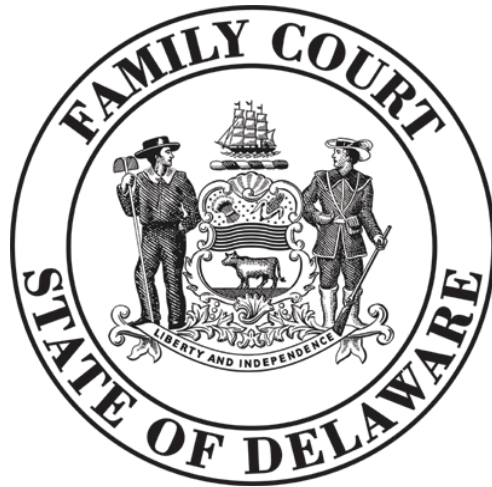


MOTION INSTRUCTION PACKET



<https://courts.state.de.us/family>

DRAFT

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MOTION PACKET

Use the **Motion Packet ONLY** if you are one of the following persons:

- ✓ A party to the action (a person named in the case); **OR**
- ✓ An interested party who wants to join in the case for a reason permitted by law. In other words, you were not named as a party (litigant) to the case but you believe you should be involved in the case. For example, you are the Guardian of a child and someone filed to terminate the parental rights of that child's parents. If you were not named as a party to the case, you might file a **Motion** so that you can be involved in the case.

If there is no case yet and you want to start a case, you need to file a petition. **PLEASE NOTE! You CANNOT file a Motion if there is no petition pending with the Family Court.**

HOW TO USE THE PACKET

This packet contains general information about **Motions**, basic instructions on how to complete the Court forms you must file, and samples of the completed Court forms.

ONLY FILE THE FORMS INCLUDED IN THE FORMS PACKET. The forms in this **Instruction Packet** are just samples to help you understand how to fill out the real forms in the **FORMS PACKET**. Read the instructions and sample forms carefully before completing each form you must file. When you complete a form, write in blue or black ink **AND** write neatly.

Please look for the shaded written instructions and the following symbols throughout the packet. They will help guide you.



THIS DOCUMENT MUST BE FILED



FILL IN THE BLANKS OR WRITE INFORMATION HERE



YOU DO NOT HAVE TO TAKE THESE STEPS NOW



READ THIS SECTION CAREFULLY

TIPS AND REMINDERS ...

- ✓ Remember who is the Movant and who is the Other Party.
 - The **MOVANT** is the person who files the Motion. This is true even if that person was the Respondent on the original Petition.
 - The **OTHER PARTY** is the person replying (responding) to the Motion.

- ✓ Remember that just because you fill out the forms correctly does not necessarily mean the Court will give you (grant) what you want. It is up to you on your motion form and possibly at the court hearing to prove why the Court should give you what you want.

- ✓ Representing yourself may take a lot of time, may be difficult and may be confusing. The Court will expect you to follow the same rules that attorneys must follow. **If at any point throughout the Court process you are not sure about representing yourself, you should talk to an attorney.**

- ✓ Please remember that **COURT STAFF CANNOT GIVE YOU LEGAL ADVICE**. Should you have a question about what options you have or what you should do, you should talk to an attorney. Just because you talk to an attorney does not necessarily mean that you must hire that attorney to represent you. Ask the attorney if he/she is willing to meet with you and answer your questions without having to hire that attorney for full representation. Before you meet with the attorney, ask what fees may be involved for such limited services.

- ✓ If you would like assistance in finding an attorney, you can call the **Lawyer Referral Service** in New Castle County, 302-478-8850, and in Kent and Sussex Counties, 1-888-225-0582. (You may call the same telephone numbers and ask for the **Legal Help Link** to find out if you qualify for free legal assistance.)

- ✓ **Always bring your photo identification** with you (such as your driver's license, or a state-issued photo identification card) whenever you get a Court form notarized.

