

LEGITIMATION

This packet contains forms and information on:

How to Legitimate a Child

Note: The forms and instructions in this packet are to be used by the father of a child born out of wedlock to legitimate the child. They cannot be used by the mother or any person other than the father.

It is advisable to have an attorney when filing legal papers to be sure that your rights are protected and that all the procedures are correctly followed. **Courthouse personnel are prohibited by state law O.C.G.A. § 15-19-51 from giving legal advice.** Different situations may require special procedures and courthouse personnel cannot advise you on how to proceed or what forms may be necessary in specific situations.

QUESTIONS AND ANSWERS ABOUT LEGITIMATION

WHAT IS A “LEGITIMATION”?

Legitimation is a legal action that is the only way, other than by marrying the mother of a child, that the father of a child born in the State of Georgia may establish legal rights to his child.

WHO MAY FILE FOR LEGITIMATION?

Only the father of a child may file a *Petition* seeking to legitimate his child.

WHAT IS THE LEGAL EFFECT OF A LEGITIMATION?

An *Order of Legitimation* creates a father and child relationship legally between the Petitioner and his child. An *Order of Legitimation* establishes that the child may inherit from this legal father and vice versa. An *Order of Legitimation* allows the legal father to be listed on the child’s birth certificate as such. An *Order of Legitimation* is the only way that the father of a child born out of wedlock can be recognized as the legal father of the child, and therefore can petition for custody and/or visitation with his child.

If custody is an issue, you must file your legitimation first, and get the *Order of Legitimation* signed. Once your child has been legitimated by the court order, then you may file another action for custody.

Note: The exception to this rule is if the mother is deceased, there is no other legal parent or guardian, or the mother consents to custody.

If you are already listed on the child’s birth certificate as the father, but you and the child’s mother were not married to each other, you must file a *Petition* with the Court to legitimate your child.

WHERE SHOULD THE PETITION BE FILED?

The *Petition for Legitimation* may be filed in the child’s county of residence, or if there is an adoption pending, in the county where the adoption was filed. If custody or visitation is desired, you should petition the Court for custody and/or visitation after you have filed for legitimation.

HOW MUCH DOES IT COST TO FILE FOR LEGITIMATION?

There are basic filing fees for petitions that are scheduled by the Cobb County Superior Court Clerk’s Office. Therefore, inquiries regarding the cost to file for legitimation should be addressed to that office at 770-528-1300.

If the mother has not signed a consent and/or waiver of jurisdiction form, she will need to be served with the *Petition* by the sheriff. There is a fee for each address to which the sheriff has to go, if you are in the State of Georgia. If you are out of the state, and want the sheriff to serve the mother, you must check with the respective jurisdiction to determine the fees for service. “Service” is an official way to give notice to the mother, and other people involved with your case, that you have filed your case and that they have the opportunity to then file a response with the Court.

If the mother has left the child with you, and you do not know her address, and you have tried but cannot find her, then you will have to serve her with the *Petition* by publication. This means that the *Petition* is written up and then published in the official county newspaper for the county in which you knew she last lived. There will be a publication fee.

If the mother was married to someone else when your child was born, or she has listed someone else on your child’s birth certificate as the father of the child, you will also have to pay a fee (if you are in the State of Georgia) or fee (if you are out of state) to have the sheriff serve that person with a copy of the *Petition*. If you don’t know where that person lives, he will also have to be served by publication.

WHAT CAN I DO IF I DON'T HAVE THE MONEY TO PAY FEES?

If you do not have the money to pay your filing fees and sheriff's fees, then you may ask the Court to allow you to file free of charge. In order to do so, you must complete a *Poverty Affidavit*.

You must make a written statement to the Court about your monthly income and monthly expenses, and why it would be a hardship for you to have to pay the filing fees. The Court will then let you know by a written order that you may file your case without having to pay. The county newspaper will not usually waive their fees so you will still have to pay for publication if it is necessary.

HOW LONG WILL ALL OF THIS TAKE?

The length of time depends on the facts of your case. There are several options for what can happen with your case:

- If custody is not an issue, and there is no other father listed on the birth certificate, then an *Order for Legitimation* can be heard by a judge on the same day that you file it, and you may get your *Order for Legitimation* signed on the same day.
- If the mother or another father listed on the birth certificate must be served by publication, then the hearing cannot take place until after the publication is finished (60 days).
- If the mother or another father must be served by the sheriff with the *Petition to Legitimate*, then the case will be placed on a judge's calendar by his/her case manager.
- If custody is to be an issue, then you should file your legitimation first, and get the *Order of Legitimation* signed. Once your child has been legitimated by the Court, then you may file another action for custody.

Note: The exceptions to this rule are if the mother is deceased and there is no other legal parent or guardian, or if the mother consents to custody. It is recommended that you seek the advice of an attorney before you proceed.

FORMS INCLUDED IN THIS PACKET:

- Petition for Legitimation*
- Verification*
- Respondent's Consent to Legitimation*
- Acknowledgment of Service*
- Rule Nisi*
- Order*

NOTICE:

(The following forms may not be applicable if the parties are legitimating only and not addressing issues of custody, visitation or support.)

- "Exhibit A" – *Visitation Schedule*
- Domestic Relations Financial Affidavit*
- Certificate of Service*

ADDITIONAL FORMS NEEDED:

(These forms may be obtained from the Superior Court Clerk's Office)

- Domestic Relations Case Filing*
- Domestic Relations Disposition*
- Summons*
- Sheriff's Entry of Service

DEFINITIONS

- LEGITIMATION:** A legal action brought by a father to establish his legal rights concerning his child who was born out of wedlock.
- LEGAL FATHER:** A father who has legitimated his child; a father who was married to the mother of the child at the time of its' birth; a father who married the mother after the child was born and then executed an *Affidavit of Paternity* stating or acknowledging that the child is his child.
- BIOLOGICAL FATHER:** The birth father of a child.
- PETITION:** A form filed with a court that requests that a judge do something for you.
- PATERNITY:** A legal action brought by either a father, mother, or another interested party to establish that a father is the biological father of a child, and therefore has a duty to support the child he has fathered.
- PETITIONER:** The person who files the *Petition* with the court; may in some cases be listed as "Plaintiff."
- RESPONDENT:** The person who the *Petition* is being filed against; the person who should respond to the *Petition*; may in some cases be listed as "Defendant."
- SURNAME:** Last name

**IN THE SUPERIOR COURT OF COBB COUNTY
STATE OF GEORGIA**

Petitioner: _____

and

Respondent: _____

Civil Action File No.: _____

PETITION FOR LEGITIMATION

The Petitioner files this action, and states the following in support of his *Petition*:

1

I believe I am the father of the following minor children, born out of wedlock:

Child's Name	Date of Birth

2

Jurisdiction and venue are proper in this Court because:

[Check and complete only one (1) of the following choices.]

