



## **Judicial District 1**

### **MOTION AND ORDER TO SHOW CAUSE**

**DUE TO THE CHANGING NATURE OF THE LAW, the forms and instructions contained in this packet may become outdated. You should review and research statutes and rules of procedure referenced in the instructions to ensure that the forms are accurate and current.**

IN NO EVENT will the Clerk of Court or anyone contributing to the production of these forms, instructions or guidelines be liable for any indirect or consequential damages resulting from use of the forms or information provided to you.

IF THERE ARE ANY QUESTIONS in your mind concerning these forms, or your legal rights, it is strongly recommended that you consult with an attorney.

**USE THESE FORMS AT YOUR OWN RISK. THESE FORMS MAY OR MAY NOT BE APPROPRIATE IN YOUR PARTICULAR CASE. ANY DESIRED OUTCOME FROM THE USE OF THESE FORMS CANNOT BE PREDICTED OR GUARANTEED. IT IS STRONGLY RECOMMENDED THAT YOU SEEK LEGAL ADVICE! NO ONE AT THE JUDICIAL CENTER, CLERK OF COURT'S OFFICE OR JUDGE'S OFFICE, MAY GIVE LEGAL ADVICE OR TELL YOU HOW TO FILL OUT FORMS!**

**PLEASE CAREFULLY READ THE FORMS AND INSTRUCTIONS CONTAINED IN THIS PACKET. IF YOU HAVE ANY QUESTIONS, PLEASE CONSULT WITH AN ATTORNEY.**



THESE ARE EDUCATIONAL FORMS AND INSTRUCTIONS DESIGNED TO ASSIST YOU, BUT YOU ARE REPRESENTING YOURSELF. PLEASE REVIEW AND FOLLOW THE DIRECTIONS TO IMPROVE YOUR PERFORMANCE IN YOUR CASE. FAILURE TO READ AND FOLLOW THE INSTRUCTIONS MAY ADVERSELY IMPACT YOUR CLAIM.

# Steps for Filing a Motion and Order to Show Cause

## STEP 1

### Filing Out the Documents

\*\*\*CHECKLIST\*\*\*

You must complete the following documents:

- **Motion to Show Cause**. You are the movant; the other party is the respondent. The plaintiff and defendant stay the same throughout the entire case. Look on the previous order, if any, to see who the plaintiff and defendant are. Note that the last page of the **MOTION** needs to be signed in the presence of a **Notary Public** (the Clerk's Office cannot notarize your documents).
- **Show Cause Order**. Complete the caption of this document. The blanks will be filled out by the judge's office once the case has been scheduled for hearing by the Chief District Court Judge's office.
- **Request for Civil Action Hearing**. Complete all but the bottom portion of this form. Please be sure to check the availability of the other party and indicate both yours and the other party's availability to have this case scheduled. If you cannot get a response from the other party as to their availability, please state so on the form.

## STEP 2

### Filing the Documents

You have two options on how to file your documents:

1. Take the documents listed above to the Civil Division of the Clerk of Superior Court's office in the Courthouse in the County in which you live, or
2. File and serve the documents online using File&Serve. Learn more about File&Serve here:



The banner features the North Carolina seal on the left and the eCourts File&Serve logo in the center. The background is a dark red with a faint map of North Carolina. The text is white and blue.

**eCourts File&Serve**

**eFiling is Required for Attorneys**

The Supreme Court of North Carolina requires that all filings made in those counties with Odyssey by an attorney must be filed electronically via File & Serve or Guide & File. Paper filings will not be accepted.

Self-represented litigants are permitted to file electronically or in paper. Please see Rule 5 of the North Carolina General Rules of Practice for more information.

★★★

SCAN TO START FILING

[Nccourts.gov/Services](http://Nccourts.gov/Services)

If you choose to file your complaint at the Clerks' office, take the COMPLETED & NOTARIZED documents to the Civil Division of the Clerk of Superior Court's office in the Courthouse in the County in which you live. Note that the Clerk's office CANNOT notarize your documents.

*The fee for filing a motion is currently \$20.00 (fee subject to change).*

NOTE: The Clerk's office WILL accept credit cards and debit cards, cash, money order, or cashier's check. Make the money order or cashier's check payable to "Clerk of Superior Court." **NO PERSONAL CHECKS.**

The Clerk will scan the papers into ICMS (Integrated Court Management System) and will print the filed documents (a copy fee is assessed for this) and provide you with as many copies as you may need, depending on how you wish to serve the documents on the other party.

Once the MOTION is filed with the Clerk, you will then need to have it scheduled for hearing before a District Court Judge using the completed Request for Civil Action Hearing by submission to the Chief District Court Judge's office (address below). The Chief Judge will assign a date for your case to be heard and his office will complete the bottom portion of the Order of Assignment as well as complete the Show Cause ORDER indicating the date, time, and place of your hearing.

District Court Judge's Office – 1<sup>st</sup> District  
206 E. Main Street, 2<sup>nd</sup> Floor  
P.O. Drawer 366  
Elizabeth City, NC 27907  
252-331-4684 (fax)

You will receive the following documents back from the Judge's office:

- COPY of the Request for Civil Action Hearing/Order of Assignment (*the judge's office will forward the original to the Clerk*) and
- COPY of the Show Cause Order (*the judge's office will forward the original to the Clerk*)

Make one (1) copy of each of the above documents. You should keep one copy of each document for your records and use a copy to serve on the other party.

**PLEASE MAKE SURE THAT YOUR CORRECT MAILING ADDRESS IS IN THE COURT FILE, AS WELL AS THE CORRECT ADDRESS FOR THE DEFENDANT**

**STEP 3**  
**Service of Process**

**PLEASE READ THIS SECTION VERY CAREFULLY**  
**If you have concerns or are confused, consult with an attorney immediately!**

North Carolina General Statutes require that you give notice to the other party about the filing of your motion. This is known as “Service of Process.” The correct way to serve the other party is determined by law. If the documents are not correctly served on the other party, the court will not hear your case.

In order for your case to be binding against the other party, they must be given notice of the case, or *served* in a manner that is recognized by the court. **PLEASE NOTE that service of process must be completed successfully for your case to proceed and avoid dismissal. IT IS YOUR RESPONSIBILITY.** Service of the motion may be served by Sheriff, First Class Mail, personal delivery, facsimile, registered or certified mail with a return receipt requested. Then complete the Certificate of Service of Process form. You may check the status of service on the other party through the eCourts Portal: <https://portal-nc.tylertech.cloud/portal>

**If you do not know where the other party lives,** you will need to serve them by “publication”. This is a complex process using the newspaper to run notice of the case. You should speak with an attorney regarding this type of service. If you need an attorney, you can contact the **North Carolina Lawyer Referral Service** at **1-800-662-7660**. If you cannot afford an attorney, you may be eligible for representation or assistance from **Legal Aid of North Carolina** at **1-800-682-0010**.

**PLEASE NOTE:** Service by publication should be used only as a last resort. If you know where the other party is, or if you can find out where they are, you should never attempt this type of service.

You are now ready to serve the documents – 1) copy of the “filed” MOTION; 2) copy of the signed ORDER; and (3) copy of the signed Request for Civil Action Hearing/Order of Assignment.

**The ORIGINAL Certificate of Service of Process form must be completed and sent to the Clerk of Court for filing.**

**STEP 4**  
**Attendance**

Be sure to attend all scheduled court events on time and dress appropriately. This is very important.