- ✓ **THERE IS A LOT OF PAPER IN A COURT CASE AND HAVING THE COURT MAKE YOU COPIES CAN BE VERY EXPENSIVE.**

PLEASE READ AND REMEMBER THESE IMPORTANT TIPS

REMEMBER

- **Keep a copy of every document and court paper.**
- **Keep all notes, documents and court papers together and organized in a folder with the most recent papers on top.**
- **Bring the folder with your papers with you every time you go to Court.**
- **When you file a document with the Court, bring the required number of copies of each paper and an extra copy for you to have “clocked-in.” Keep the clocked-in copy in your folder so you have proof of the time and date you filed each document. You may make copies at the Resource and Self-Help Centers but there is a small fee.**
- **When you complete a document or form for filing with the Court, always include the full case name and file and petition numbers (if there are any).**
- **When you must mail something, we suggest that you use regular mail AND “certified mail, return receipt requested” so that you have proof that the other party received the envelope. If you cannot afford to pay for “certified mail” we suggest you get a “certificate of mailing” at the post office to prove that you mailed the envelope to the other party. You may purchase stamped envelopes at the Resource and Self-Help Centers and the Court will mail your Court papers for you by regular mail. You are responsible for certified mailing.**

SECTION 1

STARTING THE MOTION PROCESS



You MUST file the ORIGINAL of each form below with the Court.

- Make a copy of each completed form for your records.
- Have your set of copies “clocked-in” for your file. Having a paper “clocked-in” means that the Court will stamp on the copy the time and date you filed your papers. Your clocked-in copy will serve as proof of the time and date you filed the paper.



You MUST MAIL to EACH party in the case an EXACT COPY of what you filed. Make a copy of each completed form for your records.

- See page 9 for more information and suggestions about mailing.



Each Other Party will have thirteen (13) days from the date they receive a copy of your motion to file their response with the Court. The Court will not consider your motion until that time has elapsed.

- Keep this in mind when filing your motion. For example, if you are filing a Motion for Continuance, you must file more than 13 days before your hearing date to allow for a response.



Motion form.

- Sample form found on page 13.

This sample form represents a Motion for Leave to Amend the Pleadings; however, there are many different types of motions that may be filed. Most motions can be filed using the generic motion form #191; however, some motions require that specific forms be used. An example of different types of motions is discussed in Section 3 starting on page 19.

- Only a party to the action (a person named on the underlying petition) or an interested party who has a legal reason to join the case may file a motion.
- You must name as the Other Party(ies) every person named on the underlying petition as a party to the case.
- **Unlike a petition, the Court will not serve the motion for you. You must mail to each party an exact copy of what you filed. On the motion form, you will affirm that you placed a copy of the motion in the mail to each Other Party.**
- You want to name your motion in such a way that it will be clear what you are asking the Court to do. An example of a Motion is on page 13. However, there is no limitation regarding the type or name of a motion you may file. Your motion should be tailored to the specific facts of your case and be specific about what you want the Court to do.
- When alleging facts within your motion, you want to be as specific as possible and provide the Court with all the information needed to make a decision. **You must state the reason for your motion and the relief which you are seeking.**
- It is up to the Court whether to hold a formal hearing based upon your motion. The Court may make a decision after just reading your Motion and the response. This is called making a decision “on the papers”. Because of this, you want to include all the information you wish the Court to consider in your motion because you may not have a chance to present more information at a hearing.
- When writing down your allegations, you should list each point that you want to make in its own **numbered paragraph**. This will make it easier for the Court and the Other Party(ies) to

understand your request. An example of numbered paragraphs can be found on the Sample Motion found at the end of this section.

- If you need more space to write, you may attach additional pages to the Motion. Be sure to state on the motion that you have attached more pages, so the Court and the Other Party(ies) will know to look for additional information.
- You must sign your Motion in the presence of a notary public or authorized Court staff.

Remember!

You are swearing that the statements made in your motion are true and correct to the best of your knowledge.

You are accountable for what is stated in your motion.



Notice of Motion form.

- Sample form found on page 14.
- The Notice of Motion form must be mailed to the Other Party(ies) along with a copy of your Motion. The Notice of Motion informs the Other Party(ies) that a motion has been filed and that they have 10 days from the date they are served to respond.



Order form.

- Sample form found on page 15.
- On the Order Form, you must write the relief which you are seeking.
- It is possible that the Judge or Commissioner will sign the Order that you drafted. Therefore, it is very important to write on the Order exactly what you want to happen.

- The Judge or Commissioner may sign this Order, make changes to it or draft a new Order completely.
- The Order Form must be mailed to the Other Party(ies) along with a copy of your Motion and the Notice of Motion form.