- (a) the Respondent resides in Cobb County, Georgia.
- (b) the Respondent resides in Georgia outside of Cobb County, but the children or I reside in Cobb County, and the mother has consented to venue here.
- (c) the Respondent resides outside the State of Georgia, and the children or I reside in Cobb County, Georgia.
- (d) the whereabouts of the Respondent are unknown, and the children or I reside in Cobb County, Georgia.
- (e) the mother of the children is deceased, and the children or I reside in Cobb County, Georgia.

3

The Respondent, _____, is the children's mother.

[Check and complete only one (1) of the following choices.]

- (a) The Respondent's address is _____.
- (b) The Respondent is deceased.

4

No other man is shown as the father on the birth certificate, and the mother was not married to any other man at the time of the children's conception or birth.

5

[Check and complete all that apply.]

The children live with the following person who takes care of the children

- (a) The Respondent/ mother
- (b) The Petitioner/ father
- (c) Neither the children's mother nor the Petitioner. Instead, the children live with _____, whose relationship to the children is _____. They reside at the following address: _____ in _____ County, in the State of _____.

6

My paternity of the children has been established by a Court or by operation of law or, if paternity has not been legally established, I state that I am the children's natural father. I want to legitimate my relationship with the children, as provided in O.C.G.A. § 19-7-22, so that the children will have full rights as my children, and I will have full rights as the father of the children. I believe that legitimation would be in the children's best interests.

7

[Check and complete all that apply.]

I want the birth records of the children to be changed as follows:

- (a) I want the children's last name to be changed on the birth certificate to my last name.
- (b) I want my name to be entered as the father on the birth certificate.
- (c) No changes are necessary on the birth certificate concerning either the father's name or the children's last name.

8

[Check and complete only one (1) of the following.]

- (a) There is already a child support order concerning the children. The current Order was issued by the _____ Court/Agency in the court case number _____. It requires me to pay \$ _____ per _____.

- (b) There is currently no child support order concerning the children.

THEREFORE, the Petitioner asks:

[Check and complete only those that apply.]

- (a) That process issue and the Respondent be served with a copy of this *Petition for Legitimation*;
- (b) That the Court order service by publication for the Respondent, whose address is unknown. I am filing my *Affidavit(s) of Diligent Search* with this *Petition*, and incorporate it here by reference.
- (c) I ask that the Court enter an *Order* legitimating my relationship with the children, so that the children will be recognized as my legitimate children, capable of inheriting in the same manner as if born in lawful wedlock;
- (d) That the last name of the children be changed to my last name;
- (e) That the Department of Vital Statistics be ordered and directed to amend the children’s birth record and to reissue the birth certificate as follows:
 - (1) entering my name as the father on the birth record.
 - (2) change the children’s last name to my last name.
- (f) I ask that the Court enter an *Order* providing for specific, liberal visitation privileges for me with the minor children.
- (g) I ask that the Court enter an *Order* granting the following custody:
 - (1) The Respondent and I should share joint legal custody of the children and I should have primary physical custody of the children with the Respondent having reasonable visitation rights.
 - (2) I should have sole legal custody and primary physical custody of the children with the Respondent having reasonable visitation rights.
 - (3) I should have sole legal custody and primary physical custody with the Respondent having limited, supervised visitation rights with the children for the following reasons:

 - (4) I should have sole legal custody and physical custody with the Respondent having no visitation rights with the children for the following reasons:

 - (5) Other:

**IN THE SUPERIOR COURT OF COBB COUNTY
STATE OF GEORGIA**

Petitioner: _____

and

Respondent: _____

Civil Action File No.: _____

MOTHER'S CONSENT TO LEGITIMATION

1

I am the mother of the following minor children, who is the subject of this legitimation action filed by the Petitioner:

Child's Name	Date of Birth

2

I hereby give my consent to the following provisions, by writing my initials next to them. I do not agree to any of the provisions unless I have written my initials next to them.

*[Write your initials next to **only** the items to which you agree. Draw a line next to the ones to which you do not agree.]*

- _____ (a) The Petitioner legitimating our children, whose names are listed in Paragraph 1 above.
- _____ (b) Changing the children's last name to _____.
- _____ (c) I agree to the following arrangement concerning custody and visitation: _____

- _____ (d) On the issue of child support:

- _____ (1) Child support has already been decided for the children by a Court or agency in another case.
- _____ (2) I want the Court to decide child support and enter a *Child Support Order* as part of this legitimation case.
- _____ (3) The Petitioner and I have reached an agreement on child support for the children, and it is consistent with the Georgia Child Support Guidelines. The Petitioner's gross income is \$_____ per month, and my gross income is \$_____ per month. We have agreed that _____ will pay child support in the amount of \$_____ per month to _____.
- _____ (4) The parties live together with the children, so no *Child Support Order* is necessary.

I have read this consent document, and I understand it. I am giving my consent freely. I have written my initials next to all of the provisions in Paragraph 2 to which I am agreeing. I am not being forced to sign this consent, and I believe this legitimation is in the best interest of my children.

 (Sign your name here before Notary) Respondent, *Self-Represented*

Respondent's Name (print or type): _____

Respondent's Address: _____

Respondent's Telephone Number: _____

Sworn to and affirmed before me, this
 _____ day of _____.

