

Form FOC 68

OBJECTION TO REFEREE'S RECOMMENDED ORDER

Use this form if:

- you are objecting to a referee's recommended order.

You must state your objection in writing and file it with the court as soon as possible, **but not later than 21 days** after service of a copy of the referee's recommended order. Objections should be based on good reasons - if your objection is made without grounds, is unreasonable, or is only intended to delay the entry of an order, the court can require you to pay the court costs or attorney fees to handle your objection.

OBJECTION TO REFEREE'S RECOMMENDED ORDER CHECKLIST

Use the following checklist to make sure you have done all the steps that are needed.

DID YOU . . .

1. Fill out all requested information on the form? YES
2. Make all necessary copies? YES
3. File the objection form with the clerk's office? YES
4. Mail (serve) a copy of the objection to the other party and to any other custodian/guardian after the judge and hearing date were assigned to your case by the clerk? YES
5. Return to the clerk's office **after** you mailed the objection and notice of hearing to the other party and completed the certificate of mailing? YES
6. Keep one copy of the objection and notice of hearing form for yourself? YES
7. Give two copies of the completed form to the clerk of the court? YES

You must attend the hearing on the objection.

If you cannot answer "yes" to all the above steps, a hearing on your objection may be delayed or your objection may be dismissed.

By using this form packet you are representing yourself in a court action. In order to receive the action you seek, you must follow the instructions in this packet. If you fail to do even one of the required steps, the order you get from the court may not give you what you want.

If you have any questions about the steps in the process, refer to pages 3 through 5 of this booklet for details.

**INSTRUCTIONS FOR USING FORM FOC 68
OBJECTING TO A REFEREE'S RECOMMENDED ORDER**

»» FILING AN OBJECTION

If your hearing was held before a referee and you do not agree with the referee's decision, you have 21 days, from the date of service of the referee's recommendation to file an objection, and request a de novo (new) hearing before the judge.

1. Fill out the Objection to Referee's Recommended Order form.

Use the instructions on page 6. Be careful not to make mistakes.

Before filling out the "Notice of Hearing" part of the form, contact the friend of the court office to find out who to contact about getting a hearing date. Then contact the person or office as directed by the friend of the court office. Fill in the form with the information you get about the hearing date, location of hearing, and name of the judge who will be hearing the motion.

Make at least five copies of the form after you have filled it out.

2. File the form with the county clerk.

Take the original and five copies of the form to the county clerk in the county where your case is located.

The county clerk will write the name of the judge assigned to your case on your form. The clerk will keep the original and one copy of the objection and any attachments for the court file and the friend of the court. Then the clerk will return four copies and remaining attachments to you. Do not lose them.

What you should have when you leave the clerk's office:

- One copy of FOC 68 (with any attachments) - for you
- One copy of FOC 68 (with any attachments) - for the other party
- One copy of FOC 68 - for proof of service to the court
- One copy of FOC 68 - for proof of service to the friend of the court

»» SERVING THE MOTION ON THE OTHER PARTY OR PARTIES

1. Serve the objection and notice of hearing on the other party.

The other parent, or other party (if there is a custodian or guardian other than a parent) must be served with (notified of) the objection and hearing date at least 9 days before the hearing date.

NOTE: Serve the papers by mailing them to the other party by first-class mail.

What you need for service:

- One copy of FOC 68 (with any attachments) - for the other party
- Two copies of FOC 68 - for proof of service
- Any additional copies of FOC 68 (with any attachments) - for other custodian or guardian if there is someone other than the other parent who has care or custody of the child(ren)

Mail one copy with attachments to the other party. If there is a custodian or guardian, mail one copy and the attachments to him/her. Then fill out the Certificate of Mailing on the front of the remaining three copies. Keep one copy for your own records.

2. Return to the county clerk.

Once you have mailed the objection and notice of hearing and filled out the Certificate of Mailing on the remaining three copies, return to the county clerk's office with two copies. Remember to keep one copy for your own records. The county clerk will deliver one copy to the friend of the court.

3. Attend the hearing.

You must attend the hearing on the objection.