Information Sheet form

- Sample form found on page 16.
- This form provides the Court with general information about the parties that allows the Court to adequately notify the parties about upcoming proceedings and to maintain up-to-date records.



Any other documentation (written proof) you believe is needed must be included with your Motion when it is filed.

BE AS SPECIFIC AND DETAILED AS POSSIBLE WHEN WRITING YOUR MOTION. Remember, the Court may make a decision based on the filings WITHOUT having a Court Hearing.

Filing Your Motion

File the forms at the Family Court **in the County where the underlying petition has been heard or filed.**

- In Kent and Sussex Counties you may file your papers at the Resource Centers on the first floor of the Family Court buildings.
- In New Castle County, you may file your papers at the Resource Center on Lower Level 1 of the Leonard L Williams Justice Center or, **IF**, you have all of the forms completed, you do **NOT** have any questions, you have made the necessary copies and you do **NOT** need any papers notarized, you may file your papers at the **Central**

Filing and Payment Center located on the first floor of the Leonard L. Williams Justice Center. There is no staff assistance at the **Central Filing and Payment Center**.

- If you file your papers by mail, the addresses for each courthouse are available on the Family Court website. The Court does **NOT** accept filings that are faxed or e-mailed.

A filing fee is charged for any Motion filed under Family Court Rule of Civil Procedure 60(b) and a Motion to Reopen. All other motions may be filed free of charge. To find out what the filing fee is, you can look at the Family Court website or go to the Family Court Resource Centers. The filing fee can be paid in cash, by credit card, by debit card, by check or by money order made payable to "Family Court". If you are filing by mail, you may only pay by check or money order. **FAMILY COURT WILL NOT ACCEPT YOUR PAPERS WITHOUT THE FILING FEE.**

SERVICE OF PROCESS

Each Respondent **must receive** a copy of the Motion. The delivery of your Motion and any other forms you file is called **Service of Process**. Motions are served by mail. You, the movant, must send an exact copy of your Motion, Notice of Motion and Order to the Other Party(ies). You may do so by first class mail or certified mail. On the motion itself, you will certify that you have placed a copy of your Motion in the U.S. Mail.

This packet is intended to be a guideline and may not contain the most recent version of each form. Please obtain forms from the Resource Center or at this link: <https://courts.delaware.gov/family>.

***Each sample form may list information from individual cases and not all parties will match.**

The Family Court of the State of Delaware

In and For New Castle Kent Sussex County

Check the county in which you are filing.

MOTION FOR Leave to Amend the Pleadings

Fill in the title of the motion that you are filing.

Petitioner

Respondent

Name

Anne C. Smith

Street Address

101 Oak Street

Apt. or P.O. Box Number

Apt. # 123

City

Dover

State

DE

Zip Code

19901

City

Wilmington

State

DE

Zip Code

19899

Social Security Number

111-22-333

Date of Birth

2/3/64

Social Security Number

787-98-6767

Attorney Name and Phone Number

n/a

Attorney Name and Phone Number

n/a

Write in this caption exactly as it appears on the original petition. In other words, if you are filing the motion, but you were the Respondent, you still put your name in as the Respondent.

Fill in the type of case about which you are filing the motion.

A PROCEEDING involving Custody having

Movant hereby moves the Court for leave to amend the pleadings and, in support thereof, alleges the following facts:

Explain what you would like the court to order.

- 1) On my Petition for Custody, filed December 12, 2009, I mistakenly left out information regarding an incident of domestic violence that occurred between me and the Respondent.
- 2) I have attached an amended version of my Petition to this Motion.
- 3) I am asking that the Court allow me to amend my original Petition and replace it with the Petition attached.

SWORN TO AND SUBSCRIBED before me this date,

November 10, 2004



Sign in the presence of a notary.



Anne C. Smith

Movant/Attorney

Donna King

Notary Public/Clerk of Court



Signed by notary or court staff.

I, the Movant, affirm that a true and correct copy of this Motion was placed in the U.S. Mail on this date

11/10/2004

John D. Smith

pre-paid.

Fill in the Other Party's name and the date that you mailed him/her a copy of the motion.

at the address listed on the petition, being

, first class postage

SWORN TO AND SUBSCRIBED before me this date,

November 28, 2004



Sign in the presence of a notary.



Anne C. Smith

Movant/Attorney

Donna King

Notary Public/Clerk of Court



Signed by notary or court staff.

