



WARD AND SMITH, P.A.

Don't Underestimate the Impact of Divorce and Domestic Violence on Your Business

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STATE OF NORTH CAROLINA

File No.

County

In The General Court Of Justice
☐ District ☐ Superior Court Division

Additional File Numbers

VERSUS**SUBPOENA**

G.S. 1A-1, Rule 45; G.S. 8-59

Party Requesting Subpoena

☐ State/Plaintiff ☐ Defendant**NOTE TO PARTIES NOT REPRESENTED BY COUNSEL:** Subpoenas may be produced at your request, but must be signed and issued by the office of the Clerk of Superior Court, or by a magistrate or judge.**TO**

Name And Address Of Person Subpoenaed

Alternate Address

Telephone No.

Telephone No.

YOU ARE COMMANDED TO: (check all that apply):

- ☐ appear and testify, in the above entitled action, before the court at the place, date and time indicated below.
- ☐ appear and testify, in the above entitled action, at a deposition at the place, date and time indicated below.
- ☐ produce and permit inspection and copying of the following items, at the place, date and time indicated below.
- ☐ See attached list. (List here if space sufficient)

Name And Location Of Court/Place Of Deposition/Place To Produce

Date To Appear/Produce

Time To Appear/Produce

☐ AM ☐ PM

Name And Address Of Applicant Or Applicant's Attorney

Date

Signature

Telephone No. Of Applicant Or Applicant's Attorney

☐ Deputy CSC
☐ Magistrate☐ Assistant CSC
☐ Attorney/DA☐ Clerk Of Superior Court
☐ District Court Judge☐ Superior Court Judge**RETURN OF SERVICE**

I certify this subpoena was received and served on the person subpoenaed as follows:

- By ☐ personal delivery. ☐ registered or certified mail, receipt requested and attached.
- ☐ telephone communication by Sheriff (use only for a witness subpoenaed to appear and testify).
- ☐ telephone communication by local law enforcement agency (use only for a witness subpoenaed to appear and testify in a criminal case).

NOTE TO COURT: If the witness was served by telephone communication from a local law enforcement agency in a criminal case, the court may **not** issue a show cause order or order for arrest against the witness until the witness has been served personally with the written subpoena.☐ I was unable to serve this subpoena. Reason unable to serve: _____.

Service Fee

☐ Paid
☐ Due

Date Served

Name Of Authorized Server (Type Or Print)

Signature Of Authorized Server

Title

NOTE TO PERSON REQUESTING SUBPOENA: A copy of this subpoena must be delivered, mailed or faxed to the attorney for each party in this case. If a party is not represented by an attorney, the copy must be mailed or delivered to the party. This does not apply in criminal cases.

NOTE: Rule 45, North Carolina Rules of Civil Procedure, Subsections (c) and (d).

(c) Protection Of Persons Subject To Subpoena

(1) Avoid undue burden or expense. - A party or an attorney responsible for the issuance and service of a subpoena shall take reasonable steps to avoid imposing an undue burden or expense on a person subject to the subpoena. The court shall enforce this subdivision and impose upon the party or attorney in violation of this requirement an appropriate sanction that may include compensating the person unduly burdened for lost earnings and for reasonable attorney's fees.

(2) For production of public records or hospital medical records. - Where the subpoena commands any custodian of public records or any custodian of hospital medical records, as defined in G.S. 8-44.1, to appear for the sole purpose of producing certain records in the custodian's custody, the custodian subpoenaed may, in lieu of personal appearance, tender to the court in which the action is pending by registered or certified mail or by personal delivery, on or before the time specified in the subpoena, certified copies of the records requested together with a copy of the subpoena and an affidavit by the custodian testifying that the copies are true and correct copies and that the records were made and kept in the regular course of business, or if no such records are in the custodian's custody, an affidavit to that effect. When the copies of records are personally delivered under this subdivision, a receipt shall be obtained from the person receiving the records. Any original or certified copy of records or an affidavit delivered according to the provisions of this subdivision, unless otherwise objectionable, shall be admissible in any action or proceeding without further certification or authentication. Copies of hospital medical records tendered under this subdivision shall not be open to inspection or copied by any person, except to the parties to the case or proceedings and their attorneys in depositions, until ordered published by the judge at the time of the hearing or trial. Nothing contained herein shall be construed to waive the physician-patient privilege or to require any privileged communication under law to be disclosed.

(3) Written objection to subpoena. - Subject to subsection (d) of this rule, a person commanded to appear at a deposition or to produce and permit the inspection and copying of records, books, papers, documents, electronically stored information, or tangible things may, within 10 days after service of the subpoena or before the time specified for compliance if the time is less than 10 days after service, serve upon the party or the attorney designated in the subpoena written objection to the subpoena, setting forth the specific grounds for the objection. The written objection shall comply with the requirements of Rule 11. Each of the following grounds may be sufficient for objecting to a subpoena:

- The subpoena fails to allow reasonable time for compliance.
- The subpoena requires disclosure of privileged or other protected matter and no exception or waiver applies to the privilege or protection.
- The subpoena subjects a person to an undue burden or expense.
- The subpoena is otherwise unreasonable or oppressive.
- The subpoena is procedurally defective.

(4) Order of court required to override objection. - If objection is made under subdivision (3) of this subsection, the party serving the subpoena shall not be entitled to compel the subpoenaed person's appearance at a deposition or to inspect and copy materials to which an objection has been made except pursuant to an order of the court. If objection is made, the party serving the subpoena may, upon notice to the subpoenaed person, move at any time for an order to compel the subpoenaed person's appearance at the deposition or the production of the materials designated in the subpoena. The motion shall be filed in the court in the county in which the deposition or production of materials is to occur.

(5) Motion to quash or modify subpoena. - A person commanded to appear at a trial, hearing, deposition, or to produce and permit the inspection and copying of records, books, papers, documents, electronically stored information, or other tangible things, within 10 days after service of the subpoena or before the time specified for compliance if the time is less than 10 days after service, may file a motion to quash or modify the subpoena. The court shall quash or modify the subpoena if the subpoenaed person demonstrates the existence of any of the reasons set forth in subdivision (3) of this subsection. The motion shall be filed in the court in the county in which the trial, hearing, deposition, or production of materials is to occur.

