

Initial Filing

The summons should include the most recent address of the Defendants.

After completing and notarizing the forms, please make 3 additional copies of the entire packet.

Once that is completed, you will file the original and three copies with the Cumberland County Clerk of Court (Room 107) at the Cumberland County Courthouse, the fee for filing is \$150.00 for the Cumberland County Clerk of Court.

If you are unable to pay the filing fee, you can apply for a fee waiver with the Cumberland County Clerk of Court. Ask to sue as indigent and fill out and notarized the PETITION TO SUE/APPEAL/FILE MOTIONS AS AN INDIGENT form included in this packet.

- You may need to provide your Driver's License and
- your SNAP card, formerly known as the Food Stamps Program; TANF, or SSI card.

If you are not a recipient of any aforementioned public assistance programs, and are still unable to pay the filing fee, additionally fill out and notarize the CIVIL AFFIDAVIT OF INDIGENCY Form (included in this packet).

After filing, take a copy of the packet directly to room 211 (Judge's Office).

Serving both parties:

1. County Sheriff Office (Please include the Return of Service form ONLY but do not fill it out (Sheriff use only.) Sheriff Fee: \$30.
- OR-
2. You may also have the other party served by registered or restricted certified mail (Return Receipt Requested) or a designated delivery service such as UPS, FedEx or DHL (Delivery Receipt Requested). Once you receive the return receipt signed (green return receipt card) by the other party in the mail, attach it to the Affidavit of Service included in the packet, get it notarized and file it with the Clerk of Court. This is your proof of service.

Check List

Fill out the forms

Notarize the Verification Form

Make 3 additional copies of the entire packet

File the original and three (3) copies with the Cumberland County Clerk of Court

Take a copy of the packet directly to the Judge's Office

Serve both parties

Legal Aid offers a free custody self-help clinic session explaining the process at
<https://www.facebook.com/LegalAidNC/videos/289650896219832/>

FOR NON-
PARENTS

THE DOCUMENTS YOU NEED TO COMPLETE FOR NON-PARENT FILING

- Family Court Notice
- Petition To Proceed as An Indigent (If you qualify)
- Domestic Civil Action Coversheet
- Complaint for Custody for Non-Parent(s)
- Affidavit As to The Status of Minor Child
- Custody Mediation Case Cover Sheet
- Servicemembers Civil Relief Act Declaration
- Affidavit Of Service Of Process By
- Civil Summons



These materials are not for everyone!

**CONSULT WITH AN ATTORNEY IF
ONE OF THESE SITUATIONS
APPLIES TO YOU:**

- ⇒ The children have lived in North Carolina less than 6 months; OR
- ⇒ One parent or a child lives outside North Carolina; OR
- ⇒ There has been another custody case involving these children; OR
- ⇒ There has been a Juvenile Court case involving these children; OR
- ⇒ DSS Child Protective Services has placed these children with someone else; OR
- ⇒ The children live with someone who is not their parent; OR
- ⇒ One parent is in the military

If you or the children are victims of domestic violence, contact your nearest Legal Aid office or the Legal Aid HelpLine at 1-866-219-5262.

STATE OF NORTH CAROLINA
CUMBERLAND COUNTY

IN THE GENERAL COURT OF JUSTICE
FAMILY COURT DIVISION



FAMILY COURT NOTICE

YOU HAVE BEEN SERVED WITH A COMPLAINT FILED IN
CUMBERLAND COUNTY, NORTH CAROLINA FAMILY COURT

This action may affect your rights to child custody and/or visitation.

You may want to consult with an attorney about your rights and responsibilities in this action. Time is of the essence therefore your rights may be limited if you do not act within **(30)** days of receiving this complaint.

You are required to keep the court advised of your current address and any address changes. Failure to do so may result in hearings being held and orders entered without your participation.