The Family Court of the State of Delaware

In and For New Castle Kent Sussex County

Check the county in which you are filing.

Anne C. Smith



Petitioner

File No.:

CK04-12111



v.

John D. Smith



Respondent

Write in this caption exactly as it appears on the original petition. In other words, if you are filing the motion, but you were the Respondent, you still put your name in as the Respondent.

09-00898



NOTICE OF MOTION

TO: John D. Smith
490 Pine Street
Wilmington, DE 19899

Fill in the Other Party's address here.

Fill in the type of Motion that you are filing.

PLEASE TAKE NOTICE that the attached Motion For Leave to Amend the Pleadings is herewith presented to the Court for consideration. If you are opposed to this motion, you must file a written response with the Court within ten (10) days of the service of this motion. If no response is timely filed, the motion may be decided without further opportunity for you to be heard on the matter. Family Court Rules, Rule 7(b)(2).



March 14, 2009

Date

Sign in the presence of a notary.

Anne C. Smith

Movant/Attorney

Fill in your address here.

Name and address of Movant/Attorney		
Anne C. Smith		
Street Address		
101 Oak Street		
Apt. or P.O. Box Number		
Apt. #123		
City	State	Zip Code
Dover	DE	19901

The Family Court of the State of Delaware

In and For New Castle Kent Sussex County

Check the county in which you are filing.

Anne C. Smith

Petitioner

v.

John D. Smith

Respondent

Write in this caption exactly as it appears on the original petition. In other words, if you are filing the motion, but you were the Respondent, you still put your name in as the Respondent.

CK04-12111

No.: 09-00898

ORDER

Fill in your name here.

Having considered the request of the movant, Anne C. Smith,

IT IS SO ORDERED, this date: _____

Leave this blank for the Hearing Officer to complete.

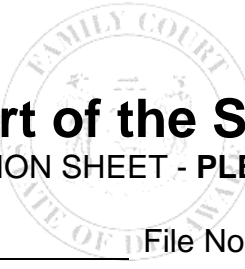
That the Movant's Motion for Leave to Amend the Pleadings is granted.

Fill in the relief that you are seeking here. Remember that it is possible the Hearing Officer will sign this form that you draft. Therefore it is important to write exactly what you want to happen.

The Hearing Officer may sign this Order, make changes to it or draft a new Order completely.

Leave this blank for the Hearing Officer to sign.

Judge/Commissioner



The Family Court of the State of Delaware

INFORMATION SHEET - PLEASE PRINT

Fill in the date you file the form.

If you know your case file number, put it; if not, leave blank.

Date: 12/13/2017 File No.: CN17-99999

Please fill in A to K pertaining to you the Applicant/Petitioner. (For additional petitioners use additional sheets)

A. Name: Anne C. Smith Each Petitioner must complete a separate form

B. Address: 101 Oak Street, Apartment #123
 City/State/Zip: Dover, DE 19901

C. Phone – Home: (302) 555-1111 Work: (302) 555-9999 Cell: (302) 999-8888

D. Employer & Address: ABC Child Care Center
500 Pine Street
Dover, DE 19904
 Hours/Shift 7:30 to 4:30 Monday-Friday

E. Social Security No.: 000-00-0000 **F. Date of Birth:** 2/3/1986

G. Place of Birth (City & State): Wilmington, DE

H. Sex: F **Race:** White **Height:** 5'4" **Weight:** 135 lbs **Hair:** Blond **Eyes:** Brown
Marks/Scars/Tattoos: None

I. Type of motor vehicle operated by you: 2010 Honda Accord

J. Driver's License No.: 9999999 **State of Issue:** DE **Expiration Date:** 2/3/2020

K. Your relationship to the Defendant/Respondent: Spouse

L. Attorney: None

Entering your email address on this line authorizes the Court to send you notices by email. If you choose this option, you will not receive notices in regular mail.

I authorize Family Court to deliver court orders in my case(s) to my email address instead of to my mailing address. My email address is: Anne.C.Smith@example.com

*Please note that if you provide an email address, all orders in your pending civil cases in Family Court will be sent in an encrypted email via Egress to the email address provided and will not be mailed to your physical address. For information on how to receive encrypted emails through Egress, please visit <https://judicial.state.de.us/courtbox/Download.aspx?id=94888&court=readonly>.