(6) Order to compel: expenses to comply with subpoena. - When a court enters an order compelling a deposition or the production of records, books, papers, documents, electronically stored information, or other tangible things, the order shall protect any person who is not a party or an agent of a party from significant expense resulting from complying with the subpoena. The court may order that the person to whom the subpoena is addressed will be reasonably compensated for the cost of producing the records, books, papers, documents, electronically stored information, or tangible things specified in the subpoena.

(7) Trade secrets; confidential information. - When a subpoena requires disclosure of a trade secret or other confidential research, development, or commercial information, a court may, to protect a person subject to or affected by the subpoena, quash or modify the subpoena, or when the party on whose behalf the subpoena is issued shows a substantial need for the testimony or material that cannot otherwise be met without undue hardship, the court may order a person to make an appearance or produce the materials only on specified conditions stated in the order.

(8) Order to quash: expenses. - When a court enters an order quashing or modifying the subpoena, the court may order the party on whose behalf the subpoena is issued to pay all or part of the subpoenaed person's reasonable expenses including attorney's fees.

(d) Duties In Responding To Subpoena

(1) Form of response. - A person responding to a subpoena to produce records, books, documents, electronically stored information, or tangible things shall produce them as they are kept in the usual course of business or shall organize and label them to correspond with the categories in the request.

(2) Form of producing electronically stored information not specified. - If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it ordinarily is maintained or in a reasonably useable form or forms.

(3) Electronically stored information in only one form. - The person responding need not produce the same electronically stored information in more than one form.

(4) Inaccessible electronically stored information. - The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, after considering the limitations of Rule 26(b)(1a). The court may specify conditions for discovery, including requiring the party that seeks discovery from a nonparty to bear the costs of locating, preserving, collecting, and producing the electronically stored information involved.

(5) Specificity of objection. - When information subject to a subpoena is withheld on the objection that it is subject to protection as trial preparation materials, or that it is otherwise privileged, the objection shall be made with specificity and shall be supported by a description of the nature of the communications, records, books, papers, documents, electronically stored information, or other tangible things not produced, sufficient for the requesting party to contest the objection.

INFORMATION FOR WITNESS

NOTE: If you have any questions about being subpoenaed as a witness, you should contact the person named on Page One of this Subpoena in the box labeled "Name And Address Of Applicant Or Applicant's Attorney."

DUTIES OF A WITNESS

- Unless otherwise directed by the presiding judge, you must answer all questions asked when you are on the stand giving testimony.
- In answering questions, speak clearly and loudly enough to be heard.
- Your answers to questions must be truthful.
- If you are commanded to produce any items, you must bring them with you to court or to the deposition.
- You must continue to attend court until released by the court. You must continue to attend a deposition until the deposition is completed.

BRIBING OR THREATENING A WITNESS

It is a violation of State law for anyone to attempt to bribe, threaten, harass, or intimidate a witness. If anyone attempts to do any of these things concerning your involvement as a witness in a case, you should promptly report that to the district attorney or the presiding judge.

WITNESS FEE

A witness under subpoena and that appears in court to testify, is entitled to a small daily fee, and to travel expense reimbursement, if it is necessary to travel outside the county in order to testify. (The fee for an "expert witness" will be set by the presiding judge.) After you have been discharged as a witness, if you desire to collect the statutory fee, you should immediately contact the Clerk's office and certify your attendance as a witness so that you will be paid any amount due you.

Case No. <input style="width: 150px;" type="text"/> Court General Court of Justice District Court Division County <input style="width: 150px;" type="text"/> NORTH CAROLINA	DOMESTIC VIOLENCE ORDER OF PROTECTION <input type="checkbox"/> CONSENT ORDER <div style="text-align: right; font-size: small;">G.S. 50B-2, -3, -3.1</div>																														
PETITIONER/PLAINTIFF <div style="border: 1px solid black; height: 20px; margin-bottom: 5px;"></div> <div style="display: flex; justify-content: space-between; font-size: x-small;"> First Middle Last </div>	PETITIONER/PLAINTIFF IDENTIFIERS <div style="border: 1px solid black; height: 20px; margin-bottom: 5px;"></div> <div style="font-size: x-small;">Date Of Birth Of Petitioner</div>																														
And/or on behalf of minor family member(s): (List Name And DOB) <table border="1" style="width: 100%; border-collapse: collapse;"> <tr><td style="height: 20px;"></td><td style="height: 20px;"></td></tr> <tr><td style="height: 20px;"></td><td style="height: 20px;"></td></tr> <tr><td style="height: 20px;"></td><td style="height: 20px;"></td></tr> <tr><td style="height: 20px;"></td><td style="height: 20px;"></td></tr> </table>									Other Protected Persons/DOB: <table border="1" style="width: 100%; border-collapse: collapse;"> <tr><td style="height: 20px;"></td><td style="height: 20px;"></td></tr> <tr><td style="height: 20px;"></td><td style="height: 20px;"></td></tr> <tr><td style="height: 20px;"></td><td style="height: 20px;"></td></tr> <tr><td style="height: 20px;"></td><td style="height: 20px;"></td></tr> </table>																						
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RESPONDENT/DEFENDANT <div style="border: 1px solid black; height: 20px; margin-bottom: 5px;"></div> <div style="display: flex; justify-content: space-between; font-size: x-small;"> First Middle Last </div> Relationship to Petitioner: <input type="checkbox"/> spouse <input type="checkbox"/> former spouse <input type="checkbox"/> unmarried, of opposite sex, currently or formerly living together <input type="checkbox"/> unmarried, have a child in common <input type="checkbox"/> of opposite sex, currently or formerly in dating relationship <input type="checkbox"/> current or former household member <input type="checkbox"/> parent <input type="checkbox"/> grandparent <input type="checkbox"/> child <input type="checkbox"/> grandchild Respondent's/Defendant's Address <div style="border: 1px solid black; height: 60px; margin-top: 5px;"></div> <div style="margin-top: 10px;"> CAUTION: <input type="checkbox"/> Weapon Involved </div>	RESPONDENT/DEFENDANT IDENTIFIERS <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 15%;">Sex</td> <td style="width: 15%;">Race</td> <td style="width: 15%;">DOB</td> <td style="width: 10%;">HT</td> <td style="width: 10%;">WT</td> </tr> <tr><td style="height: 20px;"></td><td style="height: 20px;"></td><td style="height: 20px;"></td><td style="height: 20px;"></td><td style="height: 20px;"></td></tr> <tr> <td>Eyes</td> <td>Hair</td> <td colspan="3">Social Security Number</td> </tr> <tr><td style="height: 20px;"></td><td style="height: 20px;"></td><td colspan="3" style="height: 20px;"></td></tr> <tr> <td colspan="2">Drivers License No.</td> <td>State</td> <td colspan="2">Expiration Date</td> </tr> <tr><td colspan="2" style="height: 20px;"></td><td style="height: 20px;"></td><td colspan="2" style="height: 20px;"></td></tr> </table> <div style="margin-top: 10px;"> Distinguishing Features <div style="border: 1px solid black; height: 100px; margin-top: 5px;"></div> </div>	Sex	Race	DOB	HT	WT						Eyes	Hair	Social Security Number								Drivers License No.		State	Expiration Date						
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THE COURT HEREBY FINDS THAT:

This matter was heard by the undersigned district court judge, the court has jurisdiction over the parties and subject matter, and the Respondent/Defendant has been provided with reasonable notice and opportunity to be heard.

Additional findings of this order are set forth on Page 2.

THE COURT HEREBY ORDERS THAT:

- ☐ The above named Respondent/Defendant shall not commit any further acts of domestic violence or make any threats of domestic violence (G.S. 50B-1).
- ☐ The above named Respondent/Defendant shall have no contact with the Petitioner/Plaintiff. No contact includes any defendant-initiated contact, except through an attorney, direct or indirect, by means such as telephone, personal contact, email, pager, gift-giving or telefacsimile machine. **[05]**
- Additional terms of this order are as set forth on Pages 3 and 4.

The terms of this order shall be effective until ,

WARNINGS TO THE RESPONDENT/DEFENDANT:

This order shall be enforced, even without registration, by the courts of any state, the District of Columbia, and any U.S. Territory, and may be enforced by Tribal Lands (18 U.S.C. Section 2265). Crossing state, territorial, or tribal boundaries to violate this order may result in federal imprisonment (18 U.S.C. Section 2262).

Federal law makes it a crime for you to possess, transport, ship or receive any firearm or ammunition while this order is in effect even if this order does not prohibit you from possessing firearms. (18 U.S.C. Section 922(g)(8)).

This order will be enforced anywhere in North Carolina.

Only the Court can change this order. The plaintiff cannot give you permission to violate this order.

See additional warnings on Page 4.

ADDITIONAL FINDINGS

1. Present at the hearing were: ☐ the plaintiff, represented by _____
☐ the defendant, represented by _____
2. As indicated by the check block under Respondent/Defendant's name on Page 1, the parties are or have been in a personal relationship.
- ☐ 3. On *(date of most recent conduct)* _____, the defendant
- ☐ a. ☐ attempted to cause ☐ intentionally caused bodily injury to ☐ the plaintiff ☐ (a) minor child(ren) in the custody of the plaintiff
- ☐ b. placed in fear of imminent serious bodily injury ☐ the plaintiff ☐ a member of the plaintiff's family
☐ a member of the plaintiff's household
- ☐ c. placed in fear of continued harassment that rises to such a level as to inflict substantial emotional distress
☐ the plaintiff ☐ a member of plaintiff's family ☐ a member of plaintiff's household
- ☐ d. committed an act defined in G.S. 14- ☐ 27.2 (1st deg. rape) ☐ 27.3 (2nd deg. rape) ☐ 27.4 (1st deg. sexual off.)
☐ 27.5 (2nd deg. sexual off.) ☐ 27.5A (sexual battery) ☐ 27.7 (sexual activity by substitute parent) against the
☐ plaintiff ☐ child(ren) living with or in the custody of the plaintiff
by *(describe defendant's conduct)* _____
- ☐ 4. The defendant is in possession of, owns or has access to firearms, ammunition, and gun permits described below. *(Describe all firearms, ammunition, gun permits and give identifying number(s) if known, and indicate where defendant keeps firearms.)*
- ☐ 5. The defendant
- ☐ a. ☐ used ☐ threatened to use a deadly weapon against the ☐ plaintiff ☐ minor child(ren) residing with or in the custody of the plaintiff
- ☐ b. has a pattern of prior conduct involving the ☐ use ☐ threatened use of violence with a firearm against persons
- ☐ c. made threats to seriously injure or kill the ☐ plaintiff ☐ minor child(ren) residing with or in the custody of the plaintiff
- ☐ d. made threats to commit suicide
- ☐ e. inflicted serious injuries upon the ☐ plaintiff ☐ minor child(ren) residing with or in the custody of the plaintiff
in that *(state facts)* _____
- ☐ 6. The ☐ defendant ☐ plaintiff is presently in possession of the parties' residence at _____
- ☐ 7. The ☐ defendant ☐ plaintiff is presently in possession of the parties' vehicles described below: _____
- ☐ 8. Other: *(specify)* _____

CONCLUSIONS

Based on these facts, the Court makes the following conclusions of law:

- ☐ 1. The defendant has committed acts of domestic violence against the plaintiff.
- ☐ 2. The defendant has committed acts of domestic violence against the minor child(ren) residing with or in the custody of the plaintiff.
- ☐ 3. There is danger of serious and immediate injury to the ☐ plaintiff. ☐ minor child(ren). [G.S. 50B-2(c)]
- ☐ 4. The defendant's conduct requires that he/she surrender all firearms, ammunition and gun permits. (G.S. 50B-3.1)
- ☐ 5. The plaintiff has failed to prove grounds for issuance of a domestic violence protective order.