»» INFORMATION ABOUT ATTENDING THE HEARING

Bring a copy of the referee's recommended order and the packet for either Order Regarding Support (form FOC 10/52), Order Regarding Parenting Time (form FOC 67), or Order Regarding Custody, Parenting Time, and Support (form FOC 89) with you to the hearing. Also bring all supporting papers you have and any witnesses who are willing to testify.

1. Because you are representing yourself, you are expected to conduct yourself as an attorney would and to follow the same general rules an attorney would.
2. Make a list of information you think is important for the judge to know. The information should relate to the reasons stated in your objection. You can use this list as a reminder to bring up the points you think are important.
3. If you think you need to order someone to attend this hearing, follow the procedure in Michigan Court Rule 2.506 or consult with an attorney.
4. Go to the judge's courtroom on the scheduled day and time. Dress neatly. Arrive 10 or 15 minutes early. Be prepared to spend most of the morning or afternoon in court. Bring any witnesses with you.
5. If you are responsible for preparing the order, bring all copies of your order form.
6. Go into the courtroom and tell the clerk (sitting near the judge's bench) your name, that you are there for a hearing, and you are representing yourself. Do not interrupt any hearing in progress. Then take a seat in the back of the courtroom and wait for your case to be called.

7. When you are called, be prepared to state:

- 1) your name.
- 2) that you are representing yourself.
- 3) that you are objecting to a referee's recommended order.
- 4) the facts or reasons for your objection (**bring any supporting papers with you**).
- 5) whether you have witnesses in court who are willing to testify.

Answer the judge's questions clearly and directly. If the judge wants to hear from the other witnesses, ask them to tell the court what they saw or know regarding your situation.

8. If the other party is in court, he or she will have a chance to speak also. When the other party talks, take notes. Do not interrupt the other party. After the other party speaks, you will have another chance to talk. Taking notes will help you with this.
9. After the judge makes a decision, the party who requested the hearing is responsible for preparing the order even if it is not what was asked for. Follow the instructions for packet FOC 53 or FOC 54.

INSTRUCTIONS FOR COMPLETING "OBJECTION TO REFEREE'S RECOMMENDED ORDER"

Use this form if you are a party to an action and you have received a copy of a referee's recommended order that you disagree with. By completing this form and filing it with the court, you are asking for a new hearing before a judge. You must fill out this form and file it with the county clerk within 21 days after service of a copy of the referee's recommended order.

Please print neatly. After filling in the form, you will need to make at least five copies.

Items A through F must be completed before your objection can be filed with the court. Please read the instructions for each item. Then fill in the correct information for that item.

- (A)** Copy the "Case No." from the referee's recommended order onto this form.
- (B)** See the court papers mentioned above to fill in the "Plaintiff" and "Defendant" boxes and if applicable, the "Third Party" box. Copy your names from these court papers on 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 form.

You are the "moving party." Once you have written the names where they belong, check the box "moving party" in the same box as your name.
- (C)** Write in the date the recommended order was signed by the referee. The date will be at the bottom of the order.
- (D)** Explain in as much detail as possible why you disagree with the referee's recommended order.
- (E)** Write in today's date and sign your name. Now contact the friend of the court office in your county to find out how to get a hearing date. See page 3 of this booklet for details.
- (F)** Once you get a hearing scheduled, fill in the full name of the judge who will be hearing this objection, the date of the hearing, the time of the hearing (include whether it is a.m. or p.m.), and the place of the hearing.

Now go to the county clerk's office with the original and five copies of this form. The clerk will keep the original and one copy and return four copies to you.

Read pages 3 and 4 of this booklet for details on mailing this form to the other party.

- (G)** On the date you mail one copy to the other party, write in the date and sign your name on the remaining three copies. Return to the county clerk with two copies. Read page 4 of this booklet for details.

What happens next:

- You must attend the hearing on the date and time stated in the "Notice of Hearing" part of the form. For more information about the hearing, see pages 4 and 5 of this booklet.

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

This policy is adopted by the Family Division of the 50th 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 matter, 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 the 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:** Request 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 will be held to supplement the record with such new evidence.
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.