

FD/FOC4038

A MOTION TO SET ASIDE ORDER OF FILIATION AND FOR GENETIC TESTING ON YOUR PATERNITY CASE (DP)

**You must file this Motion and pay the \$20.00 fee in Room 201 Coleman A. Young Municipal Center
IF MOTION IS GRANTED
THE GENETIC TESTING COST IS \$400
There is NO fee waiver for this cost**

Motions to set aside Order of Filiation and/or for Genetic Test on a DP (Paternity) case must be heard before the **Presiding Judge, not the Judge assigned to the case.** The Presiding Judge is **Melissa A. Cox, Courtroom 1601** Coleman A. Young Municipal Building (CAYMC), 2 Woodward Ave., Detroit MI 48226. **Hearings on this docket are held via Zoom. Enter the electronic courtroom by going to www.3rdcc.org/zoom, select "Family Division-Domestic", and then select "Join Meeting" next to Judge Cox.**

NOTE: These instructions have been updated to reflect the current filing options. As filing options can change, please visit the Court's website at www.3rdcc.org/divisions/family-domestic/emergency-and-non-emergency-filings for the most up to date filing information.

This Motion must be filed and scheduled in the Coleman A. Young Municipal Center (CAYMC) building at Two Woodward Avenue, Detroit, MI 48226. It will cost you \$20.00 to file this motion. The County Clerk's Office accepts cash; debit cards; MasterCard, American Express, Discover credit; and, money orders made payable to the Wayne County Clerk.

If you cannot afford the filing fee, you can ask the Chief Judge for an Order waiving the filing fee. Fee Waiver forms can be obtained from Room 201 (CAYMC 2nd floor) or online [here](#). You must provide a copy of your State-issued photo ID card and proof of income and/or public assistance. Requests for Fee Waivers can be submitted in person at CAYMC or online using the Domestic Case Filings system. You cannot obtain a Fee Waiver by mail. If the Chief Judge waives your filing fee, the waiver is only good the same day as it is signed. You must file your motion the same day. Instructions on the different options to obtain a Fee Waiver may be found online at www.3rdcc.org/divisions/family-domestic/emergency-and-non-emergency-filings

Do Not Mail this Motion to the Friend of the Court

HOW TO FILE A MOTION TO SET ASIDE ORDER OF FILIATION AND FOR GENETIC TESTING, TO BE SET FOR HEARING BEFORE THE PRESIDING JUDGE

1. This packet contains instructions and blank forms for Circuit Court Motion and Certificate of Mailing.
2. By using this form packet you are representing yourself in a court action. In order to get the relief you are asking for, you must follow these instructions. Court staff cannot give legal advice. **If you fail to do even one of these steps, your Motion may not move forward.**
3. All documents must be typed or written neatly using black or blue ink.
4. Use these instructions **only** if you already have a paternity (DP) case. This process cannot be used to start a new case.
5. Use these instructions if you think that the child of the case is not your child and your motion is asking for genetic testing, to set aside the Order of Filiation, and to stop your child support if you are found not to be the father.
6. If the other party is in jail or prison, please read MCR 2.004 or seek the advice of an attorney. Write on your papers next to the person's name that the person is in jail or prison and where he or she is being held and their prison identification number if you have it.
7. A motion is the papers you fill out to ask the court to change the current Order. A current order cannot be changed except by a new Order.
8. If you have more than one case, a separate motion packet must be done for each case. Separate cases cannot be combined in the same documents.
9. Motions to set aside Order of Filiation and for Genetic Test on a DP case must be heard before the **Presiding Judge, not the Judge assigned to your case.**
10. **Remember that a motion must specifically state what you are asking for and why. All papers and evidence that helps your case must be attached to the motion. Some types of relief or requests have very specific requirements. You may need to research the law or consult an attorney.**
11. **THIS MOTION REQUIRES AN AFFIDAVIT THAT IS NOTARIZED.**
12. File your motion in person, by mail, or online. See instructions below on how to file.
13. **Email a copy of your filed Motion to the Courtroom of the Presiding Judge at JudgeMACox-Court@3rdcc.org. If you do not, your motion will not be set for hearing.**
14. You and the other party will get a Notice of Hearing in the mail with your court date.
15. Mail (serve) your completed Motion to the other party. Make sure you include copies of any extra pages you attached to the other party. You must mail the Motion packet at least **nine (9)** days before the hearing or your motion will not be heard.
 - a. If you do not have the address of the other party, you may call the FOC Executive Office at (313) 224-6639 to obtain the address.
 - b. If the address is marked "confidential" in the Friend of the Court records, then the Friend of the Court will mail the packet to the other party. You will need to e-mail a packet to CustomerService@3rdcc.org and request that a copy be served on the other party.
16. Bring a copy of your packet to the hearing.

17. Response from the other party: If you get a response to your Motion from the other party, make sure you read it before you come to the hearing. Think about what you want to say. You may want to make notes about what you will say in court.
18. **If genetic testing is granted the cost is \$400 (for one child, plus \$120 for each extra child) no matter what the outcome of the test is. If your Motion is granted, you will be given instructions following the hearing as to how to pay this fee and where to appear for testing.**
19. There is NO fee waiver for post judgment genetic testing. The testing will not be done unless the fee is paid.

IF YOU ARE FILING ONLINE (RECOMMENDED):

1. The electronic filing system can be found at www.3rdcc.org/agency-resources. Click on Outside Agency Web Access under Applications Access to set up an account and to access the Domestic Case Filings System. Review User Guide for Domestic Case Electronic Filers under How to Tutorials for detailed instructions on how to access the system.
2. You will receive an email once your Motion has been accepted for filing.
3. **Once you receive the email that your Motion has been accepted, you must email a copy to the Courtroom of the Presiding Judge at JudgeMACox-Court@3rdcc.org. If you do not, your motion will not be set for hearing.**
4. You will receive a hearing date by mail.