NOTARY PUBLIC

My commission expires: _____

(Notary Seal)

**IN THE SUPERIOR COURT OF COBB COUNTY
STATE OF GEORGIA**

Petitioner: _____

and

Respondent: _____

Civil Action File No.: _____

RULE NISI

This action has been filed. Therefore, let the parties appear before the Honorable Judge _____ of the Superior Court of Cobb County, Cobb Judicial Circuit in Courtroom _____, in the Superior Court Building, 70 Haynes Street, Marietta, Georgia on _____, 20____ at _____ o'clock ____m. to show cause why the relief sought should not be granted.

Issued on _____, 20____.

JUDGE/CLERK
Superior Court of Cobb County
Cobb Judicial Circuit

Presented by:

 Petitioner Respondent *Self-Represented*

**IN THE SUPERIOR COURT OF COBB COUNTY
STATE OF GEORGIA**

Petitioner: _____

and

Respondent: _____

Civil Action File No.: _____

ORDER

The above *Petition* having come before this Court, it is considered, ordered, and adjudged that:

1. Legitimacy

The children named in the *Petition*, to wit:

Child's Name	Date of Birth

be declared the legitimate children of the Petitioner, _____, and capable of inheriting from him.

The Department of Vital Statistics is hereby ordered and directed to amend and reissue the birth certificate of each child listed above to indicate the Petitioner, _____, is the father of said child.

The Department of Vital Statistics is hereby ordered and directed to remove the name of _____ from the birth certificate of each child, and replace it with the name of the Petitioner, _____.

The surname of each child is hereby changed to _____. The Department of Vital Statistics is hereby ordered and directed to amend and reissue the birth certificate of each child listed above to reflect the change of the children's name to: _____.

The *Agreement* entered into by the parties and filed with this Court on _____, 20____ is hereby attached and adopted by the Court. Each party is ORDERED to abide by the terms of the *Agreement*.

2. Custody and Visitation

Respondent having consented to the consideration of the issue of visitation in this action, visitation with the children is hereby granted to the Petitioner/Respondent as follows: _____

Respondent having consented to the consideration of the issue of custody in this action, custody of the children is hereby ordered as follows: _____

The mother, _____, of the minor children is deceased. The Petitioner is hereby awarded legal and physical custody of the minor children.

3. Child Support

Application of Child Support Guidelines – The statutory requirements of O.C.G.A. § 19-6-15 have been applied in reaching the amount of child support provided under the *Order* in this action. The specifics are as follows:

- (1) Gross Income – The Petitioner’s gross monthly income (before taxes) is \$ _____; the Respondent’s gross monthly income (before taxes) is \$ _____.
- (2) Child – The number of children for whom support is being provided under this Order is _____. Their names and dates of birth are as follows:

Child’s Name	Date of Birth

- (3) Attachments – The *Child Support Worksheet* and *Schedules* are attached hereto, along with any other applicable schedules.
- (4) Child Support Amount – The _____ shall pay to the _____, for the support of the minor children in the sum of _____ dollars (\$ _____) per month, beginning on _____

_____, 20_____, and continued with a payment of _____ dollars (\$ _____) on the first (1st) day of each and every month thereafter until the minor children reach the age of majority, become self-supporting, marry, die, no longer reside with the _____, or are otherwise emancipated, whichever of these events shall first occur. PROVIDED HOWEVER, that if at the time the parties' children attain eighteen (18) years of age, s/he has not graduated from high school and is then enrolled full time in high school and progressing toward graduation in the normal course, then such child support shall continue until such time as said children graduate from high school, are no longer enrolled full time and progressing normally, or attain the age of twenty (20) years, whichever first occurs.

(5) Deviation from Presumptive Amount

[Check and complete only one (1) of the following choices.]

- (a) No Deviation – It has been determined that none of the deviations allowed under O.C.G.A. § 19-6-15 applies in this case, as shown by the attached *Schedule E*. The amount of support in Paragraph 3 above is the Presumptive Amount of child support shown on the attached *Child Support Worksheet*.
- (b) Deviation – It has been determined that one or more of the deviations allowed under O.C.G.A. § 19-6-15 applies in this case, as shown by the attached *Schedule E*. The Presumptive Amount of Child Support that would have been required under O.C.G.A. § 19-6-15, if the deviations had not been applied, is \$_____ per month, as shown on the attached *Child Support Worksheet*. The attached *Schedule E* explains the reasons for the deviation, how the application of the guidelines would be unjust or inappropriate considering the relative ability of each parent to provide support, and how the best interest of the children who are subject to this child support determination is served by deviation from the Presumptive Amount of Child Support.

(6) Health, Dental, & Vision Insurance for Children

[Check and complete only one (1) of the following choices.]

- (a) Insurance Available – The following insurance for the children involved in this action is available at a reasonable cost to the _____ through that parent's employer or the PeachCare Program:
- Health (medical, mental health, and hospitalization) Dental Vision
- So long as it remains available to that parent, the _____ shall maintain the types of insurance checked above for the benefit of the minor children, until each child reaches the age of eighteen (18), dies, marries, or otherwise becomes emancipated; except that if a child becomes eighteen years old while enrolled in and attending secondary school on a full-time basis, then the insurance shall be continued for the children until the children have graduated from secondary school or reaches twenty (20) years of age, whichever occurs first.
- (1) The parent who maintains the insurance shall provide the other parent with an insurance identification card or such other acceptable proof of insurance coverage and shall cooperate with the other parent in submitting claims under the policy.

(2) All money received by one of the parties for claims processed under the insurance policy shall be paid within five (5) days after the party receives the money, to the other party (if that other party paid the applicable health care service provider) or to the applicable health care provider (if the provider has not been paid by one of the parties).

- (b) Insurance Not Available – Insurance (other than Medicaid) is not available at this time to either party at a reasonable cost. If health insurance for the children later becomes available to the parent who is required to pay child support for the children, then that parent must obtain the following types of insurance, unless it is then being provided by the other parent:

Health (medical, mental health, and hospitalization) Dental Vision.

