

**Mecosta County Friend the Court
400 Elm Street
P.O. Box 508
Big Rapids, MI 49307
(231) 592-0115**

RESPONSE TO MOTION REGARDING CUSTODY – FOC 88

USE THIS FORM IF:

- ◆ You have received a Motion Regarding Custody (FOC 87).

This is your response to the other party and to the court as to the Petition Regarding Custody filed by the other party.

INSTRUCTIONS:

A. Before you fill in the Case No., get your copy of the Motion Regarding Custody (Form FOC 87) and copy the Case No. from that paper onto this form.

B. Also use the Motion to fill in the "Plaintiff" and "Defendant" boxes and if applicable, the "Third Party" box. Copy the names from the motion onto this form. For example, if your name is in the box that says "plaintiff", then you should write your name in the "plaintiff" box on this response form.

(The other party is the "moving party". Once you have written both names where they belong, you must check the box "moving party" in the same box as the other party's name.)

C. Check only one box. If you have a judgment or order for custody, divorce, separate maintenance, or paternity, read it carefully to find out if there is any information in it about custody. If there is information about custody, check box a. If there is no information about custody, check box b. If you checked box a, fill in the date that the judge signed the Order.

D. Check this box only if you checked box a. in "C" above. Read your court papers for custody, divorce, separate maintenance, or paternity to find out who was ordered to have custody. Write this information here along with the name(s) of the child(ren).

E. State who the child(ren) are living with now, the address or location where the child(ren) are living, and the date the child(ren) started living there even if it is different than what was ordered.

F. Check whether you agree or do not agree with what was said in the Motion form (FOC 87). If you check the box "do not agree", explain in as much **detail** as possible what you do not agree with and why. Print this information as neatly as you can. If you need more space, use a separate sheet of paper. (You will need **3 copies** of this sheet to attach to **3 copies** of this form).

- G.** Check whether you agree or do not agree with what was said in the Motion form (FOC 87). If you check the box "do not agree", explain in as much **detail** as possible what you do not agree with and why. The judge or referee will review these causes using factors from the Child Custody Act to determine the best interests of the child(ren). Print this information as neatly as you can. If you need more space, use a separate sheet of paper. (You will need **3 copies** of this sheet to attach to **3 copies** of this form).
- H.** Check this box only if "**H**" is checked on the Motion form (FOC 87). Then check whether you agree or do not agree with what was said in the Motion form (FOC 87). If you check the box "do not agree", explain in as much **detail** as possible what you did agree on. If you need more space, use a separate sheet of paper. (You will need **3 copies** of this sheet to attach to **3 copies** of this form).
- I.** If you agree with the request in the Motion (FOC 87), check the box a. If you do not agree with the request, check box b. If you checked the box b, explain in as much **detail** as possible why you do not agree with the request in the Motion and what you want the court to order. If you need more space, use a separate sheet of paper. Print your explanation as neatly as you can. (You will need **3 copies** of this sheet to attach to **3 copies** of this form).
- J.** Write in today's date and sign your name.
- K.** On the date that you file this Response, complete the certificate of mailing on all of your copies. **File the original** with the **County Clerk**, a copy with the Friend of the Court Office, mail a copy to the other party along with any attachments, and keep a copy for yourself.

As a reminder you need to have the Response Form turned into the other offices' and mailed to the other party at least 5 days (not including holidays) before the hearing date. You may serve the form by regular, first class mail.

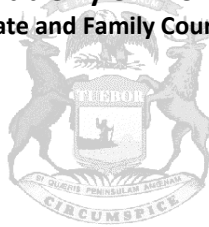
You must attend this hearing. Since you are representing yourself, you are expected to follow the same general rules as an attorney would. It is your responsibility to back up your petition with facts as to why this would be in the best interest of the child(ren). The Friend of the Court Office will not represent you or the other party.

Check in at the Friend of the Court office on the scheduled day and time, 10 to 15 minutes early. Dress neatly. Be prepared to spend most of the morning or afternoon in court. If you feel you need to subpoena someone to attend this hearing follow the procedure in Michigan Court Rule 2.506 or consult an attorney.

After the hearing, the Friend of the Court Referee will make a Recommendation. If no Objection is filed within **21 days** of the proof of mailing, the Recommendation will become an Order of the court.