Please fill out the information below in reference to the child(ren) who are involved.

Children

Name	Relationship	Sex	Race	D.O.B.	SSN	Birthplace City & State
<u>Douglas A. Harding</u>	<u>Nephew</u>	<u>M</u>	<u>White</u>	<u>10/14/2012</u>	<u>987-65-4321</u>	<u>Newark, DE</u>

Please fill in L to Y pertaining to the Defendant/Respondent. (For additional respondents use additional sheets)

M. Defendant/Respondent is a: (Check One) ADULT JUVENILE

N. Name: Michelle Jones

O. Address: 490 Pine Street
 City/State/Zip: Dover, DE 19901

P. Phone – Home: (302) 333-3333 Work: (302) 222-2222 Cell: (302) 111-1111

Q. Employer & Address: XYZ Corporation
67 Walnut Avenue
Dover, DE 19901

Hours/Shift 9:00 AM to 5:00 PM, Monday-Friday

You must complete a separate form for each Respondent.

R. Social Security No.: 888-88-8888 S. Date of Birth: 7/13/1991

T. Place of Birth (City & State): Wilmington, DE

U. Relationship to Child: Not Applicable Mother Father Relative Non-Relative
 Other (Please Describe) _____

V. Sex: F Race: White Height: 5'4" Weight: 140 lbs Hair: Black Eyes: Brown

Marks/Scars/Tattoos: Tattoo of a heart on right shoulder

W. Driver's License State & No.: DE 1111111 X. Type of vehicle operated by Defendant/Respondent: 2009 Chevy Impala

Y. Parent's Name (if a juvenile): _____

Z. Time when Respondent is usually home: 7:00 PM to 6:30 AM, Monday-Friday; mornings on weekends

List places where the Respondent spends time other than at home or _____

AA. Additional information about Respondent that may aid the process server in locating him/her to serve petition:

If you are unable to locate the Respondent at her place of residence or her place of employment, she spends a lot of time at her brother's house, which is located at 775 Spruce Lane, Dover, DE 19901.

Write directions to each address listed on this form to make sure that the process server can locate the Respondent.

DIRECTIONS TO RESPONDENT'S RESIDENCE

Home: Go West on 8th Street until you reach Pine Street. Turn right and go 3 and one-half blocks. The Respondent's house is on the right and is white with blue shutters.

Work: Go North on Route 13 and take the first right onto Cherry Drive. Go about a mile and a half and turn left onto Walnut Avenue. XYZ Corporation is on your left.

Brother's Residence: Go two blocks past Respondent's home to 10th Street. Turn left and go one block to Spruce Lane. Turn right. It is the second house on the right. The house is green.

SECTION 2

THE COURT'S DECISION

Depending upon the type of **Motion** you file, the Judge or Commissioner may decide whether or not to grant your **Motion** based upon the papers filed. The Judge or Commissioner's decision will be written in a **Court Order**. After the decision is made, you will receive the **Court Order** in the mail.

Sometimes, before making the decision, the Court will schedule a Court Hearing on your **Motion**. If the Court **DOES** schedule a Court Hearing on your **Motion**, you and the Other Party(ies) to your **Motion** will each be given an opportunity at the Court Hearing to prove why the Court should or should not grant your **Motion**.

During the Court Hearing, the Court must follow a certain procedure. It is important that you are familiar with this procedure so that you know what you are allowed to do, when you are allowed to talk, and how to tell your side of the story.

Family Court has developed an instructional packet entitled, "**How to Prepare for Your Court Hearing**". This packet explains generally what the Court Hearing procedure is and should answer many of the questions you have about the procedure. You may find this packet on the Family Court website or in the Resource Center located at the Courthouse in each county.

If the Court schedules a Court Hearing, the Judge or Commissioner will either make his/her decision at the end of the Court Hearing or some time after the Court Hearing. Again, you will receive the **Court Order** in the mail.

SECTION 3

TYPES OF MOTIONS

There are many reasons why you may want to file a Motion. Below are examples of the most commonly filed Motions, but there are other Motions you may file depending upon your situation and your case. Remember to **BE REALISTIC WHEN DECIDING TO FILE A MOTION**, as you should in all parts of your case. You should have a good legal reason to file your Motion. The Court may penalize a person who files meaningless Motions, particularly when the reason for filing a Motion is to harass or create an undue hardship to the other side of the case.

