.

Lo mejor es llevar **órdenes propuestas** para que el juez pueda firmarlas en su audiencia. Si nadie lleva órdenes propuestas, el juez podría decirle a usted, a la otra parte o al abogado de la otra parte que escriban las órdenes y que regresen después para que el juez las firme. El juez podría programar otra audiencia en una o dos semanas solo para firmar las órdenes.

Si la otra parte preparó las órdenes, léalas cuidadosamente. Asegúrese de que dicen lo que dijo el juez. Si no está seguro, **no firme las órdenes**. Pida regresar ante el juez para asegurarse de que la orden dice lo que el juez dijo.

Get copies of the signed orders

Make sure you get a copy of any orders with the judge's signature. Ask the clerk how to do this.

5. Decision

At the end of the hearing, the judge will decide if you are or aren't in contempt.

Not in contempt

The judge could find that you actually did follow the court order. Or the judge could decide that you didn't obey the court order, but it's not your fault.

The judge could also find that you probably won't be **able to follow** the order in the future. In this situation, the judge may tell you to file a motion to change the court order so you don't keep violating it.

In contempt

If the judge finds you're in contempt, the judge can order one or more of these:

- A new order designed to make you follow the order in the future
- A review hearing to check if you're following the order
- You must pay a fine of up to \$2,000 for each day the contempt continues
- You must pay for losses to the injured party
- You must pay the injured party's costs in bringing the contempt motion
- If this is at least the 2nd time you've been found in contempt for violating a parenting plan in the last 3 years, and you have custody, the judge can give the other parent custody

- The judge can order you jailed, as a last resort and only if it serves the purpose of getting you to follow the order

A contempt order must say what you can do to fix (purge) the contempt.

6. Forms

Form attached:

Declaration of (name): _____ (family law) (FL All Family 135)

Form attached:

Sealed Cover Sheet – Confidential (All Civil 040)

Form attached:

Proof of Mailing or Hand Delivery (family law) (FL All Family 112)

If you received a **Petition** for Contempt from the State (on behalf of DCS), you should also file a Notice of Appearance. If the State gave you a Response to Petition form, fill that out too.

()Tips for filling out the Declaration (FL All Family 135)

Use this to respond to the motion for contempt in your own words. You can also ask other people to write declarations if they have evidence to help prove

you weren't in contempt.

Before starting to write your own declaration, or asking anyone else to write one, carefully read each paper you received from the other party. You must understand what the papers say so you can write a good declaration.

Highlight the main points (and those you disagree with) with yellow highlighter or write notes on a separate piece of paper. Look for:

- What the other party wants
- How the other party says you violated the court's orders
- Claims the other party has made about you or the case
- Think about any proof that you knew about the order the other party claims you violated. Were you at the court hearing? Were you served with the order afterward?
- Read the order the other party says you violated. Can you prove you were following it, or that you had a good reason for not following it?
- Make sure the order in question is the most recent order and still in effect.

Example: If the other party claims you're violating a parenting plan, but the judge later entered a modified parenting plan or a Protection Order, look at the most recent plan or order. Its requirements might be different from the one the other party says you've violated. If you don't know if you have the most recent order, check with the court clerk. See if later orders change the one the other party wants enforced through contempt.

Next, **gather the evidence** you'll need while writing your declaration. Think carefully about how to prove that what you're telling the judge is correct, or what the other party is telling the judge is wrong. **Examples:**

- **Court orders or other court documents** – For example, if you believe the order the other party is trying to enforce is no longer in effect, or you were following a different order, get copies of those orders. Include them with your declaration. If you want to prove that you never knew about the court order that the other party says you violated, try to look in the court file for proof of service, or for Minute Entries (to show whether you were at a hearing).
- **Declarations of witnesses** – Declarations of other people who have personal knowledge about you, the other party, or your children, and whether you tried to follow the court orders.

By presenting a declaration from a witness, you may be giving up the right to keep confidential other information that witness may have about you or the child.

- **Records** – other court orders, bills, receipts, cancelled checks, and the children's school records or daycare records, child support or CPS records are among the types of official records you might include in your response. You can refer to records in your declaration and, if needed, use a sealed cover sheet to protect private or sensitive information.
- **Photos** – of injuries to you or the children, or of damage to your home or other property.

- **Financial information** – if the contempt motion includes financial issues (or you're asking for a court-appointed lawyer because the other party asked for jail time for you and you have a low income), get evidence of your income and assets and the other party's income and assets. If the contempt motion is for failure to pay support, maintenance, or other obligations, you must prove that you paid or were unable to pay. You may need your federal income tax return forms from the last two years, pay stubs, official letters from Social Security, L&I, Employment Security or DSHS saying how much you get in benefits, bank account statements, and business tax returns or records, or 1099 forms, cancelled checks, and receipts. File those financial records under a sealed cover sheet. You could also fill out a Financial Declaration form.

Read Write a Declaration – Family Law for more tips.

Consejos para llenar el *Comprobante de envío por correo o entrega en mano* (FL All Family 112)

Llene este formulario después de realizar la notificación oficial a la otra parte. Debe firmarlo quien haya realizado la notificación oficial a la otra parte. Siga las reglas para la notificación oficial después de que inicie un caso.

Asegúrese de que la persona que hizo la entrega oficial haya indicado la fecha de la entrega, a quién le entregó los documentos y cómo los entregó. También asegúrese de que el formulario enumere todos los documentos que se entregaron. Si la persona que hace la entrega omite un formulario, usted no tendrá prueba de que fue entregado.

WashingtonLawHelp.org gives general information. It is not legal advice.

Find organizations that provide free legal help on our Get legal help page.

