

How to use the custody forms

IMPORTANT: Please review the instructions in the printed packet that you were given at the custody clinic.

REMINDERS:

- These materials are designed to assist parents seeking custody/visitation who cannot afford to hire a private attorney.
- By teaching this clinic and providing you with these materials, Legal Aid of North Carolina, Inc., makes no assurances about your success through the legal process.
- By teaching this clinic and providing you with these materials, Legal Aid of North Carolina, Inc., is not representing you as your attorney. Furthermore, we make no assurances that we will be able to answer additional questions you may have following this clinic.

To complete the forms:

- Type the information requested in each blue-shaded box.
- After filling in a box, press the Tab key to move to the next box.
- Do not press the Enter key unless you are in a large blue box with space for more than one line.
- For both yourself and the other parent, enter the full legal name, not a nickname.
- Enter the other parent's full legal name, not a nickname.
- Go through every form in the packet. Some forms require very little new information. When the information in one form is the same in other forms (for example, your name), it will automatically appear in the other forms.
- When everything is complete, save the document. If you are using a public computer, you will need to save it to an external drive.
- If you are satisfied with your completed forms, print the document and follow the instructions in the paper packet to make copies and file the forms in court.
- If you need help in completing the forms, complete as much as you can and save the document. Again, if you are using a public computer, you will need to save it to an external drive. You may then contact the Winston-Salem office of Legal Aid of North Carolina at 336-725-9162 to schedule an appointment for assistance in completing your forms.

NORTH CAROLINA)
____ COUNTY)

IN THE GENERAL COURT OF JUSTICE
DISTRICT COURT DIVISION
____ CVD ____

_____,
Plaintiff,
vs.
_____,
Defendant.

)
)
)
)
)
)
)
)
)
)

COMPLAINT

NOW COMES Plaintiff, complaining of the Defendant, alleges and says:

1. Plaintiff is a citizen and resident of _____ County, North Carolina and has been for more than six months prior to filing this action.
2. Defendant is a citizen and resident of _____ County, North Carolina and has been for more than six months prior to filing this action.
3. ☐ Plaintiff and Defendant were lawfully married on or about _____, in _____ County and thereafter separated on or about _____, 20____,
OR
☐ Plaintiff and Defendant lived together from _____ to _____ and separated from each other on _____.
4. Plaintiff and Defendant are the biological parents of the minor _____, namely:
[list each child's name and date of birth]
5. To avoid controversy between the parties over the custody of the minor _____, it is in the best interest of all parties that the Court make an award of custody of the _____ as well as providing for child support for the use and benefit of the _____.
6. Pursuant to North Carolina General Statutes §§ 50A-201, there exists facts justifying the Court to assume jurisdiction to determine the custody of the minor _____; and pursuant to North Carolina General Statute § 50A-209, plaintiff respectfully shows into Court the following required information:

- a. The minor _____ currently _____ with _____ in _____ County, North Carolina, and _____ since the separation of the parties. Prior to the separation of the parties the minor _____ resided with _____ in _____ County, North Carolina;
- b. Except as to the civil domestic violence protective order cases, Plaintiff has not participated as a party, witness, or in any other capacity in any other litigation concerning the custody of the minor _____ in this or any other state. There are no current custody orders outstanding concerning the minor _____;
- c. Plaintiff has no information of any custody proceeding concerning the minor _____ in a Court in this or any other state, except the domestic violence protective order cases; and
- d. Plaintiff knows of no other person not a party to these proceedings who has physical custody of the minor _____ or claims to have custody or visitation rights to the minor _____.
7. Plaintiff is a fit and proper person to have the care, custody, and control of the minor _____, and it is in the best interest of the minor _____ that the minor _____'s care, custody, and control be placed with the Plaintiff.
8. ☐ Defendant is not a fit and proper person to have custody because:

OR--

☐ Defendant is a fit and proper person to have visitation. The following visitation schedule would be best for our _____:

9. _____ presently has physical custody of the minor _____, and it is necessary pending a Court hearing in this case, for the Court to issue an Order granting temporary custody to avoid controversy between the parties and to stabilize the situation of the minor _____.

WHEREFORE, Plaintiff prays the Court for the following relief:

1. That this verified Complaint be allowed and taken as an Affidavit upon which the Court may base all of its Orders in this case;

2. That an immediate Order be issued granting temporary care, custody, and control of the minor _____ to Plaintiff pending the trial of this case;
3. That Plaintiff be awarded the care, custody, and control of the minor _____, namely:
4. That Plaintiff be granted such additional relief as the Court deems just and proper.

Respectfully submitted this _____ day of _____, 20____

Signature of Plaintiff

Name & Address of Plaintiff

NORTH CAROLINA)
)
)
 _____ COUNTY)

IN THE GENERAL COURT OF JUSTICE
DISTRICT COURT DIVISION
_____CVD_____

_____,
Plaintiff,)
)
vs.)
)
_____,
Defendant.)

VERIFICATION

_____, being duly sworn, deposes and says:

That _____ is the Plaintiff in the foregoing Custody Complaint, that the facts set forth therein are true to _____ own knowledge, except as to those matters set forth therein upon information and belief, and as to those matters, _____ believes them to be true.