REMEMBER!

Most motions can be filed using the Generic Motion Packet that includes forms 191-193; the Motion (form 191), the Notice of Motion (form 192) and the Order (form 193). Remember, all three forms **must** be filed together, along with the Information Sheet (form 240), when using the generic Motion, form 191.

Some motions require that specific forms be used. A complete list of motions requiring specific forms are found at the end of this section.

1. **Amend the Pleadings (Motion for Leave to Amend the Pleadings)**

*Use generic motion forms #191-193. Sample found on pages 13-15.

If you forgot to state something in a pleading (such as a **Petition** or **Answer**) that you already filed, you made a mistake in a filed pleading, or you want to change something written on a filed pleading, you may file a **Motion for Leave to Amend the Pleadings**. In this Motion, you would write what you want to add, or what the mistake is and how you want it corrected, and/or what you want to change and how you want to change it. It is usually a good idea to write the reason why the original filing was not complete or correct.

To make the process move more quickly, in this situation, you might want to file the actual **Amended Petition** (the Petition with the changes) **WITH** the **Motion for Leave to Amend the Pleadings**.

2. **Reargue (Motion for Re-argument)**

* Use generic motion form #191-193. Sample found on pages 13-15.

If you believe the Judge or Commissioner misinterpreted the law as to the facts of your case or a specific aspect of your case **OR** that the Judge or Commissioner overlooked a fact that you presented in Court and such fact would have changed the Judge or Commissioner's decision, you may file a **Motion for Re-argument**. In the **Motion for Re-argument**, you would ask the Judge or Commissioner who made the decision if you may reargue, before the same Judge or Commissioner, your position or specific aspect of your case you believe was misinterpreted or overlooked.

Note! A Motion for Re-argument is not the same as a Request for Review of Commissioner's Order or an Appeal of a Judge's Order. In a Motion for Reargument, you are requesting to reargue only a specific aspect of the case.

-A Motion for Reargument does "stop the clock" on your time for appeal. If your Motion is unsuccessful, your appeal time would start from the date your motion is denied.

3. **Consolidate (Motion to Consolidate)**

*Use generic motion form #191-193. Sample found on pages 13-15.

In a **Motion to Consolidate**, you ask the Court to put two or more cases or issues together to be decided. For example, if both parents filed **Petition for Custody** against the other or if one parent filed a separate **Petition for Custody** and the other parent filed a **Petition for Visitation**, you may want to ask if the Court can decide these two Petitions at the same time. You would do so by filing a **Motion to Consolidate**. In this Motion, you would write the names, case numbers and petition numbers of the cases you want combined, why such cases are so similar, and why it would be in the best interest of the Court and the parties if the Court decided them at the same time.

4. **Discovery (Motion for Discovery)**

*Use generic motion form #191-193. Sample found on pages 13-15.

In a **Motion for Discovery**, you may ask the Court to help you get the information you need for your case. **Discovery** information can come from the other side, or from people and places outside of the case, such as schools, companies, or doctors. In your Motion, you should state what information you need and why you need it. Before filing this Motion, you should review the Family Court Rules of Civil Procedure 26-37. These rules explain what you may and may not ask for in your Motion for Discovery.

5. **Extension of Time (Motion for Enlargement of Time)**

*Use generic motion form #191-193. Sample found on pages 13-15.

In a **Motion for Enlargement of Time**, you may ask the Court for more time (an extension) in which to complete something that is required of you. For example, if you have an answer due but you need more time, you can ask the Court for additional time. You should file this **Motion AS SOON AS** you find out that you need more time. The Court will not always grant this **Motion** because the time lines provided in the Rules are structured to give litigants enough time to meet requirements. Furthermore, some Rules prohibit the Court from granting more time in certain situations.

- If the deadline comes before the Court rules on your Motion, you must assume that the Motion is denied and meet the requirement on the original deadline.

6. Parenting **Classes** (**Motion to Waive Parenting Classes**)

*Use generic motion form #191-193. Sample found on pages 13-15.

