STATE OF NORTH CAROLINA

_____ County

File No.

In The General Court Of Justice
District Court Division

Name Of Plaintiff	MOTION FOR RETURN OF WEAPONS SURRENDERED UNDER DOMESTIC VIOLENCE PROTECTIVE ORDER AND NOTICE OF HEARING
VERSUS	
Name And Address Of Defendant	G.S. 50B-3.1(f), (g)

MOTION BY DEFENDANT FOR RETURN

As required by the Court in the domestic violence protective order in this case, I surrendered the following property to the Sheriff of _____ County: *(check all that apply)*

☐ firearm(s).
☐ ammunition.
☐ permit(s) to purchase firearms.
☐ permit(s) to carry a concealed weapon.

The domestic violence protective order that required the surrender of the property listed above expired on the date listed below and has not been renewed. There ☐ is ☐ is not a pending motion to renew. As indicated in the Applicant Information section on Pages 2 and 3, I am not precluded by any State or federal law from owning or possessing a firearm and I have no pending criminal charges in State or federal court alleged to have been committed against the person who is protected by the domestic violence protective order. I request the Court to order the sheriff to return the items I surrendered.

Date Protective Order Expired	Date	Signature Of Defendant

MOTION BY THIRD-PARTY OWNER FOR RETURN

Pursuant to the domestic violence protective order entered in this case, the defendant surrendered to the Sheriff of _____ County the firearms, ammunition, and gun permits on the date listed below.

I, and not the defendant, am the owner of the surrendered property described below. I request the Court to return this property to me. I am not precluded by any State or federal law from owning or possessing a firearm as indicated in the Applicant Information section on Pages 2 and 3.

(Describe firearms, ammunition, and gun permits that belong to person filing motion.)

Name And Address Of Third-Party Owner (type or print)	Date Weapons Surrendered
	Date
	Signature Of Third-Party Owner

(Continued on Page 2)
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APPLICANT INFORMATION

WARNING: This section must be filled out completely and truthfully. False statements may result in criminal prosecution.

Name (Last, First, Middle)			*Maiden Name, Nickname, Alias*		
Current Residence	*Street*	*Apartment No.*	*Previous Residence*	*Street*	*Apartment No.*
	City, State, Zip Code			*City, State, Zip Code*	
Other States Of Residence					
Are You A U.S. Citizen? ☐ Yes ☐ No			*If No, List Country Of Citizenship*		
Home Telephone			*Work Telephone*		
Social Security Number			*Drivers License/ID No.*		*State*
Employer			*Occupation*		
Employer Address (Street, City, State, Zip Code)					

Race	*Sex*	*Date Of Birth*	*Place Of Birth*
Height	*Weight*	*Hair Color*	*Eye Color*
Distinguishing Scars, Piercings, Tattoos, Etc. (describe)			

1. Do you have any criminal charges in State or federal court, including traffic offenses, pending against you? ☐ Yes ☐ No
   What type of charge and where is it pending? _____
   Name alleged victim and relationship to you _____
2. Have you ever been convicted of a misdemeanor crime of violence (including domestic violence) in either a State or federal court? ☐ Yes ☐ No
   What was the crime? _____
   When and where were you convicted? _____
   Who was the victim of the crime? _____
3. Have you ever been convicted of a felony in either a State or federal court? ☐ Yes ☐ No
   What was the crime? _____
   When and where were you convicted? _____
4. Have you ever been convicted of driving while impaired in either a State or federal court? ☐ Yes ☐ No
   When and where were you convicted? _____
5. Are there any outstanding warrants for your arrest? ☐ Yes ☐ No
   Where and for what reason? _____
6. Are you under indictment for a crime at this time? ☐ Yes ☐ No
   Where and for what reason? _____
7. Are you currently subject to a domestic violence protective order or any other order that restrains you from harassing, stalking, threatening or engaging in any conduct that would place anyone in reasonable fear of bodily injury? ☐ Yes ☐ No
   What court issued the order? _____
   IMPORTANT: You must attach a copy of the protective/restraining order to this motion.
8. Are you currently on probation (supervised or unsupervised) in North Carolina, for any level of offense? ☐ Yes ☐ No
9. Were you ever a member of the military? ☐ Yes ☐ No
   If yes, what kind of discharge did you receive? _____
10. Are you currently using or are you addicted to any controlled substance, including marijuana, cocaine, methamphetamine, or heroin? ☐ Yes ☐ No

(Continued on Page 3)
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Name Of Defendant	File No.

