

PROPERTY DIVISION

1

To Make Someone Obey A Court Order

(Forms and Instructions)

Petition and papers for enforcement of order on property

CHECKLIST

USE THE FORMS and instructions in this packet only if the following factors apply to your situation:

- ✓ You have a Yuma County Decree for divorce or legal separation ordering the distribution of property, AND
- ✓ Your former spouse will not give you property you are entitled to under the decree or sign over the title.

WARNING: If the order you want to change is not from this county, ask a lawyer about the requirements to file your Petition (Request) with this Court.

DO NOT USE THE FORMS and instructions in this packet if the following factors apply to your situation:

- ✓ Your former spouse was ordered to pay certain debts, and he/she did not do so (in these cases, see a lawyer for help).

READ ME: Consulting a lawyer before filing documents with the court may help prevent unexpected results. A list of lawyers you may hire to advise you on handling your own case Can be found on the Law Library Resource Center.

To enforce property division order

This packet contains court forms and instructions to file to enforce property division order. Items in **BOLD** are forms that you will need to file with the Court. Non-bold items are instructions or procedures. Do not copy or file those pages!

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The documents you have received are copyrighted by the Superior Court of Arizona in Maricopa County. You have permission to use them for any lawful purpose. These forms shall not be used to engage in the unauthorized practice of law. The Court assumes no responsibility and accepts no liability for actions taken by users of these documents, including reliance on their contents. The documents are under continual revision and are current only for the day they were received. It is strongly recommended that you verify on a regular basis that you have the most current documents.

Instructions to fill out petition to enforce court order about division of property

WHEN TO USE THIS FORM:

Use this form if you want to get a court order making the other party obey the divorce decree about division of property. You cannot use this form to make the other party pay a debt he or she was assigned as a result of a divorce or legal separation. Use this form only if you have a divorce or legal separation decree that gave you certain property or rights to property, and your spouse (if legally separated) or former spouse (if divorced) is not obeying the decree.

When filling out any court forms, please type or print with black ink only!

IMPORTANT NOTICE TO VICTIMS OF DOMESTIC VIOLENCE:

Unfortunately, domestic violence can be part of any relationship. Domestic violence can include physical violence such as hitting, slapping, pushing, or kicking against you and/or your child(ren) and threats of physical violence or regular verbal abuse used to control you and/or your children. Your spouse or former spouse does NOT need to have been convicted of domestic violence or assault for you to be a domestic violence victim, and you do not need to have sought medical care or been admitted to a hospital to be a victim.

All court documents will request your address and phone number. If you are a victim of domestic violence, are in a domestic violence shelter, or if you do not want your address known in order to protect yourself or your children from further violence, you must file a Request for Protected Address and ask that your address not be disclosed on court papers. If the Court grants your Request, you do not need to provide your address and phone number on your court papers. If possible, get a P.O. Box or use a valid address on these papers. If you have no other address or phone where you can be reached when you file, write "protected" where asked for this information and update the clerk of the court with an address and phone number as soon as possible.

CASE NUMBER

Use the same Case Number on all your court papers that you received with your original case. This is the number you were assigned in the divorce or separation case you already had in court in Yuma County. If your order is from another county or out-of-state you will be provided with a Yuma County case number.

PETITION:

- A. Make sure your form states "Petition to enforce court order about division of property" in the upper right hand part of the page.
- B. In the top left corner of the first page, fill out the following: your name; address (if not protected); city, state and zip code; telephone number; and your ATLAS number, if you are receiving or have received financial assistance from the Arizona Department of Economic Security.

- C. Fill in the space that says "Name of Petitioner/Party A" and "Name of Respondent/Party B." Complete the caption exactly the same way as it was in the divorce, or separation, case in Yuma County. The designation of Petitioner/Respondent will also remain the same if your divorce or separation order was from another county or another state as well, however a Yuma County case number will be issued.

Warning: if you have an existing case in Yuma County, do not get a new case number when filing your case! Use your existing case number. If you do not know your existing case number, ask the Clerk for your existing number before you file your complaint/petition.

General Information:

1. Fill in your name, address (if not protected) and date of birth. This is basic information about YOU.
2. Fill in the name of the opposing party, his or her address and date of birth. This is basic information about the OTHER PARTY.
3. Give the information about the decree you want enforced.
4. Fill in information about all the other cases you or your spouse or former spouse have filed to enforce or modify the decree.
5. Fill in information about all the other court cases that involve both you and your spouse or former spouse.
6. Complete the information about personal property (furnishings, vehicles) that you were supposed to get through the decree, but your spouse or former spouse will not allow you to have possession.
7. Complete the information about real property (houses, land) that you were supposed to get through the decree, but your spouse or former spouse will not allow you to have possession.
8. Complete the information about real property that was ordered to be sold, but your spouse or former spouse will not cooperate in the sale.

