

Modification of Visitation Packet

If a party wishes to change a final order in a family law case, she/he must file a new case with the court. Both parties should follow the terms of the original order until the Court issues a new order. Even if the parties agree to a change, the change is not official until the court approves it in a court order.

Child custody, visitation and child support orders are frequently changed by the courts. Still, the court follows certain guidelines to determine whether a requested change is proper.

Visitation can be changed if it is in the best interests of the child. The Plaintiff need not prove that there has been a "material" change in the child's life or a parent's life. Once the court grants a modification of visitation, the parties must wait two (2) years to ask the court for another change. However, if the reason for the requested change is a material change of circumstances, the two (2) year waiting period does not apply.

In an action seeking modification of visitation rights, since "custody" includes visitation rights, any complaint seeking such a change must be brought as a separate action in the county of residence of the legal custodian of the child; and the superior court may transfer the question of the determination of visitation rights to the juvenile court. However, the parties to a case changing visitation rights cannot waive jurisdiction of the subject matter, but can waive jurisdiction of the person and venue. Accordingly, the previous county could entertain the case if a new suit is filed and the parties waive jurisdiction of the person and venue.

Allegations alone as to denial of visitation are sufficient to allege the required change of condition so as to redetermine visitation privileges. The same is true of allegations of improper supervision and prejudicing the child against the other parent.

Modification of a court order in family law cases can be a complex process. If possible, you should discuss your case with an attorney or hire an attorney to represent you.

IN THE SUPERIOR COURT OF _____ COUNTY
STATE OF GEORGIA

_____,)
)
Plaintiff,)
)
v.) Civil Action No. _____
)
)
_____,)
)
Defendant.)

COMPLAINT FOR MODIFICATION OF VISITATION RIGHTS

The Plaintiff states [his/her] claim for a change in visitation rights as follows:

1.

The Defendant is subject to the jurisdiction of this Court and may be served with a copy of the complaint and summons at _____

(address).

2.

The Defendant presently has legal custody of the minor child(ren),
_____,
age(s) _____, by virtue of a final decree of

_____ Divorce

[OR]

_____ Legitimation in Civil Action No. _____, entered on
_____ (month and day), 20 _____ (year), in the Superior Court of
_____ County, _____ (state).

3.

Since the date of the final decree,
_____ there has been a change in circumstances materially affecting the welfare of the
minor child(ren)

[OR]

_____ it is now in the child(ren)'s best interests to change the visitation arrangement

[Explain about the change in circumstances or the child(ren)'s best interests:

4.

As a result of
_____ the change in circumstances

[OR]

_____ the child(ren)'s best interests, the visitation rights of the Plaintiff as stated in the final decree of divorce should be modified as follows:

THEREFORE, Plaintiff demands:

- (a) That the final decree of divorce be modified so as to provide for the requested change in Plaintiff's visitation rights;
- (b) That the Plaintiff have such additional relief as the Court may consider equitable and appropriate.

Plaintiff *pro se*

Address _____

Telephone number _____

IN THE SUPERIOR COURT OF _____ COUNTY
STATE OF GEORGIA

_____,)
)
Plaintiff,)
)
v.) Civil Action No. _____
)
)
_____,)
)
Defendant.)

RULE NISI

The within and foregoing Complaint having been read and considered, the same is allowed and ordered filed.

Let the Defendant be served with a copy of this Complaint and Order thereon and let the Defendant show cause before the Honorable _____, at _____ o'clock __.M., on the _____ day of 20____, then and there to be heard, why the prayers of the Plaintiff's Complaint should not be granted.

This _____ day of _____, 20_____.

Clerk of Superior Court

IN THE SUPERIOR COURT OF _____ COUNTY
STATE OF GEORGIA

_____,)
)
Plaintiff,)
)
v.) Civil Action No. _____
)
)
_____,)
)
Defendant.)

VERIFICATION

Personally, appeared before me the undersigned who on oath states that the facts set forth in this Complaint are true and correct to the best of his/her knowledge and belief.

Plaintiff *pro se*

Sworn to and subscribed before me
This _____ day of _____, 20 ____.

Notary Public, State of Georgia

My Commission Expires: _____

IN THE SUPERIOR COURT OF _____ COUNTY
STATE OF GEORGIA

_____,)
)
Plaintiff,)
)
v.)
)
_____,)
)
Defendant.)

Civil Action No. _____

_____, Judge
Ocmulgee Judicial Circuit Superior Court

IN THE SUPERIOR COURT OF _____ COUNTY

STATE OF GEORGIA

_____	§	
Plaintiff,		
	§	
v.		Civil Action
	§	File No. _____

Defendant.	§	

ACKNOWLEDGMENT OF SERVICE AND WAIVER OF SUMMONS

The undersigned Defendant hereby acknowledges service of the above Complaint for Change of Custody, and states that he/she has received a copy of said Complaint, and Defendant hereby waives any and all future notice, service, and issuance of process.

This the _____ day of _____, 20_____.

Defendant *pro se*
[Sign in the presence of a Notary Public]

Sworn to and described before me
this _____ day of _____, 20_____.

Notary Public, State of Georgia
My Commission Expires: _____

IN THE SUPERIOR COURT OF _____ COUNTY
STATE OF GEORGIA

_____,
Plaintiff,
v. _____,
Defendant.

§
§
§
§ Civil Action # _____
§
§
§

SUMMONS

To the above-named defendant:

You are hereby summoned and required to file with the Clerk of said Court and serve upon _____, the *pro se* plaintiff, whose address is _____, an answer to the complaint, which is herewith served upon you, within 30 days after service of this summons upon you, exclusive of the day of service. If you fail to do so judgment may be taken against you for the relief demanded in the complaint.

This the _____ day of _____, 20_____.

Clerk of the Superior Court of _____ County

If the defendant has not acknowledged service of the complaint and waived issuance of summons it is your responsibility to present this form to the clerk and insure it is signed and included with the complaint that is served on the defendant.