To ensure that you receive all hearings that may affect your rights, you should immediately contact the following:

Access and Visitation Program Coordinator
P.O. Box 363
Fayetteville, North Carolina 28302
Telephone: 910-475-3245

All inquired should include your file number:
(_____ CVD _____)

THE FAMILY COURT STAFF CANNOT GIVE YOU LEGAL ADVICE.

They will assist you with information concerning court procedures and inquiries about court dates.

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 PROCEED AS AN INDIGENT

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

AFFIDAVIT

(check one of the four boxes below)

- Petition To Assert Claims - As a party in the above entitled action, I affirm that I am financially unable to advance the required costs for the prosecution of the claims I have asserted.
Petition To File Motions - As a party in the above entitled action, I affirm that I am financially unable to advance the required costs to file a notice of hearing on a motion.
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.
Petition To File Expunction Petition - As the petitioner in the above entitled action, I affirm that I am financially unable to advance the required costs to file an expunction petition.

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

- I am presently a recipient of Supplemental Nutrition Assistance Program (SNAP/food stamps), Supplemental Security Income (SSI), Temporary Assistance for Needy Families (TANF).
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.
Although I am not a recipient of SNAP/food stamps, TANF, or SSI, nor am I represented by legal services, I am financially unable to advance the costs of filing this action or appeal.

SWORN/AFFIRMED 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)

SEAL

Date Commission Expires

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 assert claims, to appeal, or file notices of hearing or petitions 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 SNAP/food stamps, TANF, 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.

(Check ONLY those that apply)

I have participated in litigation concerning the custody of the above named child.

Name of Court	Case Number	Date of Decision
_____	_____	_____

I have information of a lawsuit concerning the above named child in a court in North Carolina or another state.

Name of Court	Case Number	Nature of Proceeding
_____	_____	_____

I know of a person as listed below, who has Physical Custody Claimed Custody Claimed Visitation Rights with respect to the above named child.

Name and Address of Person(s)

6. The Plaintiff(s) is/are (a) fit and proper person(s) to have custody of the child[ren]. It is in the child[ren]'s best interest that the Plaintiff(s) be awarded custody.

7. The Defendant(s) is/are [] unfit or [] has/have acted inconsistently with their rights and duties as biological parents of the child(ren) as described (see instructions in packet):

8. This Court has jurisdiction to hear this custody case because (check one):

- The child[ren] has/have lived in North Carolina for the past six months.
- The child[ren] is/are less than six months old and has/have lived in North Carolina since the child[ren]'s birth or for a majority of the child (ren)'s life.

WHEREFORE, THE PLAINTIFF PRAYS OF THE COURT:

1. For an Order giving Plaintiff(s) temporary and permanent custody of the child[ren] listed above.
2. For such other relief as may be proper, just and lawful.

Respectfully submitted;

This, the _____ day of _____, 20____.

Signature of Plaintiff

Mailing Address of Plaintiff

Signature of Plaintiff

Telephone Number

STATE OF NORTH CAROLINA

Court File No.

County

In The General Court Of Justice
District Court Division

Name And Address Of Plaintiff

AFFIDAVIT AS TO
STATUS OF MINOR CHILD

VERSUS

G.S. 50A-209

Name And Address Of Defendant

Name Of Minor Child

Date Of Birth

Birthplace

I, the undersigned affiant, being first duly sworn, say that during the past five (5) years the above named minor child has lived as follows:

Table with 4 columns: Period Of Residence (From, To), Address, Name Of Person Lived With, Present Address Of Person. Includes a 'Present' row.

I further say that: (Check those that apply)

I have participated in litigation concerning the custody of the above named child.

Capacity As Participant

Name And Address Of Court

Date Of Child Custody Determination

Case No.

Details

I have information about a custody proceeding. Examples of custody proceeding include divorce, proceeding related to domestic violence, a protective order, termination of parental rights or adoption that is pending in a court of this or another state and could affect this proceeding.

Name And Address Of Court

Details (include case number and describe nature of the proceeding)

I know of a person as listed below, who has physical custody or claims to have custody or visitation rights with respect to the above named child.