<https://assets.washingtonlawhelp.org/en/respond-motion->

[contempt](#)

Superior Court of Washington, County of _____

In re:

Petitioner/s *(person/s who started this case)*:

And Respondent/s *(other party/parties)*:

No. _____

Declaration of
(name):

(DCLR)

Declaration of *(name)*: _____

1. I am *(age)*: _____ years old and I am the *(check one)*: ☐ Petitioner ☐ Respondent
☐ Other *(relationship to the people in this case)*: _____

2. I declare: _____
- _____
- _____
- _____
- _____
- _____
- _____
- _____
- _____
- _____
- _____

This image shows a blank sheet of white paper with horizontal ruling lines. The lines are evenly spaced and run across the width of the page. There are no margins, text, or other markings on the paper.

(Number any pages you attach to this Declaration. Page limits may apply.)

I declare under penalty of perjury under the laws of the state of Washington that the facts I have provided on this form (and any attachments) are true. ☐ I have attached (*number*): ____ pages.

Signed at (city and state): _____ Date: _____

Sign here

Print name

Warning! Documents filed with the court are available for anyone to see unless they are sealed. Financial, medical, and confidential reports, as described in General Rule 22, **must** be sealed so they can only be seen by the court, the other party, and the lawyers in your case. Seal those documents by filing them separately, using a *Sealed* cover sheet (form FL All Family 011, 012, or 013). You may ask for an order to seal other documents.

Superior Court of Washington, County of _____

In re:

Petitioner/s (*person/s who started this case*):

And Respondent/s (*other party/parties*):

No. _____

Sealed Cover Sheet – Confidential:

(*check one*)

☐ Sealed Financial Source Documents
(SEALFN)

☐ Sealed Personal Health Care Records
(SEALPHC)

☐ Sealed Confidential Report (SEALRPT)

Court Clerk: *This is a Restricted Access Document. Do not file in a public access file.*

Sealed Cover Sheet – Confidential

Important! Use this cover sheet as **page 1** of a separate filing. Check document/s below. Write “Confidential” at least one inch from the top of the first page of each attached document. For use only in family law, guardianship, and protection order cases.

☐ Financial Source Documents (SEALFN) (*describe*) _____

☐ Health Care Records (SEALPHC)

☐ Medical/Psychological Report (SEALRPT)

☐ Court Visitor/Guardian ad Litem Report (SEALRPT)

☐ Social Security Representative Payee Report (SEALRPT)

☐ Other _____

Submitted by:



Signature

Print Name

☐WSBA ☐CPG#

Privacy Notice! All parties, court staff, and authorized volunteers may have access to these documents.

Superior Court of Washington, County of _____

In re:

Petitioner/s (*person/s who started this case*):

And Respondent/s (*other party/parties*):

No. _____

Proof of Mailing or Hand Delivery
(for documents after Summons and
Petition)
(AFSR)

Proof of Mailing or Hand Delivery
(for documents after Summons and Petition)

Warning! Do **not** use this form to prove you mailed or delivered a Summons, Petition, Order to Go to Court, or any kind of Restraining Order. For those documents, use Proof of Personal Service (FL All Family 101), or if you have court permission to serve by mail, use Proof of Service by Mail (FL All Family 107).

I declare:

1. I am (*check one*): ☐ the Petitioner ☐ the Respondent ☐ (*name*): _____
_____ and I am competent to be a witness in this case.

2. On (*date*): _____, I served copies of the documents listed in **3** below to
(*name of party or lawyer served*): _____ by:

☐ mail (*check all that apply*): ☐ first class ☐ certified ☐ other _____

Mailing Address *City* *State* *Zip*

☐ email to (*address*): _____
(*only if allowed by agreement, order, or your county's Local Court Rule*)

☐ fax to (*number*): _____
(*only if allowed by agreement, order, or your county's Local Court Rule*)

☐ Hand delivery at (*time*): _____ ☐ a.m. ☐ p.m. to this address:

Street Address *City* *State* *Zip*

I left the documents (*check one*):

- ☐ with the party or lawyer named above.
- ☐ at the attorney's office with the clerk or other person in charge.
- ☐ at the attorney's office in a conspicuous place because no one was in charge.
- ☐ with (*name*): _____,
at the address listed in court documents where the party agreed to receive legal papers for this case.
- ☐ (*For a party or lawyer who has no office or whose office is closed*) at their home with (*name*): _____,
a person of suitable age and discretion who lives in the same home.

3. List all documents you served (*check all that apply*):

(*The most common documents are listed below. Check only those documents that were served. Use the "Other" boxes to write in the title of each document you served that is not already listed.*)

<input type="checkbox"/> Notice of Hearing (<i>hearing date</i>): _____	<input type="checkbox"/> Notice Re: Military Dependent
<input type="checkbox"/> Motion for Temporary Family Law Order <input type="checkbox"/> and Restraining Order	<input type="checkbox"/> Sealed Financial Documents
<input type="checkbox"/> Proposed Temporary Family Law Order	<input type="checkbox"/> Financial Declaration
<input type="checkbox"/> Proposed Parenting Plan	<input type="checkbox"/> Declaration of: _____
<input type="checkbox"/> Proposed Child Support Order	<input type="checkbox"/> Declaration of: _____
<input type="checkbox"/> Proposed Child Support Worksheets	<input type="checkbox"/> Declaration of: _____
<input type="checkbox"/> Other: _____	<input type="checkbox"/> Other: _____
<input type="checkbox"/> Other: _____	<input type="checkbox"/> Other: _____
<input type="checkbox"/> Other: _____	<input type="checkbox"/> Other: _____

4. Other: _____

I declare under penalty of perjury under the laws of the state of Washington that the statements on this form are true.

Signed at (*City and State*): _____ Date: _____

► _____
Signature of server

Print or type name of server