Request to the court:

1. Complete 1 A, B, and/or C to match what you said in number 6, 7, and/or 8.
2. Write in anything else you think the court should do.
3. Sign the petition in front of a notary public, and file it with the court.

Go on to the directions on what to do next, contained in this packet.

Person Filing: _____
Address (if not protected): _____
City, State, Zip Code: _____
Telephone: _____
Email Address: _____
ATLAS Number: _____
Lawyer's Bar Number: _____

FOR CLERK'S USE ONLY

Representing ☐ Self, without a Lawyer or ☐ Attorney for ☐ Petitioner OR ☐ Respondent

SUPERIOR COURT OF ARIZONA IN YUMA COUNTY

Regarding the Matter of:

Case Number: _____

(Name of Petitioner / Party A)

PETITION TO ENFORCE COURT ORDER ABOUT DIVISION OF PROPERTY A.R.S. § 25-318

AND

(Name of Respondent / Party B)

General Information:

1. INFORMATION ABOUT YOU:

Name: _____
Address: _____
County of residence: _____
Date of Birth: _____
Occupation: _____

2. INFORMATION ABOUT THE OTHER PARTY:

Name: _____
Address: _____
County of residence: _____
Date of Birth: _____
Occupation: _____

3. INFORMATION ABOUT DIVORCE OR LEGAL SEPARATION DECREE I WANT TO ENFORCE:

Date of order: _____
Court Case Number: _____
Location of court (city and county): _____

4. INFORMATION ABOUT OTHER COURT CASES TO ENFORCE OR MODIFY THIS COURT ORDER INVOLVING THESE PARTIES:

☐ **Current enforcement or modification cases:** No other cases are pending in any court for enforcement of this court order for property. (You must check here, and this must be true.)

☐ **Past enforcement or modification cases:** Write "none", unless either or both parties have filed for enforcement or modification of the court order in the past, in which case you must complete the following information; use additional paper if necessary:

Names of Parties: _____

Date of order, judgment, dismissal, etc. _____

Explain what order or judgment said, or basis for dismissal: _____

Court Case Number: _____

Location of court (city and county): _____

Explain Type of Case (legal decision making, physical custody, parenting time, etc.) _____

5. ALL OTHER COURT CASES THAT INVOLVE THESE PARTIES: Describe all other court cases that involve these same parties, whether still pending or not, and complete all the information for each court order (use extra paper if necessary; if no such cases, write "none")

A. Names of Parties: _____

Date of order or judgment (if one already entered): _____

What order or judgment said: _____

Court Case Number: _____

Location of court (city and state): _____

Explain Type of Case: (Order of Protection, Injunction Against Harassment, legal decision making, enforcement of support, enforcement of physical custody, parenting time, etc.) _____

Status of Case Now:

☐ Final Order Entered; Case is over

☐ Hearing Date Set: On (date) _____ at (time) _____

Location/address: _____

☐ Other (explain in detail): _____

B. Names of Parties: _____
 Date of order or judgment (if one already entered) _____
 What order or judgment said: _____

 Court Case Number: _____
 Location of court (city and state): _____
 Explain Type of Case: (Order of Protection, Injunction Against Harassment, Enforcement of Support, Enforcement of Physical Custody or Parenting Time, etc.) _____

Status of Case Now:

☐ Final Order Entered; Case is over

☐ Hearing Date Set: On (date) _____ at (time) _____
 Location/address: _____

☐ Other (explain in detail): _____

WHAT THE COURT ORDER SAYS THAT I WANT THE OTHER PARTY TO OBEY: (check boxes for the parts of the order you want enforced, describe the property and say what the other party is not doing to obey the order; use extra paper if necessary)

6. ☐ **A. About personal property I am supposed to take possession of:** The order granted to me the following property, (list the property you were awarded)

ITEM	VALUE	WHO HAS ITEM NOW
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

- B. But the other party will not let me have the property (explain exactly and with detail what the other person is doing to keep the property away from you or keep you away from the property).**

- C. This is what I want the court to do about it.** _____

7. ☐ **A. About real property (home, cabin, etc.) as my sole/separate property:** The order granted to me as my sole and separate property the following property:

Real property located at (address) which is legally described as: _____

- B. But the other party will not let me have the property (explain exactly, and with detail, what the other person is doing to keep the property away from you or keep you away from the property).**

C. This is what I want the court to do about it. _____

8. ☐ A. **About real property (home, cabin, etc.) To be sold and the proceeds divided:** The order said that the following property must be sold and the proceeds divided:

Real property located at (address) _____
which is legally described as: _____

- B. But the other party is delaying or hindering the sale or division of proceeds as follows (explain exactly, and with detail, what the other person is doing).