Name And Address Of Person

- Physical Custody
Claimed Custody
Visitation Rights

SWORN/AFFIRMED AND SUBSCRIBED TO BEFORE ME

Date

Date

Signature Of Person Authorized To Administer Oaths

Signature Of Affiant

Deputy CSC Assistant CSC Clerk Of Superior Court Magistrate

Name Of Affiant (type or print)

Notary

Date My Commission Expires

Relationship To Above Named Child

SEAL

County Where Notarized

CUSTODY MEDIATION: CASE INFORMATION FORM

**** DO NOT FILE: PLACE IN CUSTODY MEDIATION BOX****

STATE OF NORTH CAROLINA COUNTY OF CUMBERLAND JUDICIAL DISTRICT 14 Plaintiff _____ vs. Defendant _____	IN THE GENERAL COURT OF JUSTICE DISTRICT COURT DIVISION FILE NO.: _____ -CVD- _____ Assigned Judge: _____
PLAINTIFF(S): Mailing Address: _____ Date of Birth: _____ Plaintiff's Attorney: _____ Address: _____	Day Phone: _____ Night Phone: _____ Email: _____ Phone: _____ Fax: _____ Email: _____
DEFENDANT(S): Mailing Address: _____ Date of Birth: _____ Defendant's Attorney: _____ Address: _____	Day Phone: _____ Night Phone: _____ Email: _____ Phone: _____ Fax: _____ Email: _____

1. Is there a pending or resolved military, civil or criminal domestic violence case involving the same parties in North Carolina or any other state? YES NO List type: _____ Expiration date: _____
If yes, you must attach a copy of all military, civil or criminal domestic violence restraining/protective orders.
2. Is DSS/CPS currently involved? YES NO Prior involvement? YES NO Date closed: _____
 List date opened: _____ and reason case opened: _____
 DSS Social Worker's name _____ County: _____ Tel#: _____
3. Is an interpreter needed for a participant? YES NO
 If yes, what language(s) does the party speak? Spanish YES NO Other? _____
4. Have the parties attended orientation in the past 5 years? YES NO If yes, case/file number: _____ -CVD- _____
5. Have the parties ever attended mediation? YES NO If yes, case/file number: _____ -CVD- _____
6. Online/WebEx Orientation or Mediation Requested YES NO (must have private setting/email/internet)
 Reason for Request (check one or more): Out-of-state/over 3 hours' drive (list state/distance _____);
 DVPO ; Medical ; Other ? List reason: _____

CHILDREN INVOLVED IN CASE: (use back of form if needed):

NAME	AGE	M/F	DOB	CHILD RESIDES WITH	RELATIONSHIP

Marriage Date: _____ Separation Date: _____ Parties Never Married: _____
 Signature: _____ Date: _____

Plaintiff Plaintiff's Attorney Defendant Defendant's Attorney Intervenor Intervenor's Attorney

STATE OF NORTH CAROLINA

File No.

County

In The General Court Of Justice

Name And Address Of Plaintiff

VERSUS

Name And Address Of Defendant

SERVICEMEMBERS CIVIL RELIEF ACT DECLARATION

G.S. Ch. 127B, Art. 4; 50 U.S.C. 3901 to 4043

NOTE: Though this form may be used in a Chapter 45 Foreclosure action, it is not a substitute for the certification that may be required by G.S. 45-21.12A.