When insurance has been obtained by either party, Paragraphs 4(b)(6)(a)(1) and (2) shall apply.

- (c) Insurance Not Available – This issue is not addressed in this *Final Judgment*, either because the Court lacks personal jurisdiction over the Respondent, or because neither party has asked the Court to address the issue of children’s health care expenses in this action.

When insurance has been obtained by either party, Paragraphs 4(b)(6)(a)(1) and (2) shall apply.

- (7) Uninsured Health Care Expenses – The Petitioner shall pay _____% and the Respondent shall pay _____% of all expenses incurred for the children’s health care (including medical, dental, mental health, hospital, and vision care) that are not covered by insurance. The party who incurs a health care expense for the children shall provide verification of the amount to the other party. That other party shall reimburse the incurring party (or pay the health care provider directly) for the appropriate percentage of the expense, within thirty (30) days after receiving the verification of a particular health care expense.

- (8) Parenting Time Amounts – The approximate number of days of parenting time per year according to the *Visitation Order* is _____ days for the Petitioner and _____ for the Respondent.

- (9) Continuing Garnishment for Child Support – Whenever, in violation of the terms of the order, there shall have been a failure to make payments, so that the amount unpaid is equal to or greater than the amount payable for one month, the payments required to be made may also be collected by the process of continuing garnishment for support.

(10) Income Deduction Order

[Check and complete only one (1) of the following choices.]

- (a) An *Income Deduction Order* shall be entered by the Court, under O.C.G.A. § 19-6-32, for payment of child support and alimony (if any) provided. The *Income Deduction Order* shall take effect:
- (1) immediately upon entry by the Court.
- (2) upon accrual of a delinquency equal to one month’s support. The *Income Deduction Order* may be enforced by serving a *Notice of Delinquency*, as provided in O.C.G.A. § 19-6-32(f).
- (b) The parties agree that an *Income Deduction Order* is not immediately necessary.

- (c) The Court finds that there is good cause to not require income deduction, having determined that income deduction will not serve the children's best interests and that there has been sufficient proof of timely payment of any previously ordered support.

This Order entered on _____ day of _____, 20_____.

Judge, Superior Court
Cobb Judicial Circuit

“Exhibit A” – Visitation Schedule

If the parties cannot agree on specific visitation, the _____ shall have the right to visitation according to the schedule below. To resolve any conflicts in the visitation provided under this schedule, the holiday visitation provided under paragraph (b) shall have priority over the weekend and summer visitation in paragraphs (a) and (c).

- (a) Weekends – The first and third weekends of every month, from Friday at 6:00 p.m. until Sunday at 6:00 p.m. The first and third weekends shall be defined as the weekends containing the first and third Fridays of the month.
- (b) Holidays – The children shall spend holidays with each parent on the following schedule:

[Check only one (1) preference per section. Be careful not to check the same numbered years for both parents.]

Holidays	With Petitioner	With Respondent
<p>Spring Vacation, from 6:00 p.m. on the day school lets out for vacation, until 6:00 p.m. on the day before the child return to school.</p> <p>If none of the children are enrolled in school, this vacation shall be for up to one week (seven consecutive days) during the months of March or April, provided that the visiting parent shall give written notice of the chosen week to the other parent at least 30 days prior to the beginning of this visitation.</p>	<input type="checkbox"/> Even-number years <input type="checkbox"/> Odd-number years	<input type="checkbox"/> Even-number years <input type="checkbox"/> Odd-number years
<p>Easter Weekend, 6:00 p.m. Friday to 6:00 p.m. Sunday, provided that it does not conflict with Spring Vacation described above.</p>	<input type="checkbox"/> Even-number years <input type="checkbox"/> Odd-number years	<input type="checkbox"/> Even-number years <input type="checkbox"/> Odd-number years
<p>Mother’s Day, from 9:00 a.m. to 6:00 p.m.</p>	Not applicable	Every year
<p>Memorial Day Weekend, 6:00 p.m. Friday to 6:00 p.m. Monday.</p>	<input type="checkbox"/> Even-number years <input type="checkbox"/> Odd-number years	<input type="checkbox"/> Even-number years <input type="checkbox"/> Odd-number years
<p>Father’s Day, From 9:00 a.m. to 6:00 p.m.</p>	Every year	Not applicable
<p>Fourth of July, from 10:00 a.m. to 10:00 p.m.</p>	<input type="checkbox"/> Even-number years <input type="checkbox"/> Odd-number years	<input type="checkbox"/> Even-number years <input type="checkbox"/> Odd-number years
<p>Labor Day Weekend, 6:00 p.m. Friday to 6:00 p.m. Sunday.</p>	<input type="checkbox"/> Even-number years <input type="checkbox"/> Odd-number years	<input type="checkbox"/> Even-number years <input type="checkbox"/> Odd-number years
<p>Thanksgiving Weekend, 6:00 p.m. Wednesday to 6:00 p.m. Sunday.</p>	<input type="checkbox"/> Even-number years <input type="checkbox"/> Odd-number years	<input type="checkbox"/> Even-number years <input type="checkbox"/> Odd-number years

Holidays	With Petitioner	With Respondent
<p>First Part of Christmas Vacation, from 6:00 p.m. on the day school lets out for vacation, until 12:00 noon on December 25th.</p> <p>If none of the children are enrolled in school, this visitation shall be from 6:00 p.m. on December 20th until 12:00 noon on December 25th.</p>	<input type="checkbox"/> Even-number years <input type="checkbox"/> Odd-number years	<input type="checkbox"/> Even-number years <input type="checkbox"/> Odd-number years
<p>Latter Part of Christmas Vacation, from 12:00 noon on December 25th to 6:00 p.m. on the day before the children return to school.</p> <p>If none of the children are enrolled in school, this visitation shall be from 12:00 noon on December 25th until 6:00 p.m. on January 1st.</p>	<input type="checkbox"/> Even-number years <input type="checkbox"/> Odd-number years	<input type="checkbox"/> Even-number years <input type="checkbox"/> Odd-number years

- (c) Summer Vacation - _____ weeks during the children’s summer vacation from school. However, the children are not enrolled in school, this summer visitation shall be taken during the months of June, July, and August, until such time as the children begins to attend school. The weeks may be taken consecutively or non-consecutively, but shall be taken in increments of at least seven (7) consecutive days. The parent with visitation shall give written notice of the chosen weeks to the other parent on or before March 1st (so that both parties will have ample time to make camp and child care arrangements for the summer).