- C. This is what I want the court to do about it. _____

REQUEST TO THE COURT UNDER OATH OR AFFIRMATION: For an order requiring the other party to appear in court to testify about these matters, and then for an order as follows:

9. For an order as follows: **CHECK ONLY THE ONE BOX THAT IS APPROPRIATE:**

- ☐ A. Ordering (name of other party) _____ to give me possession of personal property awarded to me in the decree and listed above as follows:

WHEN: _____

WHERE: _____

WITH WHO ELSE PRESENT: _____

OTHER: _____

- ☐ **B.** Ordering (name of other party) _____ to give me possession as my sole and separate property the real property awarded to me in the decree and listed above as follows:

WHEN: _____

WHERE: _____

WITH WHO ELSE PRESENT: _____

OTHER: _____

- ☐ **C.** Ordering (name of other party) _____ to cooperate in the sale of the real property described above and to divide the sale proceeds as required by the decree as follows:

WHEN: _____

WHERE: _____

WITH WHO ELSE PRESENT: _____

OTHER: _____

- 10.** For any other order that the court considers to be just.

UNDER OATH OR BY AFFIRMATION

I swear or affirm under penalty of perjury that the contents of this document are true and correct to the best of my knowledge and belief.

Signature

Date

STATE OF _____

COUNTY OF _____

Subscribed and sworn to or affirmed before me this: _____ by
(date)

_____.

(notary seal)

Deputy Clerk or Notary Public

Case No. _____

THEREFORE, IT IS ORDERED THAT:

1. ☐ Ordering (name of other party)_____ to give possession of personal property awarded to (name) _____ as identified below as follows:

DESCRIPTION OF PROPERTY THAT THIS ORDER IS ABOUT:

WHEN:_____

WHERE:_____

WITH WHO ELSE PRESENT:_____

OTHER:_____

2. ☐ Ordering (name of other party)_____ to give possession to _____ (name) as separate property the real property awarded to him/her in the divorce decree and identified below as follows:

DESCRIPTION OF PROPERTY:

WHEN:_____

WHERE:_____

WITH WHO ELSE PRESENT:_____

OTHER:_____

3. ☐ Ordering (name of other party)_____ to participate in the sale of the following real property and to divide the sale proceeds as required by the decree as follows:

DESCRIPTION OF PROPERTY:

WHEN: _____

WHERE: _____

WITH WHO ELSE PRESENT: _____

OTHER: _____

4. **OTHER ORDERS:** This Court makes further Orders relating to this matter as follows: (explain -- use additional paper if necessary):

DONE IN OPEN COURT this _____ day of _____ 20____.

JUDGE OR COURT COMMISSIONER

Person Filing: _____

Address (if not protected): _____

City, State, Zip Code: _____

Telephone: _____

Email Address: _____

ATLAS Number: _____

Lawyer's Bar Number: _____

FOR CLERK'S USE ONLY

Representing ☐ Self, without a Lawyer or ☐ Attorney for ☐ Petitioner OR ☐ Respondent

SUPERIOR COURT OF ARIZONA YUMA COUNTY

Name of Petitioner

Case No. _____

ORDER TO APPEAR

Name of Respondent

Read Me: This is an important Court Order that affects your rights. Read this Order carefully. If you do not understand this Order, contact a lawyer for help.

Based on the _____, the documents filed with it, and pursuant to Arizona Law,

IT IS ORDERED THAT YOU _____ (name) appear at the time and place stated below so the court can determine whether the relief asked for in the Motion/Petition should be granted.

NAME OF JUDICIAL OFFICER: _____

DATE AND TIME OF HEARING: _____

PLACE OF HEARING: Yuma County Superior Court

ADDRESS: _____

IT IS FURTHER ORDERED that a true copy of this "Order to Appear" and a true copy of the Motion/Petition and documents filed with the Motion/Petition shall be served by the moving party on the parties who are required to appear and a true copy of these documents shall be mailed immediately to parties who have appeared in this action, in accordance with Arizona Rules of Family Law Procedure, Rules 40-43, 47.