If you have a case that requires you to complete **Education Seminars for Divorcing and Separating Parents** and **you have already completed** one of the approved seminars, you may file a **Motion to Waive Parenting Classes**. In this Motion, you may ask the Court if your completed seminar(s) satisfy this requirement without you having to complete the seminar(s) again. With this Motion, attach a **certified** copy of your **Certificate of Completion** of the seminar you completed. If it is an out-of-state seminar, **ALSO** attach a copy of the course outline.

7. **Reopen** (**Motion to Reopen**)

*Use generic motion form #191-193. Sample found on pages 13-15.

In a **Motion to Reopen**, you ask the Court to look again at a case that was already closed (decided). Common reasons for filing a Motion to Reopen may include newly discovered evidence, clerical mistakes or mathematical errors in the judgment.

8. **Sanctions** (**Motion for Sanctions**)

*Use generic motion form #191-193. Sample found on pages 13-15.

In a **Motion for Sanctions**, you ask the Court to penalize (punish) the other side for legally inappropriate actions taken in the case. Examples of sanctions include posting bond, being fined and jail time.

9. **Change of County (Motion for Change of Venue)**

*Use generic motion form #191-193. Sample found on pages 13-15.

In a **Motion for a Change of Venue**, you ask the Court to move your case to a different county. For instance, if this is a Custody case and you and the children involved live in a different county from where the case was filed, you might file a **Motion for a Change of Venue**. Also, if some of the parties move while the case is going on, or if there are other parts of the case being decided in another county, you might file this Motion. In the Motion you would write the county to which you want your case moved and why your case should be moved.

10. **Continuance (Motion for Continuance)**

*Filing a motion for Continuance of a Court proceeding is an example of a motion that requires a specific form. Use form #196 Motion for Continuance. Sample found on pages 25-27

*Please note a request to have a **mediation** continued should **not** be made by Motion. Instead, you should use Request for Continuance of Mediation (Form 548), which will be considered by the mediator.

If for some legal reason you cannot attend a Court Proceeding other than a mediation, you may file a **Motion for Continuance**. You should file this **Motion AS SOON AS YOU LEARN** you cannot attend. On this Motion you must write:

- 1) the original filing date of the petition
- 2) the number of times the case has been scheduled for a hearing previously,
- 3) why you cannot attend the Court Proceeding,
- 4) when you learned that you could not attend the Court Proceeding,
- 5) what efforts you made to make sure you filed this Motion as soon as you learned you could not attend, **and**
- 6) what the Other Party's position is regarding the continuance.

Again, whenever you file a **Motion for Continuance**, you must file as soon as you learn of the conflict. **DO NOT WAIT UNTIL THE LAST MINUTE**, if possible. Because of the seriousness of your case, the Court will expect you to find a way to attend Court Proceedings. The Court will balance your interests in allowing the delay against the interests of the other parties involved in having the matter heard without delay. Therefore, just because you believe you have a good reason to have more time or to reschedule does not necessarily mean that you have a good **legal** reason or that the Court will grant your request. Make sure to find out how the Court decided your Motion before you do not attend the Court Proceeding. If the Court denied your Motion for Continuance, you must attend the Court Proceeding.

The Court provides a Form of Motion for the following matters:

1. 99P Alternative Dispute Resolution
2. 98P Alternative Dispute Resolution Practioner
3. 650 Motion and Affidavit for Emergency Ex Parte Order
4. 652 Motion and Affidavit for Interim Relief
5. 651 Motion and Affidavit for Priority Scheduling
6. 198DN Motion and Affidavit to be found Indigent and Request for Appointment of an Attorney in Dependency Neglect Proceedings
7. 194 Motion for Appointment of a Guardian Ad Litem for a Minor Litigant
8. 470 Motion for Confidential Address
9. 457 Motion for Contempt of Order of PFA
10. 196 Motion for Continuance
11. 197 Motion for Dismissal
12. 261 Motion for Temporary Visitation
13. 253 Motion to Contest an Administrative Adjustment
14. 456 Motion to Modify, Extend or Rescind Order of Protection from Abuse
15. 191SOR Motion to Review Sex Offender Registration
16. 254 Motion to Revoke Child Support

Check the county in which you are filing.