**IN THE SUPERIOR COURT OF COBB COUNTY
STATE OF GEORGIA**

Petitioner: _____

and

Respondent: _____

Civil Action File No.: _____

DOMESTIC RELATIONS FINANCIAL AFFIDAVIT

(1) Your Name:		Your Age:
Spouse's Name:		Spouse's Age:
Date of Marriage:	Date of Separation:	
Names and birth dates of children for whom support is to be determined in this action:		
Name	Date of Birth	Resides with
Names and birth dates of your other children:		
Name	Date of Birth	Resides with
(2) SUMMARY OF YOUR INCOME AND NEEDS: (fill out this part after you complete pages 2-5)		
(A) Gross Monthly Income (from Item 3A below)		\$
(B) Net Monthly Income (from Item 3B below)		\$
(C) Average Monthly Expenses (Item 5A below)		\$
Monthly Payments to Creditors (Item 5B below)		\$
Total Monthly Expenses & Payments to Creditors (Item 5C below)		\$

(3) (A) YOUR GROSS MONTHLY INCOME: (Complete this section or attach Child Support Schedule A).
 (All income must be entered based on monthly average regardless of date of receipt. Where applicable, income should be annualized)

Salary or Wages — ATTACH COPIES OF 2 MOST RECENT WAGE STATEMENTS	\$
Commissions, Fees & Tips	\$
Income from self-employment, partnership, close corporations and independent contracts (gross receipts minus ordinary and necessary expenses required to produce income) ATTACH SHEET ITEMIZING YOUR CALCULATIONS	\$
Rental income (gross receipts minus ordinary and necessary expenses required to produce income) ATTACH SHEET ITEMIZING YOUR CALCULATIONS	\$
Bonuses	\$
Overtime Payments	\$
Severance Pay	\$
Recurring Income from Pensions or Retirement Plans	\$
Interest and Dividends	\$
Trust income	\$
Income from Annuities	\$
Capital Gains	\$
Social Security Disability or Retirement Benefits	\$
Worker's Compensation Benefits	\$
Unemployment Benefits	\$
Judgments from Personal Injury or Other Civil Cases	\$
Gifts (cash or other gifts that can be converted to cash)	\$
Prizes & Lottery Winnings	\$
Alimony and maintenance from persons not in this case	\$
Assets which are used for support of family	\$
Fringe Benefits (if significantly reduce living expenses)	\$
Any Other Income (Do not include means-tested public assistance, such as TANF or food stamps.)	\$

TOTAL Gross Monthly Income (also write in 2A on page one)			\$
(3)(B) Net Monthly Income From Employment (deducting only state and federal taxes and FICA) (also write in 2B on page one)			\$
CHILDREN'S EXPENSES			
Child Care (total monthly cost)	\$	Allowance	\$
School Tuition	\$	Children's Clothing	\$
Tutoring	\$	Diapers	\$
Private lessons (e.g., music, dance)	\$	Medical, Dental, Prescriptions (out-of-pocket uncovered expenses)	\$
School Supplies / Expenses	\$	Grooming / Hygiene	\$
Lunch Money	\$	Gifts from children to others	\$
Other Educational Expenses (list type & amount):		Entertainment	\$
_____	\$	Activities (including extra-curricular, school, religious, cultural, etc.)	\$
_____	\$	Summer Camps	\$
OTHER INSURANCE			
Health Insurance	\$	Life Insurance	\$
Children's portion:	\$	Relationship of Beneficiary:	
Dental Insurance	\$	Disability Insurance	\$
Children's portion:	\$	Other Insurance (specify)	\$
Vision Insurance	\$		\$
Children's portion:	\$		\$
YOUR OTHER EXPENSES			
Dry Cleaning & Laundry	\$	Publications	\$
Clothing	\$	Dues, Clubs	\$
Medical / Dental / Prescription (out-of-pocket uncovered expenses)	\$	Religious & Charities	\$
Your Gifts (special holidays)	\$	Pet expenses	\$
Entertainment	\$	Alimony Paid to Former Spouse	\$
Recreational Expenses (e.g., fitness)	\$	Child Support Paid for other children	\$

Vacations	\$	Date of initial CS order:	
Travel Expenses for Visitation	\$	Other (attach sheet to list)	\$
TOTAL ABOVE MONTHLY EXPENSES (also write on first line of 2C on page one)			\$

(5)(B) YOUR PAYMENTS & DEBTS TO CREDITORS					
To Whom	Balance Due	Monthly Payments	(Please check one)		
			Joint	Petitioner	Respondent
	\$	\$			
	\$	\$			
	\$	\$			
	\$	\$			
	\$	\$			
	\$	\$			
Total Monthly Payments to Creditors (also write this total on line 2 of 2C on page one)				\$	
(5)(C)TOTAL MONTHLY EXPENSES (Total Expenses from final line on page 5 + Total Monthly Payments to Creditors above) (also write this total on line 3 of 2C on page one)				\$	

 (Sign your name before Notary) Petitioner Respondent, *Self-Represented*

Name (print or type): _____

Address: _____

Daytime Telephone Number: _____

Sworn to and affirmed before me, this _____ day of _____.

NOTARY PUBLIC

My commission expires: _____

(Notary Seal)

IN THE SUPERIOR COURT OF COBB COUNTY
STATE OF GEORGIA

_____,
PETITIONER,

VERSUS

_____,
RESPONDENT.

CIVIL ACTION FILE NUMBER

RESPONDENT'S ANSWER TO PETITIONER'S
PETITION FOR LEGITIMATION

My name is _____, and I am representing myself in this legitimation action. In support of my case, I state the following:

1.