IF YOU ARE FILING IN PERSON:

1. Take your original set of motion forms, your copies, and your money to pay the filing fee with you to CAYMC.
2. Take your original set of motion forms, your copies, and your filing fees (or signed Order waiving filing fees) to the Wayne County Clerk in **Room 201 (CAYMC 2nd floor)**.
3. Put case labels (stickers) in upper right corner of all original documents and copies. Case labels are free and available in **Room 201**.
4. If you have a Chief Judge Order waiving your filing fees, give it the Clerk.
5. The Clerk will keep the original forms and have you pay at the Cashier counter.
6. The Clerk will stamp your original Motion to show the fee has been paid. The clerk will file the original Motion packet and give the copies to you. This proves that you filed the Motion with the Clerk's office.
7. **Email a copy of your filed Motion to the Courtroom of the Presiding Judge at JudgeMACox-Court@3rdcc.org. If you do not, your motion will not be set for hearing.**
8. You will receive a hearing date by mail.

IF YOU ARE FILING BY MAIL:

1. Mail your original forms, 3 sets of copies and a money order or certified check for the filing fees to: **Wayne County Clerk, Room 201, Coleman A. Young Municipal Center, Detroit, MI 48226.**
2. Keep copies of everything you mail to the Court.
3. Include a Self-Addressed Stamped Envelope and a letter asking the County Clerk to mail you a receipt and a copy of your motion stamped "filed."
4. Monitor the status of your filing using Odyssey Public Access at www.3rdcc.org/OPA by searching your case number or name.
5. **Once you have confirmed that your Motion has been filed, email a copy of your filed Motion to the Courtroom of the Presiding Judge at JudgeMACox-Court@3rdcc.org. If you do not, your motion will not be set for hearing.**
6. You will receive your hearing date by mail.

<p align="center">STATE OF MICHIGAN THIRD JUDICIAL CIRCUIT WAYNE COUNTY</p>	<p align="center">MOTION TO SET ASIDE ORDER OF FILIATION AND/OR FOR GENETIC TESTING</p>	<p>CASE NO.: _____ DP</p> <p>JUDGE _____</p>
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COURT ADDRESS: 2 WOODWARD AVENUE, DETROIT, MI 48226

Plaintiff's name, address, telephone no., and email: <div></div>	VS	Defendant's name, address, telephone no., and email: <div></div>
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I/ We hereby verify to the Court the following:

- I am filing this motion about this child:
 Child's Name: _____

 Child's Name: _____
 - A default order of filiation exists in this case: (check one)

☐ Yes
 ☐ No (If no, explain your requested relief on an extra page)
 - I am: (check one)

☐ The mother
 ☐ The affiliated father (i.e., the defendant in this case)
 ☐ An alleged father (i.e., man who could have fathered the child)
 ☐ Neither applies to my situation. Explain_____.
 - One of the following is true: (check one)

☐ The child is less than three years old. The child's date of birth is:_____.
 ☐ Not more than one year has passed since the Order of Filiation was signed by the Judge. The Order of Filiation was signed on (put in date)_____.
 ☐ Neither of these is true. **NOTE:** If you are marking this box, **you must complete the attached affidavit to explain the delay in filing this Motion and have it notarized.**
 - I request that the court order the following:

a) Set Aside Order of Filiation, or
 b) Other (write a detailed explanation)
- ☐ **I/We agree to what this motion is asking for as shown by the signature below.**

_____ Signature of Moving Party	_____ Typed/printed name	_____ Date
_____ Signature of Other Party (if in agreement)	_____ Typed/printed name	_____ Date

AFFIDAVIT OF THE MOVING PARTY

This child is older than three (3) years of age or more than one (1) year has passed since the Order of Filiation was entered against me. I am asking that this Court to extend the time period for filing this motion because: (check one – use more sheets if necessary)

- ☐ There has been a mistake of fact. Explain _____

_____.
- ☐ There has been newly discovered evidence that led me to file this motion. Explain _____

_____.
- ☐ There has been fraud. Explain _____

_____.
- ☐ There has been misrepresentation or misconduct by _____. Explain _____

_____.
- ☐ There was duress that prevented me from filing the motion. Explain _____

_____.

Signature of Moving Party

Typed/printed name

Date

STATE OF MICHIGAN
COUNTY OF WAYNE

On this ____ day of _____, ____, before me the above individual personally appeared and to me known to be the persons described herein and who executed the foregoing instrument and acknowledged that they executed the same as their free act and deed.

/s/ _____

Notary public, State of Michigan, County of _____.

My commission expires _____.

Acting in the County of _____.

*** THIS FORM MUST BE NOTARIZED ***

STATE OF MIHIGAN
THIRD JUDICIAL CIRCUIT
WAYNE COUNTY

CERTIFICATE OF MAILING
RE: MOTION

Case Number:

-DP

TWO WOODWARD AVE., DETROIT, MI 48226

Plaintiff's name, address, and telephone no.

Defendant's name, address and telephone no.

V

I certify that on this date I served the other party with a copy of the attached motion and notice of hearing by ordinary mail with first-class postage fully pre-paid, addressed to the person at the address indicated on the motion **at least nine days** prior to the hearing.

Date

Signature of Moving Party

*** **YOU MUST**: Mail (serve) your completed Motion to the other party. Make sure you include copies of any extra pages you attached to the other party. You must mail the Motion packet at least nine (9) days before the hearing or your motion will not be heard.

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- If the address is marked "confidential" in the Friend of the Court records, then the Friend of the Court will mail the packet to the other party. You will need to e-mail a packet to CustomerService@3rdcc.org and request that a copy be served on the other party.