Signature of Plaintiff

Sworn to and subscribed before me this
_____ day of _____, 20____.

Notary Public

My commission expires:

STATE OF NORTH CAROLINA

File No.

In The General Court Of Justice
District Court Division

County

Name And Address Of Plaintiff 1

Name And Address Of Plaintiff 2

**DOMESTIC
CIVIL ACTION COVER SHEET**☐ INITIAL FILING ☐ SUBSEQUENT FILING

Rule 5(b), Rules of Practice For Superior and District Courts

VERSUS

Name Of Defendant 1

Summons Submitted ☐ Yes ☐ No

Name Of Defendant 2

Summons Submitted ☐ Yes ☐ No

Counsel for

☐ All Plaintiffs ☐ All Defendants ☐ Only (List party(ies) represented)

Name And Address Of Attorney Or Party, If Not Represented (complete for initial appearance or change of address)

Telephone No.

Cell Telephone No.

NC Attorney Bar No.

Attorney E-Mail Address

☐ Initial Appearance in Case☐ Change of Address

Name Of Firm

FAX No.

Jury Demanded In Pleading? ☐ No ☐ Yes**TYPE OF PLEADING**

(check all that apply)

- ☐ Amended Answer/Reply (AMND-Response)
☐ Amended Complaint (AMND)
☐ Answer/Reply (ANSW-Response)
☐ Complaint (COMP)
☐ Confession Of Judgment (CNFJ)
☐ Counterclaim vs. (CTCL)
☐ Extend Time For An Answer (MEOT-Response)
☐ Rule 12 Motion In Lieu Of Answer (MDLA)
☐ Other: (specify)

CLAIMS FOR RELIEF FOR:

(check all that apply)

- ☐ Alimony (ALIM)
☐ Annulment (ANUL)
☐ Child Support (CSUP)
☐ Custody (CUST)
☐ Divorce (DIVR)
☐ Divorce From Bed And Board (DIVB)
☐ Domestic Violence (DOME)
☐ Equitable Distribution (EQU)
☐ Medical Coverage (MEDC)
☐ Paternity (PATR)
☐ Possession Of Personal Property (POPP)
☐ Post Separation Support (PSSU)
☐ Reimbursement For Public Assistance (RPPA)
☐ Visitation (VIST)
☐ Other: (specify)

Date

Signature Of Attorney/Party

NOTE: The initial filing in civil actions shall include as the first page of the filing a cover sheet summarizing the critical elements of the filing in a format prescribed by the Administrative Office of the Courts, and the Clerk of Superior Court shall require a party to refile a filing which does not include the required cover sheet. For subsequent filings in civil actions, the filing party must either include a cover sheet or the filing must comply with G.S. 7A-34.1.

STATE OF NORTH CAROLINA

File No.

____ County

In The General Court Of Justice

☐ District ☐ Superior Court Division

Name Of Plaintiff

Address

City, State, Zip

VERSUS

Name Of Defendant(s)

Date Original Summons Issued

Date(s) Subsequent Summons(es) Issued

CIVIL SUMMONS☐ **ALIAS AND PLURIES SUMMONS**

G.S. 1A-1, Rules 3, 4

To Each Of The Defendant(s) Named Below:

Name And Address Of Defendant 1

Name And Address Of Defendant 2

A Civil Action Has Been Commenced Against You!

You are notified to appear and answer the complaint of the plaintiff as follows:

1. Serve a copy of your written answer to the complaint upon the plaintiff or plaintiff's attorney within thirty (30) days after you have been served. You may serve your answer by delivering a copy to the plaintiff or by mailing it to the plaintiff's last known address, and
2. File the original of the written answer with the Clerk of Superior Court of the county named above.

If you fail to answer the complaint, the plaintiff will apply to the Court for the relief demanded in the complaint.

Name And Address Of Plaintiff's Attorney (If None, Address Of Plaintiff)

Date Issued

Time

☐ AM☐ PM

Signature

☐ Deputy CSC☐ Assistant CSC☐ Clerk Of Superior Court☐ **ENDORSEMENT**

This Summons was originally issued on the date indicated above and returned not served. At the request of the plaintiff, the time within which this Summons must be served is extended sixty (60) days.

Date Of Endorsement

Time

☐ AM☐ PM

Signature

☐ Deputy CSC☐ Assistant CSC☐ Clerk Of Superior Court

NOTE TO PARTIES: Many counties have **MANDATORY ARBITRATION** programs in which most cases where the amount in controversy is \$15,000 or less are heard by an arbitrator before a trial. The parties will be notified if this case is assigned for mandatory arbitration, and, if so, what procedure is to be followed.

RETURN OF SERVICE

I certify that this Summons and a copy of the complaint were received and served as follows:

DEFENDANT 1

Date Served	Time Served <input type="checkbox"/> AM <input type="checkbox"/> PM	Name Of Defendant
-------------	--	-------------------

- ☐ By delivering to the defendant named above a copy of the summons and complaint.
- ☐ By leaving a copy of the summons and complaint at the dwelling house or usual place of abode of the defendant named above with a person of suitable age and discretion then residing therein.
- ☐ As the defendant is a corporation, service was effected by delivering a copy of the summons and complaint to the person named below.