Respondent (CIRCLE ONE: ADMITS OR DENIES) the allegations contained in Paragraph 1 of Petitioner's *Petition for Legitimation*.

2.

Respondent (CIRCLE ONE: ADMITS OR DENIES) the allegations contained in Paragraph 2 of Petitioner's *Petition for Legitimation*.

3.

Respondent (CIRCLE ONE: ADMITS OR DENIES) the allegations contained in Paragraph 3 of Petitioner's *Petition for Legitimation*.

4.

Respondent (CIRCLE ONE: ADMITS OR DENIES) the allegations contained in Paragraph 4 of Petitioner's *Petition for Legitimation*.

5.

Respondent (CIRCLE ONE: ADMITS OR DENIES) the allegations contained in Paragraph 5 of Petitioner's *Petition for Legitimation*.

6.

Respondent (CIRCLE ONE: ADMITS OR DENIES) the allegations contained in Paragraph 6 of Petitioner's *Petition for Legitimation*.

7.

Respondent (CIRCLE ONE: ADMITS OR DENIES) the allegations contained in Paragraph 7 of Petitioner's *Petition for Legitimation*.

8.

Respondent (CIRCLE ONE: ADMITS OR DENIES) the allegations contained in Paragraph 8 of Petitioner's *Petition for Legitimation*.

Signed this _____ day of _____, 20____.

(Sign your name here before notary) Respondent, *Self-Represented*
Respondent's Name (Print or Type): _____
Respondent's Address: _____
Respondent's Telephone Number: _____

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

NOTARY PUBLIC
My Commission Expires: _____
(Notary Seal)

IN THE SUPERIOR COURT OF COBB COUNTY
STATE OF GEORGIA

_____,
PETITIONER,

VERSUS

_____,
RESPONDENT.

CIVIL ACTION FILE NUMBER

CERTIFICATE OF SERVICE

This document certifies that on _____, 20____, I sent copies of the following documents:

ANSWER TO PETITIONER'S PETITION FOR LEGITIMATION

to the opposing party by: (CHOOSE ONE: first class mail OR certified mail and return receipt was requested).

The documents were addressed as follows:

Signed this _____ day of _____, 20_____.

(Sign your name here before notary) Respondent, *Self-Represented*

Respondent's Name (Print or Type): _____

Respondent's Address: _____

Respondent's Telephone Number: _____

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

NOTARY PUBLIC

My Commission Expires: _____

(Notary Seal)

**IN THE SUPERIOR COURT OF COBB COUNTY
STATE OF GEORGIA**

Petitioner: _____

and

Respondent: _____

Civil Action File No.: _____

SUMMONS

TO THE ABOVE NAMED RESPONDENT:

You are hereby summoned and required to file with the Clerk of said Court and serve upon the Petitioner, whose name and address is:

and *Answer* to the *Complaint* which is herewith served upon you, within 30 days after service of this *Summons* upon you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the *Complaint*.

If a hearing has already been scheduled in this case, you must appear at that scheduled hearing, regardless of whether the 30 days for filing an answer has elapsed.

This _____ day of _____, 20_____.

REBECCA KEATON,
Clerk of Superior Court

By _____
Clerk

To Respondent upon whom this *Petition* is served:

This copy of *Complaint and Summons* was served upon you, _____, 20_____.

INSTRUCTIONS FOR FILING AN ANSWER AND COUNTERCLAIM IN RESPONSE TO A PETITION FOR LEGITIMATION

This packet contains forms for people responding to a *Petition for Legitimation*. This packet is for those who wish to file an *Answer and Counterclaim for Custody and Child Support*. The Respondent/ Defendant in the case (presumably you) must file an answer to the *Petition* you were served with. If you would also like to request relief from the Court, such as custody of the child or child support, you must also file a counterclaim.

There are two options available to you for responding to a *Petition for Legitimation*: (1) you can hire a lawyer who will prepare your paperwork and represent you in court, or (2) you can use the forms included in this packet and represent yourself in court. It is advisable to speak with a lawyer before filing any action with the Court; this case is no exception to that rule. There are often more issues involved in a custody case than you might realize if you fail to get legal advice. However, you may want to review the form in this packet before you talk to a lawyer, so that you will be able to make the best use of your time with the lawyer.

YOU MAY ESPECIALLY NEED AN ATTORNEY IF:

- The case is contested OR an attorney represents the opposing party.
- You or your child are victims of family violence against you by the opposing party.
- You want a custody or visitation arrangement that does not exactly fit these forms.
- You think you may have difficulty getting financial information from the opposing party.

Whether your case is contested or uncontested, you should speak with a lawyer before signing a *Settlement Agreement* or filing any other documents with the Court.

State law, O.C.G.A. § 15-19-51, prohibits court personnel (including staff attorneys, law clerks, calendar clerks, Clerk's Office staff, and Sheriff's Department staff) from giving legal advice or answering legal questions. This rule also applies to the Cobb County Law Library.

A custody case can be a very complicated process. If you want a court to grant the relief that you have requested, **you must complete each and every paragraph in this packet that applies to your case (but not any paragraph that does not apply to your case)**. When you are ready to file your *Answer and Counterclaim for Custody and Child Support*, you must file it with the Clerk for the Superior Court of Cobb County and mail a copy to the opposing party (or the opposing party's attorney if he has one).

Please keep in mind that you may need to submit other forms to the Court in addition to this packet either initially or as your case progresses. At a minimum, you are required to submit a *Domestic Relations Financial Affidavit*, a *Child Support Worksheet*, and a *Parenting Plan*. The Cobb County Law Library offers many of these sample forms and documents.