The 18th PROBATE COURT & 49th CIRCUIT COURT - FAMILY DIVISION

Honorable Tyler Thompson
Probate and Family Court Judge



MECOSTA COUNTY
Mecosta County Courthouse
400 Elm Street
Big Rapids, MI 49307
Phone: (231) 592-0135
Fax: (231) 592-0191

OSCEOLA COUNTY
Osceola County Courthouse Annex
410 West Upton
Reed City, MI 49677
Phone: (231) 832-6127
Fax: (231) 832-6181

POLICY ON DE NOVO JUDICIAL HEARINGS FOLLOWING OBJECTIONS TO FOC REFEREE RECOMMENDATIONS

This policy is adopted by the Family Division of the 49th Circuit Court, pursuant to MCL 552.507 and MCR 3.215, to avoid duplicative litigation and conserve resources of litigants and of the Court:

1. **Request for De Novo Hearing:** Following referee hearings in domestic relations matters, a party wishing to object to any recommendation made by the Referee shall, within 21 days after the recommended interim order is served on the parties, file written objections with the Court, and request a judicial hearing.

a. Service: The objecting party shall serve copies of its written objections on the opposing party and on the Friend of the Court.

b. Contents: Objections shall include a clear and concise statement of specific errors of law or clearly erroneous findings of fact made at the Referee level. Matters not specifically objected to will not be considered by the Court. Objection forms shall be made available at the FOC office.

c. Transcripts: The objecting party shall contact the office of the Friend of the Court to request preparation of a transcript of the referee hearing. The transcript shall be submitted to the court for review prior to the scheduled *de novo* hearing. Unless waived by the court pursuant to paragraph 4, the costs of transcription shall be paid in full by the objecting party before the transcript is prepared. If payment in full is not received at least 2 weeks prior to the scheduled judicial hearing, the objection will be deemed withdrawn and the hearing will be cancelled.

d. Pre-Hearing Conference: Upon request, the Court may schedule a pre-hearing conference, as necessary to advance the purpose of this policy.

2. **Scope and Form of Review:** The Court will consider the case file, the written objections and Referee hearing transcript to determine the scope and form of its *de novo* review. Depending on the circumstances of each case, the court's review and decision may:

a. Be based entirely upon the record of the referee hearing (including exhibits and any memoranda, recommendations or proposed orders by the referee); or

b. Be based in part on the entire record of the Referee hearing, supplemented by relevant new evidence that was not introduced at the referee hearing (see 3, below), or

c. Be based entirely upon evidence presented at a "live" judicial hearing.

3. **Supplementing the Record:** Requests to supplement the record shall include an affidavit or sworn statement stating the substance of the proposed new evidence and establishing that it was not available at the time of the referee hearing. On a sufficient showing, a "live" judicial hearing may be held to supplement the record with such new evidence. Alternatively, the Court may remand the matter to the Referee to supplement the record.

4. **Transcription Costs. Indigence:** If the objecting party prevails, the cost of the transcript may be apportioned equally between the parties; if the *de-novo* hearing fails to change the outcome of the Referee hearing, the cost is completely assumed by the party who sought the judicial hearing. On a showing of indigence, the Court may waive the transcription costs incurred or apportioned to any party.

5. **Frivolous Objections:** If the court determines that an objection is frivolous or has been interposed for the purposes of delay, the court may assess reasonable costs and attorney fees. MCR 3.215(F)(3); MCR 2,114(E), (F); MCL 600.2591.

Tyler Thompson
Presiding Judge
49th Circuit Court, Family Division

STATE OF MICHIGAN 49TH JUDICIAL CIRCUIT MECOSTA COUNTY	RESPONSE TO MOTION REGARDING CUSTODY	(A) CASE NO.
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Court address 400 ELM ST, BIG RAPIDS, MI 49307 **Court telephone no.** (231) 592-0115

(B) Plaintiff's name, address, and telephone no. moving party

Third party name, address, and telephone no. moving party

Defendant's name, address, and telephone no. moving party

v

(C) 1. a. On _____ a judgment
Date
or order was entered regarding custody.
 b. There is currently no order regarding custody.

(D) 2. The plaintiff defendant third party was ordered to have custody of the following child(ren):

(E) 3. The child(ren) have been living with _____ at
Name(s)
_____ since _____
Complete address Date

(F) 4. I agree do not agree that circumstances have changed as stated in the motion.
Explain in detail what you do not agree with and why. Include all necessary facts. Use a separate sheet of paper if needed and attach.

(G) 5. I agree do not agree that proper cause exists as stated in the motion.
Explain in detail what you do not agree with and why. Include all necessary facts. Use a separate sheet of paper if needed and attach.

(H) 6. I agreed with the other party to custody, parenting time, and support
 a. exactly as stated in the motion.
 b. but not as stated in the motion.
If b is checked, explain in detail what you did agree on. Include all necessary facts. Use a separate sheet of paper if needed and attach.

(I) 7. a. I agree with what is being asked for in the motion.
 b. I do not agree with what is being asked for in the motion and ask the court to order custody, parenting time, and support as follows: If b is checked, explain in detail why and what you want the court to order. Use a separate sheet of paper if needed and attach.

(J) _____
Date Responding party's signature

CERTIFICATE OF MAILING

I certify that on this date I served a copy of this response on the parties or their attorneys by first-class mail addressed to their last-known addresses as defined in MCR 3.203.

(K) _____
Date Responding party's signature