ORDER

It is ORDERED that:

- ☐ 1. the defendant shall not assault, threaten, abuse, follow, harass (by telephone, visiting the home or workplace, or other means), or interfere with the plaintiff. A law enforcement officer shall arrest the defendant if the officer has probable cause to believe the defendant has violated this provision. **[01]**
- ☐ 2. the defendant shall not assault, threaten, abuse, follow, harass (by telephone, visiting the home or workplace, or other means), or interfere with the minor child(ren) residing with or in the custody of the plaintiff. A law enforcement officer shall arrest the defendant if the officer has probable cause to believe the defendant has violated this provision. **[01]**
- ☐ 3. the defendant shall not threaten a member of the plaintiff's family or household. **[02]**
- ☐ 3a. the defendant shall not cruelly treat or abuse an animal owned, possessed, kept, or held as a pet by either party or minor child residing in the household.
- ☐ 4. the plaintiff is granted possession of, and the defendant is excluded from, the parties' residence described above and all personal property located in the residence except for the defendant's personal clothing, toiletries and tools of trade. **[03]**
- ☐ 5. any law enforcement agency with jurisdiction shall evict the defendant from the residence and shall assist the plaintiff in returning to the residence. **[08]**
- ☐ 6. the ☐ plaintiff **[08]** ☐ defendant **[08]** is entitled to get personal clothing, toiletries, and tools of trade from the parties' residence. A law enforcement officer shall assist the ☐ plaintiff ☐ defendant in returning to the residence to get these items.
- ☐ 6a. the plaintiff is granted the care, custody, and control of any animal owned, possessed, kept, or held as a pet by either party or minor child residing in the household.
- ☐ 7. the defendant shall stay away from the plaintiff's residence or any place where the plaintiff receives temporary shelter. A law enforcement officer shall arrest the defendant if the officer has probable cause to believe the defendant has violated this provision. **[04]**
- ☐ 8. the defendant shall stay away from the following places:
- ☐ (a) the place where the plaintiff works. **[04]** ☐ (b) any school(s) the child(ren) attend. **[04]**
- ☐ (c) the place where the child(ren) receive(s) day care. **[04]** ☐ (d) the plaintiff's school. **[04]**
- ☐ (e) Other: (name other places) **[04]** _____
- _____
- _____
- _____

The sheriff must deliver a copy of this order to the principal or the principal's designee at the following school(s): (name schools)

- ☐ 9. the plaintiff is granted possession and use of the vehicle described in Block 7 on Page 2. **[08]**
- ☐ 10. the defendant is ordered to make payments to the plaintiff for support of the minor child(ren) as required by law. **[08]**
- ☐ 11. the defendant is prohibited from ☐ possessing or receiving **[07]** ☐ purchasing a firearm for the effective period of this Order **[07]** ☐ and the defendant's concealed handgun permit is suspended for the effective period of this Order. **[08]**
- ☐ The defendant is a law enforcement officer/member of the armed services and ☐ may ☐ may not possess or use a firearm for official use.
- ☐ 12. the defendant surrender to the sheriff serving this order the firearms, ammunition, and gun permits described in block No. 4 of the Findings on Page 2 of this Order and any other firearms and ammunition in the defendant's care, custody, possession, ownership or control. **NOTE TO DEFENDANT: You must surrender these items at the time the sheriff serves this Order on you. If the weapons cannot be surrendered at that time, you must surrender them to the sheriff within 24 hours at the time and place specified by the sheriff. Failure to surrender the weapons and permits as ordered or possessing, purchasing, or receiving a firearm, ammunition or permits to purchase or carry concealed firearms after being ordered not to possess firearms, ammunition or permits, is a crime. See "Notice To Parties: To The Defendant" on Page 4 of this Order for information regarding the penalty for these crimes and instructions on how to request return of surrendered weapons.**
- ☐ 13. the defendant shall attend and complete an abuser treatment program offered by the following agency, which is approved by the Domestic Violence Commission: **[08]**
- _____

(Over)

☐ 14. Other: (specify) [08]

☐ 15. this action is dismissed and as of this date any ex parte order issued in this case is null and void.

TEMPORARY CUSTODY

☐ "Temporary Child Custody Addendum To Domestic Violence Protective Order," AOC-CV-306A, is attached and incorporated into this Order.

FOR CONSENT JUDGMENTS ONLY

Each of us enters into this Consent Order knowingly, freely, and voluntarily. The defendant understands that in consenting to this Order all of the consequences set out in the Notice to Parties and Warnings to Respondent/Defendant in this Order apply.

☐ Each of us agrees that no findings of fact and conclusions of law will be included in this consent protective order.

Date	Signature Of Plaintiff	Date	Signature Of Defendant
SIGNATURE OF JUDGE			
Date	Name Of District Court Judge (Type Or Print)	Signature Of District Court Judge	

NOTICE TO PARTIES

TO THE DEFENDANT:

1. If this Order prohibits you from possessing, receiving or purchasing a firearm and you violate or attempt to violate that provision, you may be charged with a Class H felony pursuant to North Carolina G.S. 14-269.8 and may be imprisoned for up to 30 months.
2. If you have been ordered to surrender your firearms, ammunition, and gun permits and you fail to surrender them as required by this Order, or if you failed to disclose to the Court all information requested about possession of these items, or provided false information to the Court about any of these items, you may be charged with a Class H felony and may be imprisoned for up to 30 months. If you surrendered your firearms, ammunition, and permits, you may file a motion for the return of weapons with the clerk of court in the county in which this Order was entered when the protective order is no longer in effect, except if at the time this Order expires, criminal charges, in either state or federal court, are pending against you and are alleged to have been committed against the person who is protected by this Order, you may not file for return of the firearms until final disposition of the criminal charges. The form, "Motion For Return Of Weapons Surrendered Under Domestic Violence Protective Order" AOC-CV-319, is available from the clerk of court's office. The motion must be filed **not later than 90 days after the expiration of the Order that required you to surrender the firearms or if you have pending criminal charges alleged to have been committed against the person who is protected by the domestic violence protection order, the motion must be filed not later than 90 days after final disposition of the criminal charges.** At the time you file the motion, the clerk will schedule a hearing before the district court for a judge to determine whether to return the surrendered weapons to you. The sheriff cannot return your weapons unless the Court orders the sheriff to do so. You must pay the sheriff's storage fee before the sheriff returns your weapon. If you fail to file a motion for return of the weapons within 90 days after the expiration of this Order, or the final disposition of criminal charges pending at the time this Order expired, or if you fail to pay the storage fees **within 30 days after the Court enters an order to return your weapons**, the sheriff may seek an order from the Court to dispose of your weapons.