DECLARATION

I, the undersigned Declarant, under penalty of perjury declare the following to be true:

- 1. As of the current date: (check one of the following)
a. I have personal knowledge that the defendant named above is in military service.*
b. I have personal knowledge that the defendant named above is not in military service.*
c. I am unable to determine whether the defendant named above is in military service.*
2. As of the current date, I have have not received a copy of a military order from the defendant named above relating to State active duty as a member of the North Carolina National Guard or service similar to State active duty as a member of the National Guard of another state. See G.S. 127B-27 and G.S. 127B-28(b).
3. I used did not use the Servicemembers Civil Relief Act Website (https://scra.dmdc.osd.mil/) to determine the defendant's federal military service.
The results from my use of that website are attached.
(NOTE: The Servicemembers Civil Relief Act Website is a website maintained by the Department of Defense (DoD). If DoD security certificates are not installed on your computer, you may experience security alerts from your internet browser when you attempt to access the website. Members of the North Carolina National Guard under an order of the Governor of this State and members of the National Guard of another state under an order of the governor of that state will not appear in the SCRA Website database.)
4. The following facts support my statement as to the defendant's military service: (State how you know the defendant is or is not in the military. Be specific.)

*NOTE: The term "military service" includes the following: active duty service as a member of the United States Army, Navy, Air Force, Marine Corps, or Coast Guard; service as a member of the National Guard under a call to active service authorized by the President or the Secretary of Defense for a period of more than 30 consecutive days for purposes of responding to a national emergency; active service as a commissioned officer of the Public Health Service or of the National Oceanic and Atmospheric Administration; any period of service during which a servicemember is absent from duty on account of sickness, wounds, leave, or other lawful cause. 50 U.S.C. 3911(2). The term "military service" also includes the following: State active duty as a member of the North Carolina National Guard under an order of the Governor pursuant to Chapter 127A of the General Statutes, for a period of more than 30 consecutive days; service as a member of the National Guard of another state who resides in North Carolina and is under an order of the governor of that state that is similar to State active duty, for a period of more than 30 consecutive days. G.S. 127B-27(3) and G.S. 127B-27(4).

I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct.

Date

Signature Of Declarant

Name Of Declarant (type or print)

NOTE TO COURT: Do not proceed to enter judgment in a non-criminal case in which the defendant has not made an appearance until a Servicemembers Civil Relief Act affidavit or declaration (whether on this form or not) has been filed, and if it appears that the defendant is in military service, do not proceed to enter judgment until such time that you have appointed an attorney to represent him or her.

(Over)

Information About Servicemembers Civil Relief Act Affidavits And Declarations

1. Plaintiff to file affidavit/declaration

In any civil action or proceeding, including any child custody proceeding, in which the defendant does not make an appearance, the court, before entering judgment for the plaintiff, shall require the plaintiff to file with the court an affidavit—

- (A) stating whether or not the defendant is in military service and showing necessary facts to support the affidavit; or
- (B) if the plaintiff is unable to determine whether or not the defendant is in military service, stating that the plaintiff is unable to determine whether or not the defendant is in military service.

50 U.S.C. 3931(b)(1).

2. Appointment of attorney to represent defendant in military service

If in a civil action or proceeding in which the defendant does not make an appearance it appears that the defendant is in military service, the court may not enter a judgment until after the court appoints an attorney to represent the defendant. If an attorney appointed to represent a service member cannot locate the service member, actions by the attorney in the case shall not waive any defense of the service member or otherwise bind the service member. 50 U.S.C. 3931(b)(2).

State funds are not available to pay attorneys appointed pursuant to the Servicemembers Civil Relief Act. To comply with the federal Violence Against Women Act and in consideration of G.S. 50B-2(a), 50C-2(b), and 50D-2(b), plaintiffs in Chapter 50B, Chapter 50C, and Chapter 50D proceedings should not be required to pay the costs of attorneys appointed pursuant to the Servicemembers Civil Relief Act. Plaintiffs in other types of actions and proceedings may be required to pay the costs of attorneys appointed pursuant to the Servicemembers Civil Relief Act. The allowance or disallowance of the ordering of costs will require a case-specific analysis.