11. Are you illegally or unlawfully in the United States? ☐ Yes ☐ No

12. Are you admitted to the United States under a nonimmigrant visa? ☐ Yes ☐ No

What are the circumstances of your nonimmigrant visa? _____

13. Have you ever renounced your United States citizenship? ☐ Yes ☐ No

14. Have you ever been a patient in any mental institution or hospital? ☐ Yes ☐ No

When and where? _____

15. Have you ever been adjudicated incompetent by a court? ☐ Yes ☐ No

When and where? _____

Date	Name Of Applicant (type or print)	Signature Of Applicant

NOTICE OF HEARING

Pursuant to a motion made by ☐ the defendant ☐ a third-party a hearing will be held before a district court judge at the date, time, and location indicated below to determine whether

☐ to return the weapons surrendered to the defendant.

☐ the third-party claiming the weapons surrendered is the owner of the items listed in the motion and is entitled to have the items returned to him/her.

The plaintiff has a right to appear and be heard at this hearing.

Date Of Hearing	Time Of Hearing ☐ AM ☐ PM	Location Of Hearing

Date	Signature Of Clerk	☐ Deputy CSC ☐ Assistant CSC ☐ Clerk Of Superior Court

NOTE TO CLERK: *You must give a copy of this notice of hearing to the defendant or third-party when the motion is filed, and you must mail a copy by first class mail to the plaintiff and give a copy to the sheriff. If the motion is filed by a third person, you must also mail notice of the hearing to the defendant.*

CLERK'S CERTIFICATION

I certify that on the date of mailing shown below, a copy of this Motion And Notice Of Hearing was served on the plaintiff at the address listed below, by depositing a copy in a postpaid properly addressed envelope in a post office or official depository under the exclusive care and custody of the United States Postal Service.

☐ On the same date a copy was served on the defendant at the address listed on this motion by the same method.

Address Of Plaintiff (type or print)	Date Of Mailing	Date Of Certification
	Signature Of Clerk	
	☐ Deputy CSC ☐ Assistant CSC ☐ Clerk Of Superior Court	

(See Page 4 for a non-exhaustive list of Federal firearms restrictions)

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NON-EXHAUSTIVE LIST OF FEDERAL FIREARMS RESTRICTIONS

18 U.S.C. § 922(g) and (n) provide:

(g) It shall be unlawful for any person—

(1) who has been convicted in any court of, a crime punishable by imprisonment for a term exceeding one year;

(2) who is a fugitive from justice;

(3) who is an unlawful user of or addicted to any controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802));

(4) who has been adjudicated as a mental defective or who has been committed to a mental institution;

(5) who, being an alien—

(A) is illegally or unlawfully in the United States; or

(B) except as provided in subsection (y)(2), has been admitted to the United States under a nonimmigrant visa (as that term is defined in section 101(a)(26) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(26))) *[means those aliens not admitted for permanent residence; does not prohibit aliens who possess "green card" from possessing guns or ammunition]*;

(6) who has been discharged from the Armed Forces under dishonorable conditions;

(7) who, having been a citizen of the United States, has renounced his citizenship;

(8) who is subject to a court order that—

(A) was issued after a hearing of which such person received actual notice, and at which such person had an opportunity to participate;

(B) restrains such person from harassing, stalking, or threatening an intimate partner of such person or child of such intimate partner or person, or engaging in other conduct that would place an intimate partner in reasonable fear of bodily injury to the partner or child; and

(C) (i) includes a finding that such person represents a credible threat to the physical safety of such intimate partner or child; or

(ii) by its terms explicitly prohibits the use, attempted use, or threatened use of physical force against such intimate partner or child that would reasonably be expected to cause bodily injury; or

(9) who has been convicted in any court of a misdemeanor crime of domestic violence,

to ship or transport in interstate or foreign commerce, or possess in or affecting commerce, any firearm or ammunition; or to receive any firearm or ammunition which has been shipped or transported in interstate or foreign commerce.

[. . .]

(n) It shall be unlawful for any person who is under indictment for a crime punishable by imprisonment for a term exceeding one year to ship or transport in interstate or foreign commerce any firearm or ammunition or receive any firearm or ammunition which has been shipped or transported in interstate or foreign commerce.

18 U.S.C. § 922(k) and (o) and **26 U.S.C. § 5861** make it unlawful to possess a machine gun or firearm with altered or obliterated serial number except under certain specified circumstances.

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