TO THE PLAINTIFF:

1. You should keep a copy of this protective order on you at all times and should make copies to give to your friends and family. If you move to another county or state, you may wish to give a copy to the law enforcement agency where you move, but you are not required to do so.
2. The court or judge is the only one that can make changes to this order. If you wish to change any of the terms of this order, you must come back into court to have the judge modify the order.
3. If the defendant violates any provision of this order, you may call a law enforcement officer or go to a magistrate to charge the defendant with the crime of violating a protective order. You also may go to the clerk of court's office in the county where the protective order was issued and ask to fill out form AOC-CV-307, Motion For Order To Show Cause Domestic Violence Protective Order, to have an order issued for the defendant to appear before a district court judge to be held in contempt for violating the order.

CERTIFICATE OF SERVICE WHEN DEFENDANT NOT PRESENT AT HEARING

I certify that this Order and Notice to Parties has been served on the defendant named by depositing a copy in a post-paid, properly addressed envelope in a post office or official depository under the exclusive care and custody of the United States Postal Service.

Date	Signature	<input type="checkbox"/> Deputy CSC	<input type="checkbox"/> Assistant CSC
		<input type="checkbox"/> Clerk Of Superior Court	<input type="checkbox"/> Other _____

Name Of Plaintiff	Name Of Defendant	File No.
-------------------	-------------------	----------

CERTIFICATION

I certify this order is a true copy.

Date	Signature Of Clerk	<input type="checkbox"/> Deputy CSC <input type="checkbox"/> Assistant CSC <input type="checkbox"/> Clerk Of Superior Court
------	--------------------	--

NOTE TO CLERK: A copy of this Order shall be mailed or given to each party, to your sheriff, and to the police department of the plaintiff's residence, if any. Send extra copies to the sheriff if required to deliver copy(ies) to child(ren)'s school.

**TEMPORARY CHILD CUSTODY ADDENDUM
TO DOMESTIC VIOLENCE PROTECTIVE ORDER
(must be attached to Domestic Violence Order of Protection)**

NOTE TO THE JUDGE: G.S. 50B-3(a1) provides that "[u]pon the request of either party at a hearing after notice or service of process, the court shall consider and may award temporary custody of minor children and establish temporary visitation rights [...]" The court shall base its decision on the best interest of the child with particular consideration given to the safety of the child.

FINDINGS

- ☐ 1. The defendant requested custody and gave proper notice of this request to the plaintiff.
2. The parties are the parents of the following children under the age of eighteen (18). The child(ren) are presently in the physical custody of the ☐ plaintiff. ☐ defendant. The ☐ plaintiff ☐ defendant has submitted an "Affidavit As To The Status Of The Minor Child," which is incorporated by reference into this Order. **NOTE TO JUDGE:** A copy of AOC-CV-609 for each child must be attached to the order.

Name	Sex	Date Of Birth	Name	Sex	Date Of Birth

3. The following statutory factors were raised by the evidence and the Court makes the following findings based on the evidence presented. (Check only those factors for which evidence was presented and make findings regarding the evidence presented for those factors.)

☐ "Whether the minor child **was exposed to a substantial risk of physical or emotional injury or sexual abuse.**" Findings:

☐ "Whether the minor child was **present during acts of domestic violence.**" Findings:

☐ "Whether a **weapon was used or threatened to be used** during any act of violence." Findings:

☐ "Whether a party **caused or attempted to cause serious bodily injury** to the aggrieved party or minor child." Findings:

☐ "Whether a party placed the aggrieved party or the minor child in **reasonable fear of imminent serious bodily injury.**" Findings:

☐ "Whether a party **caused an aggrieved party to engage involuntarily in sexual relations** by force, threat or duress." Findings:

☐ "Whether there is a **pattern of abuse** against the aggrieved party or minor child." Findings:

FINDINGS (continued)

☐ "Whether a party has **abused or endangered the minor child during visitation.**" Findings:

☐ "Whether a party has **used visitation as an opportunity to abuse or harass the aggrieved party.**" Findings:

☐ "Whether a party has improperly **concealed or detained** the minor child." Findings:

☐ "Whether a party has otherwise acted in a manner that is not in the best interest of the minor child." Findings:

☐ 4. Other findings as to whether it is in the best interest of the child(ren) that custody be awarded with particular consideration given to the safety of the child(ren):

CONCLUSIONS

- ☐ 1. The Court has jurisdiction under the Uniform Child Custody Jurisdiction And Enforcement Act.
- ☐ 2. It is in the best interest of the minor child(ren) that temporary custody be given to ☐ plaintiff. ☐ defendant. **[08]**
☐ and that the ☐ defendant ☐ plaintiff be granted visitation.
- ☐ 3. The Court concludes that temporary custody should not be awarded at this time.

ORDER

Therefore it is ORDERED that:

- ☐ 1. temporary custody of the minor child(ren) named on Side One is granted to ☐ plaintiff. ☐ defendant.
- ☐ 2. The ☐ defendant ☐ plaintiff is entitled to visitation under the terms listed below:
☐ a. supervised visitation as follows: *(specify the person or agency providing supervision, the location, frequency, and length of visitation)*

OR

☐ unsupervised visitation as follows: *(specify the location, frequency and length of visitation)*

- ☐ b. *(name person)* _____ shall be responsible for transportation of the minor child(ren) to visitation and *(name person)* _____ shall be responsible for transportation of the minor child(ren) from visitation. The exchange at the start of visitation shall occur at *(name location)* _____ and the exchange at the conclusion of visitation shall occur at *(name location)* _____.
- ☐ c. Other:

☐ 3. temporary custody is not awarded.