Requests for reasonable accommodation for persons with disabilities must be made to the division assigned to the case by the party needing accommodation or his/her counsel at least three (3) judicial days in advance of a

scheduled proceeding.

Requests for an interpreter for persons with limited English proficiency must be made to the division assigned to the case by the party needing the interpreter and/or translator or his/her counsel at least ten (10) judicial days in advance of a scheduled court proceeding.

DONE IN OPEN COURT: _____.

Judge/Commissioner of the Superior Court

Read Me: This is a 15-minute proceeding with the court. The court will determine if more time is needed. All parties, whether represented by attorneys or not, must be present. If there is a failure to appear, the court may make such orders as are just, including granting the relief requested by the party who does appear.

Procedures: What to do after you have completed the petition for enforcement of property division

STEP 1. Complete all the paperwork: Here is the court paperwork you need to complete:

- ✓ The *"Petition to Enforce Court Order for Division of Property"*

STEP 2. Make copies and file the papers with the Clerk of Superior Court. Make three copies of all the paperwork you completed: one for you, one for the Judge, and one for the other party.

There is a filing fee for this process. If you cannot afford the fee, ask the clerk for the paperwork on waiving or deferring court filing fees, or you can get that paperwork at the Law Library Resource Center. You can also get a waiver or deferral of the fees for the Sheriff to serve the papers, if you qualify.

File the original of the *"Petition to Enforce Court Order for Division of Property"* with the Clerk of Superior Court. Ask the Clerk to stamp the extra copies for you too. These are called "conformed" copies. You may file your documents at any one of the following locations:

**Yuma County Justice Center
Clerk of Superior Court
250 W. 2nd Street
Yuma, Arizona 85364**

STEP 3. *After you have filed your documents*, the Clerk will then direct you to the in-box of the Judge who will hear your case to deliver "the Judge's Set" of papers.

- ✓ Copy of *"Petition to Enforce Court Order for Division of Property"*
- ✓ A 9 x 12 self addressed, stamped envelope so the staff can mail the Judge's decision to you.

If you choose to mail the papers to the judge assigned to your case, send all of the above to:

(Name of the judge assigned to your case)
Superior Court of Arizona in Yuma County
250 W. 2nd Street
Yuma, Arizona 85364

STEP 4. What the Judge will do: The Judge will decide one of the following, based on the paperwork you submitted.

- ✓ Schedule a hearing for you and the other party to come to talk to the Judge about the case.
- ✓ Dismiss the case because the Judge thought your paperwork did not show a legal reason to proceed.
- ✓ Make other orders the Judge thinks proper.

STEP 5. Wait to hear back from the Judge about your court hearing.

Wait a week or so for the hearing date to be set. The Judge will write an order stating what the Judge decided to do with your case. Read the Judge's order carefully, so you know what the Judge decided to do next.

If you provided a self-addressed 9 x 12 inch envelope with sufficient postage, the Judge's staff will send the Judge's decision and papers back to you. Otherwise, you must come back to court about a week after you drop off the forms and get them from the Judge. You can call the Judge's office to learn whether a hearing date has been set.

If the Judge decided to hear your case, the staff will send you an original and copy of an "Order to Appear." One copy is for you, and one copy is for the other party.

STEP 6. Serve the papers on the other party.

If the Judge decided to set a hearing, you must arrange for service of the following papers on the other party:

- ✓ Copy of the "Petition to Enforce Court Order for Division of Property"
- ✓ The "Order to Appear"

Sometimes the other party will ACCEPT service in which case he or she must sign and you must file the "Acceptance of Service." If the other party does not accept service, then you must contact a process server or the sheriff to serve the papers on the other party. Give the process server or sheriff a copy and the original "Order to Appear," depending on what the Judge completed and sent back to you.

After service, the process server or sheriff will file an Affidavit of Service and also will file the original of the "Order to Appear" with the Clerk of Superior Court. If the other party accepted service, then you must file the original of the "Order to Appear," and the original of the "Acceptance of Service."

STEP 7. Go to the court hearing.

Bring the original "Order Enforcing Decree."

Be sure to write down the date, time and place of the court hearing, and come to the hearing. Be on time. Dress neatly. Be prepared to present your evidence about why the Judge should order the change you requested. Do not bring children to court.