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Administrative Office of the Courts

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Directive #09-20
[Questions or comments may be directed to (609) 815-2900, ext. 55350]

To: **Assignment Judges**
Trial Court Administrators

From: **Glenn A. Grant, J.A.D.**

Subj: **Family - Order to Show Cause - Model Form for Dissolution, Non–Dissolution, and Domestic Violence (FM, FD & FV) Dockets**

Date: **March 16, 2020**

Directives #16-05 and #08-08, promulgated four Order to Show Cause forms for use in the Civil, Family, General Equity, Special Civil, and Probate Parts. The order templates in the original directives did not include language specific to Family Division emergent applications. This directive is being issued specifically to address Family Division matters. It thus supersedes Directive #16-05 and Directive #08-08, as to their application to Family Division matters, and promulgates for immediate use in Family Division matters two new standard forms: (1) Emergent Application (CN 11523), and (2) Order to Show Cause (CN 12547).

R. 4:52-1 applies to persons who have emergent matters, including those in the Family Division seeking relief to prevent immediate and irreparable harm from occurring if it is not addressed right away. The attached forms are to be used to apply for an emergent hearing in the Family Division for reliefs such as emergency custody, termination of visitation, or temporary prevention of relocation of a child outside New Jersey boundaries.

If the filing for an Order to Show Cause is under the Dissolution docket (FM) or the Domestic Violence docket (FV), only the two forms attached to this directive must be completed and filed with the court.

If the filing is under a Non-Dissolution docket (FD), either a verified complaint (CN#11492) or a post-disposition application (CN#11487) must accompany the attached two forms. The Non-Dissolution Complaint and post-disposition application forms with instructions are available on the court's website: www.njcourts.gov.

Questions regarding this directive may be directed to the Administrative Office of the Courts, Family Practice Division, at (609) 815-2900 ext. 55350.

Attachments:
Emergent Application (CN 11523)
Order to Show Cause (CN 12547)

cc: Chief Justice Stuart Rabner
Steven D. Bonville, Chief of Staff
Jennifer M. Perez, Director
Joanne M. Dietrich, Assistant Director
Special Assistants to the Administrative Director
Amelia Wachter-Smith, Chief, Family Practice
Assistant Family Division Managers

Emergent Hearing
(Order to Show Cause)

Orders to Show Cause are generally used to avert or prevent irreparable harm to a child or to protect their health, safety, and welfare. Prevention of harm is the reason to seek emergent remedy with the court. The court, in its discretion, may issue an emergency order. Only a judge can determine if an emergency hearing is necessary.

Examples of issues that may be raised in an Order to Show Cause are: emergency custody, termination of visitation or temporary prevention of relocation of a child outside New Jersey boundaries. Non-payment of spousal support, if a family is facing immediate eviction, may be an issue for an Order to Show Cause. Non-payment of child support is NOT an issue for an Order to Show Cause.

If you wish to apply for an emergency hearing the following steps must be completed:

New Cases

1. If this is your first filing of an **FD case** (no previous FD docket # concerning the same people), complete the "Initial Application/Cross Application" and all forms required for a new case.

2. If you are filing a **new complaint for divorce (FM)**, then you will need to complete the Emergent Application and the Order to Show Cause forms.

3. Check "other Relief" and write that you are requesting an emergency hearing.

4. Complete the "Emergent Application" form in its entirety. Use the "**Additional Information form**" to further explain why your case is an emergency. Sign and date both forms.

Reopen Cases

5. If you already have a FD docket # involving the same people, complete the "Application/Cross Application to Modify a Court Order" form and all accompanying forms required to reopen your case. On the "Application to Modify a Court Order", check number 6, "The relief I am seeking is not listed above". Check "I am seeking the following from the court". Write that you are requesting an emergent hearing.

6. If you already have a FM or FV docket # involving the same people, complete both the Emergent Application and the Order to Show Cause forms.

7. Complete the "Emergent Application" form in its entirety. Use the "**Additional Information form**" to further explain why your case is an emergency. Sign and date both forms.

_____	**Superior Court of New Jersey**
	Chancery Division - Family Part
	County: _____
Plaintiff	**Docket Number: F__ -** _____
vs.	**CS Number:** _____
_____	**Civil Action**
Defendant	**Emergent Application**
	(Order to Show Cause)

Attach to All Applications When Filing for an Order to Show Cause:

☐ This application is an emergency, which cannot be handled through the normal court procedures because:

- ☐ Threats have been made to remove the child(ren) from the State of New Jersey which would violate the NJ Anti-removal statute, N.J.S.A. 9:2-2.
- ☐ Without my consent or approval, the child(ren) were removed/abducted on _____ from the State of New Jersey in violation of my parental rights and New Jersey law.
- ☐ The child(ren) were not returned after a parenting time period.
- ☐ The child(ren) will suffer substantial and irreparable harm unless the ☐ defendant ☐ plaintiff is immediately:
  - ☐ Restrained from taking the child(ren) from my custody and removing them from their current home in New Jersey.
  - ☐ Required to return the child(ren) to me.
- ☐ Other. Explain.