☐ 4. The order is effective until *(give date which cannot be longer than one year)*: _____

Date

Name Of District Court Judge (Type Or Print)

Signature Of District Court Judge

Case No. <div style="border: 1px solid black; width: 150px; height: 20px; display: inline-block;"></div> Court General Court of Justice District Court Division County <div style="border: 1px solid black; width: 150px; height: 20px; display: inline-block;"></div> NORTH CAROLINA	EX PARTE DOMESTIC VIOLENCE ORDER OF PROTECTION <div style="text-align: right;">G.S. 50B-2, -3, -3.1</div>
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PETITIONER/PLAINTIFF	PETITIONER/PLAINTIFF IDENTIFIERS																
<div style="border: 1px solid black; width: 400px; height: 20px;"></div> <div style="display: flex; justify-content: space-between; font-size: small;">FirstMiddleLast</div>	<div style="border: 1px solid black; width: 400px; height: 20px;"></div> <div style="font-size: small;">Date Of Birth Of Petitioner</div>																
And/or on behalf of minor family member(s): <i>(List Name And DOB)</i> <table border="1" style="width:100%; border-collapse: collapse;"><tr><td style="width: 60%; height: 20px;"></td><td style="width: 40%; height: 20px;"></td></tr><tr><td style="height: 20px;"></td><td style="height: 20px;"></td></tr><tr><td style="height: 20px;"></td><td style="height: 20px;"></td></tr><tr><td style="height: 20px;"></td><td style="height: 20px;"></td></tr></table>									Other Protected Persons/DOB: <table border="1" style="width:100%; border-collapse: collapse;"><tr><td style="width: 60%; height: 20px;"></td><td style="width: 40%; height: 20px;"></td></tr><tr><td style="height: 20px;"></td><td style="height: 20px;"></td></tr><tr><td style="height: 20px;"></td><td style="height: 20px;"></td></tr><tr><td style="height: 20px;"></td><td style="height: 20px;"></td></tr></table>								

VERSUS																															
RESPONDENT/DEFENDANT	RESPONDENT/DEFENDANT IDENTIFIERS																														
<div style="border: 1px solid black; width: 400px; height: 20px;"></div> <div style="display: flex; justify-content: space-between; font-size: small;">FirstMiddleLast</div> <p>Relationship to Petitioner: <input type="checkbox"/> spouse <input type="checkbox"/> former spouse <input type="checkbox"/> unmarried, of opposite sex, currently or formerly living together <input type="checkbox"/> unmarried, have a child in common <input type="checkbox"/> of opposite sex, currently or formerly in dating relationship <input type="checkbox"/> current or former household member <input type="checkbox"/> parent <input type="checkbox"/> grandparent <input type="checkbox"/> child <input type="checkbox"/> grandchild</p> <p>Respondent's/Defendant's Address</p> <div style="border: 1px solid black; width: 400px; height: 60px;"></div> <p>CAUTION: <input type="checkbox"/> Weapon Involved</p>	<table border="1" style="width:100%; border-collapse: collapse;"><tr><td style="width: 15%; text-align: center;">Sex</td><td style="width: 15%; text-align: center;">Race</td><td style="width: 15%; text-align: center;">DOB</td><td style="width: 10%; text-align: center;">HT</td><td style="width: 10%; text-align: center;">WT</td></tr><tr><td style="height: 20px;"></td><td></td><td></td><td></td><td></td></tr><tr><td style="text-align: center;">Eyes</td><td style="text-align: center;">Hair</td><td colspan="3" style="text-align: center;">Social Security Number</td></tr><tr><td style="height: 20px;"></td><td></td><td colspan="3"></td></tr><tr><td colspan="2" style="text-align: center;">Drivers License No.</td><td style="text-align: center;">State</td><td colspan="2" style="text-align: center;">Expiration Date</td></tr><tr><td colspan="2" style="height: 20px;"></td><td></td><td colspan="2"></td></tr></table> <p>Distinguishing Features</p> <div style="border: 1px solid black; width: 400px; height: 100px;"></div>	Sex	Race	DOB	HT	WT						Eyes	Hair	Social Security Number								Drivers License No.		State	Expiration Date						
Sex	Race	DOB	HT	WT																											
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Drivers License No.		State	Expiration Date																												

THE COURT HEREBY FINDS THAT:
This matter was heard by the undersigned ☐ district court judge. ☐ magistrate. The court has jurisdiction over the subject matter.

Additional findings of this order are set forth on Page 2.

THE COURT HEREBY ORDERS THAT:
☐ The above named Respondent/Defendant shall not commit any further acts of domestic violence or make any threats of domestic violence (G.S. 50B-1).
☐ The above named Respondent/Defendant shall have no contact with the Petitioner/Plaintiff. No contact includes any defendant-initiated contact, except through an attorney, direct or indirect, by means such as telephone, personal contact, email, pager, gift-giving or telefacsimile machine. **[05]**
Additional terms of this order are as set forth on Pages 3 and 4.

The terms of this order shall be effective until ,

WARNINGS TO THE RESPONDENT/DEFENDANT:
This order shall be enforced, even without registration, by the courts of any state, the District of Columbia, and any U.S. Territory, and may be enforced by Tribal Lands (18 U.S.C. Section 2265). Crossing state, territorial, or tribal boundaries to violate this order may result in federal imprisonment (18 U.S.C. Section 2262).
This order will be enforced anywhere in North Carolina.
Only the Court can change this order. The plaintiff cannot give you permission to violate this order.
See additional warnings on Page 4.

