

## WAKE COUNTY FAMILY COURT INSTRUCTIONS: COMPLAINT FOR CHILD CUSTODY

### STEP 1

#### THE DOCUMENTS YOU NEED TO COMPLETE FOR INITIAL FILING

- Domestic Civil Action Cover Sheet (AOC-CV-750)
- Civil Summons (AOC-CV-100)
- Complaint for Child Custody/Visitation
- Affidavit as to Status of Minor Child (AOC-CV-609)
- Affidavit for Judicial Assignment and Notice of Hearing (WAKE-DOM-02)
- Custody Mediation Cover Sheet (WAKE-DOM-06)
- Order to Attend (WAKE-DOM-07)
- Affidavit re: Servicemembers Civil Relief Act (see Step 5 below)

### STEP 2

#### COMPLETING & FILING YOUR DOCUMENTS

1. You may handwrite or type the information required in these forms. It is preferred that you TYPE the information.
2. Please note that the *Complaint for Child Custody/Visitation* and *Affidavit as to Status of Minor Child* (AOC-CV-609) contain “Verification” sections which must be signed in the presence of a Notary Public. There are no notaries in the Family Court Office.
3. There may be a filing fee associated with these documents. To determine the amount of the fee, please refer to [www.nccourts.org/Courts/Trial/Costs](http://www.nccourts.org/Courts/Trial/Costs) or you may contact the Clerk’s Office at (919) 792-4125. Payment must be made in **cash, money order or credit card. No personal checks will be accepted.** If you are indigent, you may file a *Petition to Sue as Indigent* (AOC-G-106) with the Clerk’s Office in Room 102 of the Wake County Courthouse. You may download a copy of this form at <http://www.nccourts.org/Forms/FormSearch.asp> by typing “AOC-G-106” in the pull down box labeled “Form Number.”
4. Bring the **original plus 3 copies** (original – for the clerk, one copy – to be retained by you, other copies – for service) of all the documents you have now completed to the Clerk’s Office in Room 102 of the Wake County Courthouse for filing. Please note that the Family Court Office cannot make photocopies for you. **If you do not bring the appropriate number of copies at the time of filing, the clerk’s office will make your copies at a cost of \$2.00 for the first page, and \$0.25 for each additional.**
5. The Clerk will then give you back the *Affidavit for Judicial Assignment and Notice of Hearing* (WAKE-DOM-02), *Custody Mediation Cover Sheet* (WAKE-DOM-06), and *Order to Attend* (WAKE-DOM-07) to take to the Family Court Office in Room 1112. There you will obtain a judicial assignment and a date for mandatory Custody Mediation Orientation.

### **STEP 3**

## **SERVING THE DEFENDANT**

In order for your case to be binding against the Defendant, the Defendant must be served in a manner that is recognized by North Carolina law. Please see Rule 4 of the North Carolina Rules of Civil Procedure regarding process available on this website under *Domestic Rules & Forms*; some basic information is also included in this packet. If you are unclear as to how to serve the Defendant, you should speak to an attorney. If you serve by certified mail, you'll need to complete and file the Affidavit of Service of Process (WAKE-CIV-02), which form is in this packet.

### **STEP 4**

## **CUSTODY MEDIATION**

Rule 8 of the Tenth Judicial District Family Court Rules for Domestic Court (available on this website under *Domestic Rules & Forms*) sets forth the procedures involved in Custody Mediation. If you have any questions about Custody Mediation, you may contact the Custody Mediation Office at (919) 792-4425.

### **STEP 5**

## **OBTAINING A TRIAL DATE FOR PERMANENT CUSTODY**

Rules 3 and 4 of the Tenth Judicial District Family Court Rules for Domestic Court (available on this website under *Domestic Rules & Forms*) set forth the procedures involved in scheduling your trial for permanent custody.

If the Defendant has failed to file any pleadings or response in the case, and fails to appear on the trial date, you will need to file (or have with you at the trial) a completed and notarized *Affidavit re: Servicemembers Civil Relief Act*.

### **STEP 6**

## **APPEARING AT COURT ON THE DAY OF YOUR CUSTODY TRIAL**

1. Calendar call will take place at 9:00 a.m. on the date set forth in your *Calendar Request* (WAKE-DOM-04) and *Notice of Hearing* (WAKE-DOM-01). Please arrive at the assigned courtroom no later than 8:45 a.m. Make sure you allow yourself ample time to find parking (either on-street or in one of the public garages), go through courthouse security, and take the busy elevators up to your judge's courtroom. It is recommended that you arrive downtown no later than 8:15 a.m. on the date of your trial.
2. At calendar call, your Judge will tell you on what date and/or time you need to return for your trial.
3. On that return date/time, your trial will be conducted. At the conclusion of the trial, your Judge will render his/her ruling, or take the matter under advisement and announce his/her ruling at a later date.

## **STEP 7** **CUSTODY ORDER**

1. A final Order will then be prepared. If the Defendant is represented by an attorney, the Judge may request that the attorney draft a proposed order for the Judge's signature. Make sure that the Defendant's attorney has your address, telephone number, facsimile number, email address and any other pertinent contact information so that the attorney can share with you a proposed draft order prior to submission to your Judge.
  
2. Your Family Court Case Coordinator will contact the parties when the Order has been signed by the Judge. One of the parties will need to pick up copies of the Order from the Family Court Office in Room 1112, and *serve* the other party with one copy.

## **QUESTIONS**

After reading these instructions and reviewing the forms and all relevant statutory laws and procedural rules, if you feel that you are unable to represent yourself or complete the paperwork **ON YOUR OWN** (note: Family Court staff **CANNOT** assist you in preparing your paperwork), or if any of the instructions are unclear to you, you should speak with an attorney. If at any point during the process you should wish to proceed with the help of an attorney, some resource information is available at: <http://www.nccourts.org/County/Wake/Courts/Family> under *Domestic Attorneys in Wake County*.