_____

_____

_____

_____

Other Information required for Emergent Application.

☐ There is no other person who is a party to this matter that has physical custody of the child(ren) or claims to have custody or parenting time rights.

☐ Other person(s) who is/are party/parties in this matter having physical custody of the child(ren) or claiming to have custody or parenting time rights include:

Names and Addresses:

_____

_____

_____

☐ A complaint for ☐ support ☐ parenting time ☐ custody has been filed on this date simultaneously with this emergent application since there is no existing court order involving the plaintiff, the defendant and the status of the child(ren) in this State or any other jurisdiction.

If my request is not granted, I believe that I and/or the child(ren) will suffer immediate and irreparable harm (damage that cannot be corrected, compensated or undone) as follows:

_____

_____

_____

I/We certify that **all** the statements made above are true. I am aware that if **any** of the statements made by me/us are willfully false, I/we am subject to punishment.

Date	Signature ☐ Plaintiff ☐ Defendant ☐ Plaintiff / Cross Applicant ☐ Defendant / Cross Applicant
Date	Signature ☐ Co-Plaintiff ☐ Co-Defendant ☐ Co-Plaintiff / Co-Cross Applicant ☐ Co-Defendant / Co-Cross Applicant

_____ Plaintiff(s)	Superior Court of New Jersey
v.	_____ Division - _____ Part
	- Select County - County
	Docket Number _____
	CS Number _____
_____ Defendant(s)	**Civil Action**
	Order to Show Cause

THIS MATTER being brought before the Court by _____ (☐ plaintiff ☐ defendant), and it appearing that:

☐ plaintiff/defendant has received notice of this application **OR**

☐ plaintiff/defendant consents to plaintiff's/defendant's application **OR**

☐ immediate and irreparable harm may result before notice can be given and a hearing held

And for good cause shown;

It is on this ____ day of _____, 20__, **ORDERED** that (☐ plaintiff ☐ defendant) appear and show cause before the Superior Court at the _____ County Courthouse in _____, New Jersey at ____ o'clock ☐ am ☐ pm or as soon thereafter as can be heard, on the ____ day of _____, 20__, why judgment should not be entered for (set forth with specificity the return date relief that the filer is seeking):

A. _____
B. _____
C. _____
D. Granting such other relief as the court deems equitable and just.

And it is further **ORDERED** that pending the return date herein, the plaintiff/defendant is [*temporarily*] restrained from:

_____
_____
_____
_____
_____

And it is further **ORDERED** that pending the return date herein, the following temporary relief shall be granted to the moving party:

_____
_____
_____
_____
_____

And it is further **ORDERED** that the plaintiff/defendant may move to vacate the temporary relief in two days' notice to the moving party.

And it is further **ORDERED** that:

1. A copy of this order to show cause, verified complaint or post-disposition application, legal memorandum and any supporting affidavits or certifications submitted in support of this application be served upon the ☐ plaintiff ☐ defendant [*personally or alternate: describe form of substituted service*] within ____ days of the date hereof, in accordance with *R.* 4:4-3 and *R.* 4:4-4, this being original process. **If this order to show cause is in reference to a FV docket and/or if there is a standing Restraining Order between the plaintiff and defendant in this matter, service will be conducted by the court**.

2. The plaintiff/defendant must file with the court their proof of service of the pleadings on the plaintiff/defendant no later than three (3) days before the return date. Proof of service shall include a certification which must state the method of service as well as proof of service as appropriate (i.e. Certified mail number).

3. Plaintiff/Defendant shall file and serve a written response to this order to show cause and proof of service by _____, 20__. The original documents must be filed with the Family Division in the county listed above. If you cannot afford an attorney, you may call the Legal Services office in the county in which you live. If you do not have an attorney and are not eligible for free legal assistance you may obtain a referral to an attorney by calling one of the Lawyer Referral Services. **If this order to show cause is in reference to a FV docket and/or if there is a standing Restraining Order between the plaintiff and defendant in this matter, service will be conducted by the court.**

4. The Court will entertain argument, but not testimony, on the return date of the order to show cause, unless the court and parties are advised to the contrary no later than ____ days before the return date.

_____

_____, J.S.C.