HEARINGS

- **Temporary Hearing (Rule Nisi)**

A temporary hearing is not required. However, if your case will not be ready for a final hearing (because you do not have a signed agreement and do not expect to have one soon), there may be issues that need to be decided on a temporary basis before the final hearing. In that situation, you may ask the Court to schedule a *Rule Nisi* temporary hearing. Temporary issues may include child support and custody and visitation with the children while the case is pending.

To schedule a *Rule Nisi* temporary hearing, you should complete a *Rule Nisi* form which has its own separate instructions. If you know you want a temporary hearing when you are getting ready to file your *Answer and Counterclaim*, you can copy, sort, and file the *Rule Nisi* form with your other paperwork. You should take the original copy of the *Rule Nisi* and at least one copy to the office of the judge assigned to your case. The judge's staff will schedule a date for the *Rule Nisi* and fill out that part of the *Rule Nisi* form. Sometimes the judge's staff will mail notice of the hearing date to both parties. However, to be on the safe side, you should also mail a copy of the hearing notice to the Petitioner. Then, you should file a *Certificate of Service* with the Superior Court Clerk's Office (showing that you mailed or delivered proper notice to the Petitioner).

- **Final Hearing**

The judges schedule these final hearings in different ways. You should check with the staff for the judge assigned to your case. Sometimes the judge's staff will mail notice of the hearing date to both parties. However, to be on the safe side, you should also mail a copy of the hearing notice to the Petitioner. Then, you should file a *Certificate of Service* with the Superior Court Clerk's Office (showing that you mailed or delivered proper notice to the Petitioner).

- **Before Hearing Dates**

Whether temporary or final, you must prepare your case to be presented to the Court before your hearing dates. You are your main witness. You must also gather other evidence (such as documents and photographs), and you must arrange for any other witnesses that you want to have testify at the hearing. You must also prepare the proper documents to be provided to the judge at (or soon after) the hearing.

For a temporary hearing, you may use *Affidavits* from witnesses, so that they do not have to testify in person. However, there are special procedures for this. See *Uniform Superior Court Rule 24.5*. At the final hearing, *Affidavits* are not proper evidence. Your witnesses (if any) must testify in person at the hearing.

Be sure to bring a *Parenting Plan*, *Domestic Relations Financial Affidavit*, and *Child Support Worksheet* to the hearing. The Cobb County Law Library has materials to help you prepare for the hearings. You should also talk to a lawyer about the hearing to learn more about how to present your case.

IN THE SUPERIOR COURT OF COBB COUNTY
STATE OF GEORGIA

_____,
PETITIONER,

VERSUS

_____,
RESPONDENT.

CIVIL ACTION FILE NUMBER

RESPONDENT’S ANSWER TO PETITIONER’S PETITION FOR LEGITIMATION AND COUNTERCLAIM FOR CUSTODY AND CHILD SUPPORT

My name is _____, and I hereby file this *Answer and Counterclaim for Custody and Child Support* as follows:

1.

Respondent (CIRCLE ONE: ADMITS OR DENIES) the allegations contained in Paragraph 1 of Petitioner’s *Petition for Legitimation*.

2.

Respondent (CIRCLE ONE: ADMITS OR DENIES) the allegations contained in Paragraph 2 of Petitioner’s *Petition for Legitimation*.

3.

Respondent (CIRCLE ONE: ADMITS OR DENIES) the allegations contained in Paragraph 3 of Petitioner’s *Petition for Legitimation*.

4.

Respondent (CIRCLE ONE: ADMITS OR DENIES) the allegations contained in Paragraph 4 of Petitioner’s *Petition for Legitimation*.

5.

Respondent (CIRCLE ONE: ADMITS OR DENIES) the allegations contained in Paragraph 5 of Petitioner’s *Petition for Legitimation*.

6.

Respondent (CIRCLE ONE: ADMITS OR DENIES) the allegations contained in Paragraph 6 of Petitioner's *Petition for Legitimation*.

7.

Respondent (CIRCLE ONE: ADMITS OR DENIES) the allegations contained in Paragraph 7 of Petitioner's *Petition for Legitimation*.

8.

Respondent (CIRCLE ONE: ADMITS OR DENIES) the allegations contained in Paragraph 8 of Petitioner's *Petition for Legitimation*.

9.

Respondent (CIRCLE ONE: ADMITS OR DENIES) the allegations contained in Paragraph 9 of Petitioner's *Petition for Legitimation*.

10.

Respondent (CIRCLE ONE: ADMITS OR DENIES) the allegations contained in Paragraph 10 of Petitioner's *Petition for Legitimation*.

11.

Respondent (CIRCLE ONE: ADMITS OR DENIES) the allegations contained in Paragraph 11 of Petitioner's *Petition for Legitimation*.

12.

Respondent (CIRCLE ONE: ADMITS OR DENIES) the allegations contained in Paragraph 12 of Petitioner's *Petition for Legitimation*.

13.

Respondent (CIRCLE ONE: ADMITS OR DENIES) the allegations contained in Paragraph 13 of Petitioner's *Petition for Legitimation*.

14.

Respondent (CIRCLE ONE: ADMITS OR DENIES) the allegations contained in Paragraph 14 of Petitioner's *Petition for Legitimation*.

15.

Respondent (CIRCLE ONE: ADMITS OR DENIES) the allegations contained in Paragraph 15 of Petitioner's *Petition for Legitimation*.

(Attach additional pages if necessary)

COUNTERCLAIM FOR CUSTODY AND CHILD SUPPORT

1. Subject Matter Jurisdiction and Venue: This Court has jurisdiction over the subject matter and parties in this action, and venue is proper in this Court.

2. Minor Children: The Petitioner and I are the parents of _____ minor children, listed below:

Name of Child	Sex	Date of Birth	Lives with (Mother, Father, Other)

3. Children’s Current Residence: The minor children currently live at _____ in _____ County, with the following people: _____

The children have lived at this address since approximately _____.

4. Children’s Past Residences: During the past five years, the children has lived at the following addresses:

Name of Person	Person’s Current Address

5. People With Whom Children Have Lived: During the past five years, the children have lived with the following people:

Name of Person	Person’s Current Address

6. Other Court Cases About Children:

[Check only one (1) box.]

