

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

RESPONSE TO MOTION REGARDING DOMICILE/LEGAL RESIDENCE - FOC 116

Use this form if you receive a Motion Regarding Domicile/Legal Residence. By filing out this form you are answering the statements made in the motion.

MOTION MUST BE COMPLETELY FILLED OUT. TYPE OR PRINT NEATLY.

Before you fill in the Case No., get your court papers for custody, divorce, separate maintenance or paternity and copy the Case No. from those court papers onto this form.

Also use your court papers to fill in the "Plaintiff" and "Defendant" boxes and if applicable, the "Third Party" box. Copy the names from these court papers 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 motion form.

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

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 and keep a copy for yourself.

The Response to the Motion Regarding Domicile/Legal Residence along with copies of any separate sheets need to be mailed to the other party at least **5 weekdays** (not including holidays) before the hearing date.

By using this response you are representing yourself in this court action. You are expected to follow the same general rules as an attorney would. If you feel you need to subpoena someone to this hearing you will need to follow the procedures in the Michigan Court Rule 2.506 or consult an attorney. Bring all supporting documents, evidence and witnesses with you.

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.

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.

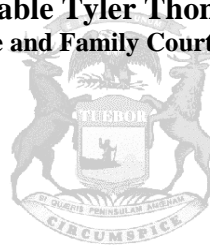
Change of Legal Residence/Domicile Factors

- (A) Whether the prospective move has the capacity to improve the quality of life for both the child and the relocating parent.
- (B) The degree to which each parent has complied with, and utilized his or her time under, a court order governing parenting time with the child, and whether the parent's plan to change the child's legal residence is inspired by that parent's desire to defeat or frustrate the parenting time schedule.
- (C) The degree to which the court is satisfied that, if the court permits the legal residence change, it is possible to order a modification of parenting time schedule and other arrangements governing the child's schedule in a manner that can provide an adequate basis for preserving and fostering the parental relationship between the child and each parent; and whether each parent is likely to comply with the modification.
- (D) The extent to which the parent opposing the legal residence change is motivated by a desire to secure a financial advantage with respect to a support obligation.
- (E) Domestic violence, regardless of whether the violence was directed against or witnessed by the child.

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

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

Honorable Tyler Thompson
Probate and Family Court Judge



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 a written objection with the Clerk, obtain a judicial hearing date and serve copies of the written objection and notice of hearing on the opposing party and Friend of the Court. *In order to schedule a hearing, you must contact the judicial scheduling clerk at 231-592-0135 ext. 2.*

- a. **Service:** The objecting party shall serve copies of the written objection and notice of hearing on the opposing party and on the Friend of the Court.
- b. **Contents:** The Objection shall include a clear and concise statement of specific errors of law or clearly erroneous findings of fact made at the Referee hearing. Matters not specifically objected to will not be considered by the Court. Objection forms will 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