The Family Court of the State of Delaware

In and For New Castle Kent Sussex County

MOTION FOR CONTINUANCE

Petitioner


Respondent

Name Patricia Smith			City Dover			State DE			Zip Code 19901			File Number CN08-00999		
Street Address 343 West Road			City Dover			State DE			Zip Code 19901			Petition Number 08-00111		
Apt. or P.O. Box Number			Date of Birth 3/17/1975			Date of Birth 8/29/1975			Attorney Name and Phone Number n/a			Attorney Name and Phone Number n/a		

Write in this caption exactly as it appears on the original petition. In other words, if you are filing the motion, but you were the Respondent, you still put your name in as the Respondent.

Fill in the type of case about which you are filing the motion.

A PROCEEDING involving **Custody** having been filed heretofore in this Court on _____, _____,

Movant hereby moves the Court for a Continuance and, in support thereof, alleges the following facts: 

1. I cannot attend the Court Proceeding for the following reasons: **My daughter is scheduled for surgery on the same date.**
2. I learned that I could not attend the Court Proceeding on the following date: **October 2, 2009**
3. I made the following efforts to file this motion as soon as I learned I could not attend: **I am filing this motion the same day that I learned of the need for a continuance.**
4. I have contacted the opposing party regarding this continuance request and the following is their Position: **Respondent is in agreement with a continuance as he would like to be present for the surgery as well.**
5. This case has been scheduled for a hearing **0** times previously.

SWORN TO AND SUBSCRIBED

before me this date, **October 9, 2009**

Sign in the presence of a notary.

Patricia Smith
Movant/Attorney

Donna King
Notary Public/Clerk of Court

Signed by notary or court staff.

I, the Movant, affirm that a true and correct copy of this Motion was placed in the U.S. Mail on this date **October 9, 2009**, and sent to the other party or attorney at the address listed on the petition, being

111 South Main Street Dover, DE 19901, first class postage

pre-paid.

SWORN TO AND SUBSCRIBED

before me this date, **October 9, 2009**

Sign in the presence of a notary.

Patricia Smith
Movant/Attorney

Donna King
Notary Public/Clerk of Court

Signed by notary or court staff.

The Family Court of the State of Delaware

In and For New Castle Kent Sussex County



John D Smith _____ ,
 Petitioner)
 v.)
 Anne C. Smith _____ ,
 Respondent)
)
)
)
)

File No.: CK04-12111

Petition No.: 04-42301

NOTICE OF MOTION

TO: Anne C Smith
101 Oak Street, Apt #123
Dover, DE 19901



Name and address of the Respondent in this case.

Indicate here what your motion is pertaining to. What action are you requesting from the Court?



PLEASE TAKE NOTICE that the attached Motion for Continuance, Dismissal, Visitation, is herewith presented to the Court for consideration. If you are opposed to this motion, you must file a written response with the Court within ten (10) days of the service of this motion. If no response is timely filed, the motion may be decided without further opportunity for you to be heard on the matter. Family Court Rules, Rule 7(b)(2).

Dated: March 4, 2014

Only sign in the presence of a notary or court staff.



John D Smith

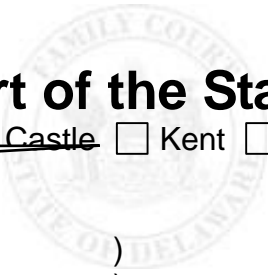
Movant/Attorney

Name and address of Movant or Attorney
John D Smith
Street Address (including Apt)
490 Pine Street
P.O. Box Number
City/State/ Zip Code
Wilmington, DE 19801

The Family Court of the State of Delaware

Check the county in which you are filing.

In and For New Castle Kent Sussex County



John D. Smith,
Petitioner

v.

Anne C. Smith,
Respondent

File No.: CK14-12111

Petition No.: 14-42301

In Re: Visitation, Custody, Ancillaries.....

Fill in your name.

Indicate here what the proceeding was in reference to.

ORDER

Having considered the request of the movant, John D. Smith,

IT IS SO ORDERED, this date: _____

That

The Hearing Officer will fill in the date the Order is approved.

Fill in the relief that you are seeking here. Remember that it is possible the Hearing Officer will sign this form that you draft; therefore, it is important to write exactly what you want to happen.

The Hearing Officer may sign this Order, make changes to it, or draft a new Order completely.

Leave this blank for the Hearing Officer to sign.

Judge/Commissioner

- CC: Petitioner Respondent Petitioner Attorney Respondent Attorney DAG
 PD Fiscal Services DCSS FC.Appointed.Attorneys@state.de.us
 Other _____