- (a) I have never participated as a party or a witness or in any other capacity in any other litigation concerning the custody or visitation with the minor children in this or any other state.
- (b) I have participated in other litigation concerning the custody of the minor children in Georgia or another state. The court, case number, and date of any order concerning custody or visitation under the other litigation are as follows:

7. Other Proceedings That Could Affect Custody or Visitation in This Case:

[Check only one (1) box.]

- (a) I do not have any information of any proceeding that could affect this case, including proceedings for enforcement and proceedings relating to family violence, protective orders, termination of parental rights, and adoptions in this or any other state.
- (b) I have information about a proceeding that could affect this case, including proceedings for enforcement and proceedings relating to family violence, protective orders, termination of parental rights, or adoptions in this case or another state. The court, the case number, and the nature of the proceeding are as follows:

8. Others Claiming Custody or Visitation:

[Check only one (1) box.]

- (a) I do not know of any other person who is not a party to this case, who has physical custody of the children or who claims to have custody or visitation rights with respect to the children.
- (b) I know of someone who is not a party to this case, who has physical custody of the children or who claims to have custody or visitation rights with respect to the children. The names and present addresses of the person(s) are:

Name of Person	Person's Current Address

9. Child Custody and Visitation: I believe that the following custody arrangement is in the best interests of the children:

[Check and complete only one (1) box.]

- (a) The Petitioner and I should share joint legal custody of the children and I should have primary physical custody of the children with the Petitioner having reasonable visitation rights.
- (b) I should have sole legal custody and primary physical custody of the children with the Petitioner having reasonable visitation rights.
- (c) I should have sole legal custody and primary physical custody with the Petitioner having limited, supervised visitation rights with the children for the following reasons:

- (d) I should have sole legal custody and physical custody with the Petitioner having no visitation rights with the children for the following reasons:

- (e) Other:

10. Child Support:

[Check and complete only one (1) box.]

- (a) The Petitioner has income or is capable of earning sufficient money to support the minor children. Based on the Petitioner’s gross income of \$_____ per month, and the Georgia Child Support Guidelines (O.C.G.A. § 19-6-15), the Petitioner should pay an amount of support between \$_____ and \$_____ per month.
- (b) Based on my gross income of \$_____ per month, and the Georgia Child Support Guidelines (O.C.G.A. § 19-6-15), I can pay the Petitioner an amount of child support between \$_____ and \$_____ per month.

11. Health Insurance for Children:

[Check only one (1) box.]

- (a) The Petitioner should be ordered to maintain a policy for medical, dental, and hospitalization insurance for the minor children.
- (b) I already provide health insurance for the children, and the Petitioner should be required to reimburse me for a fair share of the cost each month.
- (c) I am not asking the Court to address this issue in this case.

12. Other Medical Expenses for Children:

[Check only one (1) box.]

- (a) The Petitioner should be responsible for all expenses incurred for the children’s medical, dental, and hospital care that are not covered by insurance.
- (b) The Petitioner and I should share the cost of expenses incurred for the children’s medical, dental, and hospital care, that are not covered by insurance.
- (c) I am not asking the Court to address this issue in this case.

13. Life Insurance Support to Children:

[Check only one (1) box.]

- (a) The children depend on the Petitioner for support, and therefore the Petitioner should maintain a policy of insurance on the Petitioner’s life, with a face amount of _____, for the benefit of the minor children. The Petitioner should maintain a policy for so long as at least one of the children is a minor or is otherwise entitled to child support.
- (b) I am not asking the Court to address this issue in this case.

FOR THESE REASONS, I REQUEST THE FOLLOWING RELIEF:

[Check all that apply.]

- (a) That the custody and visitation for the children be ordered according to Paragraph 9;
- (b) That child support, health insurance, medical expenses, and life insurance for the support of the children be ordered according to Paragraph 10, 11, 12, and 13;
- (c) That a *Rule Nisi* be scheduled by the Court to decide on the relief I have requested;
- (d) That the Court issue its *Standing Order*;
- (e) That the Court order any and all other relief that the Court finds appropriate.

Signed this _____ day of _____, 20____.

(Sign your name here before notary) Respondent, *Self-Represented*

Respondent's Name (Print or Type): _____

Respondent's Address: _____

Respondent's Telephone Number: _____

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

NOTARY PUBLIC
My Commission Expires: _____
(Notary Seal)

**IN THE SUPERIOR COURT OF COBB COUNTY
STATE OF GEORGIA**

Petitioner:

and

Respondent:

Civil Action File No.:

VERIFICATION

I, _____, personally appeared before the undersigned Notary Public, and declare under oath that I am the Respondent in the above-styled action and that the facts stated in the foregoing *Respondent's Answer to Petitioner's Petition for Legitimation and Counterclaim for Custody and Child Support* are true and correct to the best of my knowledge.

Signed this _____ day of _____, 20____.

(Sign your name here before notary) Respondent, *Self-Represented*

Respondent's Name (Print or Type): _____

Respondent's Address: _____

Respondent's Telephone Number: _____

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

NOTARY PUBLIC

My Commission Expires: _____

(Notary Seal)

**IN THE SUPERIOR COURT OF COBB COUNTY
STATE OF GEORGIA**

_____,
PETITIONER,

VERSUS

_____,
RESPONDENT.

CIVIL ACTION FILE NUMBER

CERTIFICATE OF SERVICE

This document certifies that on _____, 20____, I sent copies of the following documents:

Respondent's Answer to Petitioner's Petition for Legitimation and Counterclaim for Custody and Child Support and Verification

to the opposing party by (choose one):

- first class mail
- certified mail and return receipt was requested

The documents were addressed as follows:

Signed this _____ day of _____, 20_____.

(Sign your name here before notary) Respondent, *Self-Represented*

Respondent's Name (Print or Type): _____

Respondent's Address: _____

Respondent's Telephone Number: _____

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

NOTARY PUBLIC

My Commission Expires: _____

(Notary Seal)