

Instructions for Order to Show Cause Forms

READ ALL THE INSTRUCTIONS AND REVIEW THE FORMS BEFORE BEGINNING

An Order to Show Cause is a directive issued by the Court at your request requiring the other party to appear and show cause or reason as to why they have not complied with an order of the Court. If the Judge finds that there is not sufficient cause presented in the *Motion and Affidavit for Order to Show Cause (UJS-357)*, the Motion and Order could be denied, and no further action will be taken.

YOU MAY USE THESE FORMS IF...

- You have a divorce decree, temporary order, or other civil order from a Court in South Dakota, or a Court Order from another State is registered in a South Dakota Court.

AND

- The other party is aware of and has willfully disobeyed the divorce decree, temporary order, or other civil order issued by the Court.

YOU MAY NOT USE THESE FORMS TO MODIFY OR ADD TO AN EXISTING ORDER

IMPORTANT NOTICES

- Court employees cannot help you fill out forms or give you legal advice. If you have questions please consult an attorney, or you can call the Legal Form Help Line at 855-784-0004, email UJS staff at ujssrhelp@ujs.state.sd.us or by following this link <https://ujslawhelp.sd.gov/emailstaff.aspx>.
- You will need a copy of the final order that you are trying to enforce. You will need to attach to your Motion and Affidavit for Order to Show Cause (UJS-357).

FOLLOW THESE INSTRUCTIONS TO FILE FOR AN ORDER TO SHOW CAUSE

1. Fill out the caption of the *Motion and Affidavit for Order to Show cause (UJS-357)*. The caption should match your original order you are trying to enforce. (The caption is the top portion of the form where you will put the name of the county, circuit number, the names of the parties, and the case number) (If you were the Plaintiff in the original case, you will continue to be called the Plaintiff when filling out these forms. The same thing applies if you were the Defendant, you will still be listed as the Defendant.)
2. The Motion and Affidavit for Order to Show Cause (UJS-357) will begin with “COMES NOW”. Please put your name on the line provided. Please fill out the remainder of the form stating why you believe the other party has failed to comply with the ORIGINAL final order ON YOUR CASE.
3. **DO NOT** sign the Motion and Affidavit until you are in the presence of a Notary Public or a Clerk of Court. By signing your name, you are telling the court that you are telling the truth and that you have good faith reason for your request. **Make sure you bring photo identification.**

4. Attach a copy of your final order to the ***Motion and Affidavit for Order to Show Cause (UJS-357)***.
5. Only fill out the top portion (the caption) of the ***Order to Show Cause (UJS-358)*** exactly as it appears on the original order you are trying to enforce. The Judge will complete and sign the ***Order to Show Cause (UJS-358)*** if they order a hearing.
6. Complete a ***Case Filing Statement (UJS-232)***.
7. File the original ***Motion and Affidavit for Order to Show Cause (UJS-357)*** with a copy of your court order attached, the proposed ***Order to Show Cause (UJS-358)***, and the ***Case Filing Statement (UJS-323)*** with the Clerk.
8. Based upon the information that you provide in the ***Motion and Affidavit for Order to Show Cause (UJS-357)***, the Judge may set a hearing date and sign the proposed ***Order to Show Cause (UJS-358)***. If you have not heard from the Clerk within 5 business days, you should call their office back and inquire as to the status of your case.
9. If a hearing date is set, the opposing party will need to be served all of the documents filed at least 10 days prior to the hearing. Service on the other party can be completed by way of Sheriff or process server (may be subject to fees).
10. If a hearing date is set, complete only the caption of ***Order Granting or Denying Contempt of Court (UJS-353)*** and bring it with you to the hearing.

Failure to file proof of service to the court could result in the dismissal of your Motion.

INFORMATION FOR YOUR HEARING

- You must attend Court on the date and time set by court staff. This is your time to present evidence to the court. If you plan on presenting any documents, it may be helpful to have multiple copies with you to provide to the judge or opposing party.
- If you intend to call any witnesses who you believe can verify your claims, and require a subpoena, the Clerk can issue one for you subject to fees. Subpoenas should be issued as soon as you have filed the completed proof of service to ensure adequate notice upon your witnesses.
- Court hearings are formal proceedings. Do not bring children to the hearing. You should be polite to everyone in the courtroom and address the Judge as “your honor.” Speak to the Judge only when directed. Do not talk or argue with the other party during the hearing.

THEREFORE, based on the foregoing statement and allegations, I _____
(Your name)
respectfully request that the Court enter an Order to Show Cause requiring _____
(Opposing party name)
to attend a hearing and show cause as to why they have not complied with the Court's Order.

Dated this _____ day of _____, 20_____.

Sworn/affirmed before me this _____ day of _____,
_____, 20_____.

Notary Public/Clerk of Court

If Notary, my commission expires:

(SEAL)

Signature

Name (Print): _____

Address: _____

City/State/Zip: _____

Phone Number: (____) _____

STATE OF SOUTH DAKOTA

IN CIRCUIT COURT

COUNTY OF _____

_____ JUDICIAL CIRCUIT

_____ Plaintiff	FILE NO: _____ ORDER TO SHOW CAUSE
_____ Defendant	

Upon reviewing the Motion and Affidavit for Order to Show Cause filed by the Plaintiff/Defendant, attached hereto, and for good cause shown;

IT IS HEREBY ORDERED that the Plaintiff/Defendant, appear at the following date and time: _____.

At the _____ County Courthouse, in _____ South Dakota, and show cause, if there by any, why they should not be held in contempt of Court for failure to comply with the Court Order dated _____. If the Plaintiff/Defendant has reason as to why they were unable to comply with the Courts Order(s) sited above, they should bring to the hearing said evidence and/or witnesses necessary to prove their claims. Failure of Plaintiff/Defendant to appear at this hearing may result in a warrant for their arrest being issued.

IT IS FURTHER ORDERED that the Plaintiff/Defendant Motion and Affidavit for Order to Show Cause fails to provide sufficient cause and is hereby denied.

Dated this _____ day of _____, 20_____.

BY THE COURT:

Circuit Court Judge

ATTEST:

Clerk of Courts

Deputy Clerk
(SEAL)

<p>_____ Plaintiff</p> <p>vs.</p> <p>_____ Defendant</p>	<p>FILE NO: _____</p> <p style="text-align: center;">ORDER</p> <p><input type="checkbox"/> GRANTING <input type="checkbox"/> DENYING</p> <p style="text-align: center;">CONTEMPT OF COURT</p>
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This matter having come before the court on _____ by
(Date)
way of Motion and Affidavit for Order to Show Cause filed by the Plaintiff/Defendant and the Court having heard and considered the evidence;

IT IS HEREBY ORDERED that the Plaintiff/Defendant has shown the existence of a valid court order; knowledge of the court order; ability to comply with court order; willful and contumacious failure to comply with court order. The Court finds the Plaintiff/Defendant in contempt of court and orders the following: _____

IT IS HEREBY ORDERED that the Plaintiff/Defendant failed to provide sufficient evidence to show that the Plaintiff/Defendant has violated the order that was previously entered by this court and the motion and affidavit to show cause are hereby denied.

Dated this _____ day of _____, 20_____.

BY THE COURT:

Circuit Court Judge

ATTEST:

Clerk of Courts

Deputy Clerk
(SEAL)