ADDITIONAL FINDINGS

1. As indicated by the check block under Respondent/Defendant's name on Page 1, the parties are or have been in a personal relationship.
- ☐ 2. That on *(date of most recent conduct)* _____, the defendant
- ☐ a. ☐ attempted to cause ☐ intentionally caused bodily injury to ☐ the plaintiff ☐ the child(ren) living with or in the custody of the plaintiff
- ☐ b. placed in fear of imminent serious bodily injury ☐ the plaintiff ☐ a member of the plaintiff's family ☐ a member of the plaintiff's household
- ☐ c. placed in fear of continued harassment that rises to such a level as to inflict substantial emotional distress ☐ the plaintiff ☐ a member of plaintiff's family ☐ a member of plaintiff's household
- ☐ d. committed an act defined in G.S. 14- ☐ 27.2 (1st deg. rape) ☐ 27.3 (2nd deg. rape) ☐ 27.4 (1st deg. sexual off.) ☐ 27.5 (2nd deg. sexual off.) ☐ 27.5A (sexual battery) ☐ 27.7 (sexual activity by substitute parent) against ☐ the plaintiff ☐ a child(ren) living with or in the custody of the plaintiff by
(describe defendant's conduct)
- ☐ 3. The defendant is in possession of, owns or has access to firearms, ammunition, and gun permits described below. *(Describe all firearms, ammunition, gun permits and give identifying number(s) if known, and indicate where defendant keeps firearms)*
- ☐ 4. The defendant
- ☐ a. ☐ used ☐ threatened to use a deadly weapon against the ☐ plaintiff ☐ minor child(ren) residing with or in the custody of the plaintiff
- ☐ b. has a pattern of prior conduct involving the ☐ use ☐ threatened use of violence with a firearm against persons
- ☐ c. made threats to seriously injure or kill the ☐ plaintiff ☐ minor child(ren) residing with or in the custody of the plaintiff
- ☐ d. made threats to commit suicide
- ☐ e. inflicted serious injuries upon the ☐ plaintiff ☐ minor child(ren) residing with or in the custody of the plaintiff in that *(state facts)*:
- ☐ 5. The parties are the parents of the following child(ren) under the age of eighteen (18). The child(ren) are presently in the physical custody of the ☐ plaintiff. ☐ defendant. The plaintiff has submitted an "Affidavit As To The Status Of The Minor Child."
- NOTE TO JUDGE:** A copy of AOC-CV-609 for each child must be attached to the order.
- | Name | Sex | Date Of Birth | Name | Sex | Date Of Birth |
|------|-----|---------------|------|-----|---------------|
| | | | | | |
| | | | | | |
| | | | | | |
- ☐ 6. The minor child(ren) is exposed to a substantial risk of physical or emotional injury or sexual abuse in that:
- ☐ 7. It is in the best interest of and necessary for the safety of the minor child(ren) ☐ that defendant stay away from the minor child(ren) ☐ that the defendant return the minor child(ren) to plaintiff ☐ and that the defendant not remove the minor child(ren) from plaintiff in that:
- ☐ 8. *(Check block only if plaintiff is entitled to physical care of child(ren).)* It is in the best interest of the minor child(ren) that defendant have contact with the minor child(ren) in that:
- ☐ 9. The ☐ defendant ☐ plaintiff is presently in possession of the parties' residence at _____

☐ 10. The ☐ defendant ☐ plaintiff is presently in possession of the parties' vehicle. (describe vehicle)

☐ 11. Other: (specify)

☐ 12. (for magistrate only) This matter was heard at a time when the district court was not in session and a district court judge was not available and would not be available for a period of four or more hours.

CONCLUSIONS

Based on these facts, the Court makes the following conclusions of law:

- ☐ 1. The defendant has committed acts of domestic violence against the plaintiff.
- ☐ 2. The defendant has committed acts of domestic violence against the minor child(ren) residing with or in the custody of the plaintiff.
- ☐ 3. It clearly appears that there is a danger of acts of domestic violence against the ☐ plaintiff. ☐ minor child(ren). [G.S. 50B-2(c)]
- ☐ 4. The minor child(ren) is exposed to a substantial risk of ☐ physical injury. ☐ emotional injury. ☐ sexual abuse. [G.S. 50B-2(c)]
- ☐ 5. The Court has jurisdiction under the Uniform Child Custody Jurisdiction And Enforcement Act.
- ☐ 6. It is in the best interest of and necessary for the safety of the minor child(ren) that the defendant ☐ stay away from the minor child(ren). ☐ (and) return the minor child(ren) to the physical care of the plaintiff. ☐ (and) not remove the minor child(ren) from the physical care of the plaintiff.
- ☐ 7. The defendant's conduct requires that he/she surrender all firearms, ammunition and gun permits. [G.S. 50B-3.1]
- ☐ 8. The plaintiff has failed to prove grounds for ex parte relief.

ORDER

It is ORDERED that:

- ☐ 1. the defendant shall not assault, threaten, abuse, follow, harass (by telephone, visiting the home or workplace or other means), or interfere with the plaintiff. A law enforcement officer shall arrest the defendant if the officer has probable cause to believe the defendant has violated this provision. [01]
- ☐ 2. the defendant shall not assault, threaten, abuse, follow, harass (by telephone, visiting the home or workplace or other means), or interfere with the minor child(ren) residing with or in the custody of the plaintiff. A law enforcement officer shall arrest the defendant if the officer has probable cause to believe the defendant has violated this provision. [01]
- ☐ 3. the defendant shall not threaten a member of the plaintiff's family or household. [02]
- ☐ 3a. the defendant shall not cruelly treat or abuse an animal owned, possessed, kept, or held as a pet by either party or minor child residing in the household.
- ☐ 4. the plaintiff is granted possession of, and the defendant is excluded from, the parties' residence described above and all personal property located in the residence except for the defendant's personal clothing, toiletries and tools of trade. [03]
- ☐ 5. any law enforcement agency with jurisdiction shall evict the defendant from the residence and shall assist the plaintiff in returning to the residence. [08]
- ☐ 6. the ☐ plaintiff [08] ☐ defendant [08] is entitled to get personal clothing, toiletries, and tools of trade from the parties' residence. A law enforcement officer shall assist the ☐ plaintiff ☐ defendant in returning to the residence to get these items.
- ☐ 6a. the plaintiff is granted the care, custody, and control of any animal owned, possessed, kept, or held as a pet by either party or minor child residing in the household.
- ☐ 7. the defendant shall stay away from the plaintiff's residence or any place where the plaintiff receives temporary shelter. A law enforcement officer shall arrest the defendant if the officer has probable cause to believe the defendant has violated this provision. [04]
- ☐ 8. the defendant shall stay away from the following places:
- | | |
|--|---|
| <input type="checkbox"/> a. the place where the plaintiff works. [04]. | <input type="checkbox"/> b. any school(s) the child(ren) attend. [04] |
| <input type="checkbox"/> c. the place where the child(ren) receives day care. [04] | <input type="checkbox"/> d. the plaintiff's school. [04] |
| <input type="checkbox"/> e. Other: (name other places) [04] _____ | |

The sheriff must deliver a copy of this order to the principal or the principal's designee at the following school(s): (name schools)

- ☐ 9. the plaintiff is granted possession and use of the vehicle described in Block No. 10 of the Findings on Page 3. [08]
- ☐ 10. The plaintiff is awarded temporary custody of the minor child(ren) (Check any of a, b, or c that apply.)
- ☐ a. and the defendant is ordered to stay away from the minor child(ren).
- ☐ b. and the defendant is ordered to immediately return the minor child(ren) to the care of the plaintiff.
- ☐ c. and the defendant is ordered not to remove the minor child(ren) from the care of the plaintiff.