3. Defendant's military status not ascertained by affidavit/declaration

If based upon the affidavits filed in such an action, the court is unable to determine whether the defendant is in military service, the court, before entering judgment, may require the plaintiff to file a bond in an amount approved by the court. If the defendant is later found to be in military service, the bond shall be available to indemnify the defendant against any loss or damage the defendant may suffer by reason of any judgment for the plaintiff against the defendant, should the judgment be set aside in whole or in part. The bond shall remain in effect until expiration of the time for appeal and setting aside of a judgment under applicable Federal or State law or regulation or under any applicable ordinance of a political subdivision of a State. The court may issue such orders or enter such judgments as the court determines necessary to protect the rights of the defendant under this Act. 50 U.S.C. 3931(b)(3).

4. Satisfaction of requirement for affidavit/declaration

The requirement for an affidavit above may be satisfied by a statement, declaration, verification, or certificate, in writing, subscribed and certified or declared to be true under penalty of perjury.

50 U.S.C. 3931(b)(4). The presiding judicial official will determine whether the submitted affidavit is sufficient.

5. Penalty for making or using false affidavit/declaration

A person who makes or uses an affidavit permitted under 50 U.S.C. 3931(b) (or a statement, declaration, verification, or certificate as authorized under 50 U.S.C. 3931(b)(4)) knowing it to be false, shall be fined as provided in title 18, United States Code, or imprisoned for not more than one year, or both. 50 U.S.C. 3931(c).

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)

CIVIL SUMMONS
ALIAS AND PLURIES SUMMONS (ASSESS FEE)
G.S. 1A-1, Rules 3 and 4
Date Original Summons Issued
Date(s) Subsequent Summons(es) Issued

To Each Of The Defendant(s) Named Below:

Name And Address Of Defendant 1

Name And Address Of Defendant 2



IMPORTANT! You have been sued! These papers are legal documents, DO NOT throw these papers out! You have to respond within 30 days. You may want to talk with a lawyer about your case as soon as possible, and, if needed, speak with someone who reads English and can translate these papers! ¡IMPORTANTE! ¡Se ha entablado un proceso civil en su contra! Estos papeles son documentos legales. ¡NO TIRE estos papeles! Tiene que contestar a más tardar en 30 días. ¡Puede querer consultar con un abogado lo antes posible acerca de su caso y, de ser necesario, hablar con alguien que lea inglés y que pueda traducir estos documentos!

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
Signature
Deputy CSC Assistant CSC Clerk Of Superior Court

ENDORSEMENT (ASSESS FEE)

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
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 \$25,000 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.

(Over)

RETURN OF SERVICE

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

DEFENDANT 1

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

- 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

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

- 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:

<i>Service Fee Paid</i> \$	<i>Signature Of Deputy Sheriff Making Return</i>
<i>Date Received</i>	<i>Name Of Sheriff (type or print)</i>
<i>Date Of Return</i>	<i>County Of Sheriff</i>

STATE OF NORTH CAROLINA

File No.

_____ County

In The General Court Of Justice
 District Superior Court Division

Name Of Plaintiff(s)
VERSUS
Name Of Defendant

AFFIDAVIT OF SERVICE OF PROCESS BY

- REGISTERED MAIL
- CERTIFIED MAIL
- DESIGNATED DELIVERY SERVICE

G.S. 1-75.10(a)(5), (a)(6); 1A-1, Rule 4(j2)

I, the undersigned, did mail by registered mail (return receipt requested), certified mail (return receipt requested),
 designated delivery service (delivery receipt requested),
 a copy of the summons and complaint and other document(s) (list) _____

in the above captioned action to (name of person to be served) _____,
 addressed as follows: _____

Further, that copies of the summons and complaint and the above listed other document(s) (check, if applicable) were in fact
 received by the defendant on (date of receipt) _____, as evidenced by the attached original receipt.
 (Attach original receipt or electronic proof of signature confirmation to this affidavit.)

SWORN/AFFIRMED AND SUBSCRIBED TO BEFORE ME		Signature Of Plaintiff/Attorney
Date	Signature Of Person Authorized To Administer Oaths	Name (type or print)
Title Of Person Authorized To Administer Oaths		
<input type="checkbox"/> Notary	Date My Commission Expires	
SEAL	County Where Notarized	