Name And Address Of Person With Whom Copies Left (if corporation, give title of person copies left with)

- ☐ Other manner of service (specify)

- ☐ Defendant WAS NOT served for the following reason:

DEFENDANT 2

Date Served	Time Served <input type="checkbox"/> AM <input type="checkbox"/> PM	Name Of Defendant
-------------	--	-------------------

- ☐ By delivering to the defendant named above a copy of the summons and complaint.
- ☐ By leaving a copy of the summons and complaint at the dwelling house or usual place of abode of the defendant named above with a person of suitable age and discretion then residing therein.
- ☐ As the defendant is a corporation, service was effected by delivering a copy of the summons and complaint to the person named below.

Name And Address Of Person With Whom Copies Left (if corporation, give title of person copies left with)

- ☐ Other manner of service (specify)

- ☐ Defendant WAS NOT served for the following reason.

Service Fee Paid \$	Signature Of Deputy Sheriff Making Return
Date Received	Name Of Sheriff (Type Or Print)
Date Of Return	County Of Sheriff

STATE OF NORTH CAROLINA

File No.

County

In The General Court Of Justice
☐ District ☐ Superior Court Division

Name Of Plaintiff

VERSUS

Name Of Defendant

**PETITION TO SUE/APPEAL
AS AN INDIGENT**

G.S. 1-110; 7A-228

AFFIDAVIT

(check one of the two boxes below)

☐ **Petition To Sue** - As the individual plaintiff in the above entitled action, I affirm that I am financially unable to advance the required costs for the prosecution of this action. Therefore, I now petition the Court for an order allowing me to bring suit in this action as an indigent.☐ I am an inmate in the custody of the Department of Correction.

(Note To Clerk: If this block is checked, this Petition must be submitted to a Superior Court Judge for disposition provided on the reverse.)

☐ **Petition To Appeal** - As the individual appellant in the above entitled small claims action, I affirm that I am financially unable to pay the cost for the appeal of this action from small claims to district court. Therefore, I now petition the Court for an order allowing me to appeal this action to district court as an indigent.

(check one or more of the boxes below as applicable)

☐ I am presently a recipient of☐ food stamps. ☐ Aid to Families With Dependent Children (AFDC). ☐ Supplemental Security Income (SSI).☐ I am represented by a legal services organization that has as its primary purpose the furnishing of legal services to indigent persons, or I am represented by private counsel working on behalf of such a legal services organization. (Attach a letter from your legal services attorney or have your attorney sign the certificate below.)☐ Although I am not a recipient of food stamps, AFDC, or SSI, nor am I represented by legal services, I am financially unable to advance the costs of filing this action or appeal.**SWORN AND SUBSCRIBED TO BEFORE ME**

Date

Date

Signature

Signature Of Petitioner

Title Of Person Authorized To Administer Oaths

Name And Address Of Petitioner (Type Or Print)

Date Commission Expires

SEAL**CERTIFICATE OF LEGAL SERVICES/PRO BONO REPRESENTATION**

I certify that the above named petitioner is represented by a legal services organization that has as its primary purpose the furnishing of legal services to indigent persons or is represented by private counsel working on behalf of or under the auspices of such legal services organization.

Date

Signature

Name And Address (Type Or Print)

ORDER

Based on the Affidavit appearing above, it is ORDERED that:

- ☐
- the petitioner is authorized to bring suit or to appeal in this action as an indigent.
-
- ☐
- the petition is denied.

Date

Signature

☐ Assistant CSC ☐ Clerk Of Superior Court
☐ Judge ☐ Magistrate (for appeal only)**NOTE TO CLERK:** If the petitioner is NOT a recipient of food stamps, AFDC, SSI or is NOT represented by legal services or a private attorney on behalf of legal services, you may ask for additional financial information to determine whether the petitioner is unable to pay the costs.

	ORDER - DOC INMATES	
--	----------------------------	--

The undersigned superior court judge of this district finds that the petitioner is an inmate in the custody of the Department of Correction and that the complaint

☐ is not frivolous.

☐ is frivolous.

It is ORDERED that

☐ the petitioner is authorized to sue in this action as an indigent.

☐ the petitioner is not authorized to sue as an indigent.

☐ the action is dismissed.

Date	Name Of Superior Court Judge (Type Or Print)	Signature Of Superior Court Judge
------	--	-----------------------------------

	CERTIFICATION	
--	----------------------	--

I certify that this Petition has been served on the party named by depositing a copy in a post-paid properly addressed envelope in a post office or official depository under the exclusive care and custody of the United States Postal Service.

Date	Signature	<input type="checkbox"/> Deputy CSC <input type="checkbox"/> Assistant CSC <input type="checkbox"/> Clerk Of Superior Court
------	-----------	---

NOTE: G.S. 1-110(b) provides: "The Clerk of Superior Court shall serve a copy of the order of dismissal upon the prison inmate."