- ☐ 11. (If No. 10 is checked and you are allowing visitation to defendant) The defendant is allowed the following contact with the minor child(ren):
- ☐ 12. the defendant is prohibited from ☐ possessing or receiving [07] ☐ purchasing a firearm for the effective period of this Order [07] ☐ and the defendant's concealed handgun permit is suspended for the effective period of this Order. [08]
☐ The defendant is a law enforcement officer/member of the armed services and ☐ may ☐ may not possess or use a firearm for official use.
- ☐ 13. the defendant surrender to the Sheriff serving this order the firearms, ammunition, and gun permits described in Number 3 of the Findings on Page 2 of this Order and any other firearms and ammunition in the defendant's care, custody, possession, ownership or control. **NOTE TO DEFENDANT: You must surrender these items to the serving officer at the time this Order is served on you. If the weapons cannot be surrendered at that time, you must surrender them to the sheriff within 24 hours at the time and place specified by the sheriff. Failure to surrender the weapons and permits as ordered or possessing, purchasing, or receiving a firearm, ammunition or permits to purchase or carry concealed firearms after being ordered not to possess firearms, ammunition or permits is a crime. See "Notice To Parties: To The Defendant" on Page 4 of this Order for information regarding the penalty for these crimes and instructions on how to request return of surrendered weapons.**
- ☐ 14. the request for Ex Parte Order is denied.
- ☐ 15. Other: (specify) [08]

Date	Signature	<input type="checkbox"/> District Court Judge <input type="checkbox"/> Designated Magistrate
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NOTE TO PLAINTIFF: If the judge signs this Order and gives it to you, take it to the Clerk's office immediately. If the magistrate signs this Order and gives it to you, follow the magistrate's directions.

NOTE TO CLERK: Give or mail a copy of this Order to the plaintiff and to the appropriate local law enforcement agency. Send copies to sheriff with Notice Of Hearing, Complaint and Summons for service on defendant. Send extra copies to the sheriff if required to deliver copy(ies) to the child(ren)'s school.

NOTICE TO PARTIES

TO THE DEFENDANT:

1. If this Order prohibits you from possessing, receiving or purchasing a firearm and you violate or attempt to violate that provision, you may be charged with a Class H felony pursuant to North Carolina G.S. 14-269.8 and may be imprisoned for up to 30 months.
2. If you have been ordered to surrender firearms, ammunition, and gun permits and you fail to surrender them as required by this Order, or if you failed to disclose to the Court all information requested about possession of these items or provide false information about any of these items you may be charged with a Class H felony and may be imprisoned for up to 30 months. If you surrendered your firearms, ammunition, and permits, you may file a motion for the return of weapons with the clerk of court in the county in which this Order was entered when the protective order is no longer in effect, except if at the time this Order expires criminal charges, in either state or federal court, are pending against you alleged to have been committed against the person who is protected by this order, you may not file for return of the firearms until final disposition of the criminal charges. The form, "Motion For Return Of Weapons Surrendered Under Domestic Violence Protective Order" AOC-CV-319, is available from the clerk of court's office. The motion must be filed **not later than 90 days after the expiration of the Order that requires you to surrender the firearms or if you have pending criminal charges alleged to have been committed against the person who is protected by the domestic violence protection order, the motion must be filed not later than 90 days after final disposition of the criminal charges.** At the time you file the motion, the clerk will schedule a hearing before the district court for a judge to determine whether to return the weapons to you. The sheriff cannot return your weapons unless the Court orders the sheriff to do so. You must pay the sheriff's storage fee before the sheriff returns your weapons. If you fail to file a motion for return of the weapons within 90 days after the expiration of this Order, or the final disposition of criminal charges pending at the time this Order expired, or if you fail to pay the storage fees **within 30 days after the Court enters an order to return your weapons**, the sheriff may seek an order from the Court to dispose of your weapons.

TO THE PLAINTIFF:

1. You should keep a copy of this order on you at all times and should make copies to give to your friends and family. If you move to another county or state, you may wish to give a copy to the law enforcement agency where you move, but you are not required to do so.
2. The court or judge is the only one that can make changes to this order. If you wish to change any of the terms of this order, you must come back into court to have the judge modify the order.
3. If the defendant violates any provision of this order, you may call a law enforcement officer or go to a magistrate to charge the defendant with the crime of violating a protective order. You also may go to the Clerk of Court's office in the county where the protective order was issued and ask to fill out form AOC-CV-307, Motion For Order To Show Cause Domestic Violence Protective Order, to have an order issued for the defendant to appear before a district court judge to be held in contempt for violating the order.

Name Of Defendant		File No.
CERTIFICATION		
I certify this order is a true copy.		
Date	Signature Of Clerk	<input type="checkbox"/> Deputy CSC <input type="checkbox"/> Assistant CSC <input type="checkbox"/> Clerk of Superior Court
RETURN OF SERVICE		
<p>NOTE: <i>To be used when Magistrate issues ex parte protective order and order will be served on defendant separate from the complaint and civil summons. If complaint and summons are served with order, return on summons covers order.</i></p> <p>I certify that this Ex Parte Domestic Violence Order of Protection was received and served as follows:</p>		
Date Served	Time Served <input type="checkbox"/> AM <input type="checkbox"/> PM	Name Of Defendant
<input type="checkbox"/> By delivering to the defendant named above a copy of the order. <input type="checkbox"/> By leaving a copy of the order at the dwelling house or usual place of abode of the defendant named above with a person of suitable age and discretion then residing therein.		
Name And Address Of Person With Whom Copies Left		
<input type="checkbox"/> Other manner of service on the defendant <i>(specify)</i>		
<input type="checkbox"/> Defendant WAS NOT served for the following reason.		
Date Received	Signature Of Deputy Sheriff Making Return	
Date Of Return	Name Of Deputy Sheriff Making Return (Type Or Print)	
County Of Sheriff		



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