Form FOC 117

RESPONSE TO MOTION REGARDING PAYMENT PLAN/ DISCHARGE OF ARREARS

Use this form if:

- you get a copy of FOC 109, Motion Regarding Payment Plan/Discharge of Arrears. By filling out this form, you are answering the statements made in the motion.

RESPONSE TO MOTION 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 response to motion form with the clerk's office? YES ☐
4. Mail (serve) a copy of the response on the other party and on any other custodian/guardian? YES ☐
5. Return to the clerk's office **after** you mailed the response to the other party and completed the certificate of mailing? YES ☐
6. Keep one copy of the response to motion 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 motion.

If you cannot answer "yes" to all the above steps, your response may not be heard at the hearing on the motion.

By using this form packet you are representing yourself in a court action regarding a payment plan/discharge of support arrears. 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 the relief you want.

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

INSTRUCTIONS FOR USING FORM FOC 117
RESPONDING TO A MOTION

»» FILING A RESPONSE

1. **Fill out the Response to Motion form.**

   If you receive a motion and notice of hearing from the other party, you have time before the hearing to respond in writing to the party and the court. Use the instructions on page 6. Be careful not to make mistakes.

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

2. **File the Response form with the county clerk.**

   Take the original and five copies of the form to the county clerk in the county where the motion was filed. The name of the county will be in the upper left-hand corner of the motion form.

   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 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 117 (with any attachments) - for you
   One copy of FOC 117 (with any attachments) - for the other party
   One copy of FOC 117 - for proof of service to the court
   One copy of FOC 117 - for proof of service to the friend of the court

»» SERVING THE RESPONSE ON THE OTHER PARTY OR PARTIES

1. **Serve the Response on the other party.**

   The other party must be served with (notified of) your response at least 5 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 117 (with any attachments) - for the other party
   Two copies of FOC 117 - for proof of service
   Any additional copies of FOC 117 (with any attachments) - for another 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 with 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 response 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 motion.

»» INFORMATION ABOUT ATTENDING THE HEARING

Bring your copy of the motion and your response along with all supporting papers 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 referee or judge to know. The information should relate to the reasons stated in your motion. 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 or referee's hearing room 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. Go into the courtroom or referee hearing room and tell the referee or clerk (sitting near the judge's bench) your name, that you are there for a hearing, and that you are representing yourself. Do <u>not</u> interrupt any hearing in progress. Then take a seat in the back of the courtroom and wait for your case to be called.

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

   1) your name.

   2) that you are representing yourself.

3) that you want to respond to the motion regarding payment plan/discharge of arrears.

4) the facts or reasons for your response **(bring papers such as reports that support your facts or reasons).**

5) whether you have witnesses in court who are willing to testify.

Answer the judge's or referee's questions clearly and directly. If the judge or referee 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 or referee makes a decision, the other party is to prepare the order (using the instructions on the packet for FOC 110, "Order Regarding Payment Plan/Discharge of Arrears") even if it is not what is asked for in the motion or your response to the motion.

NOTE: If your hearing is held before a referee and you do not agree with the referee's decision, you have 21 days from the date of mailing of the referee's recommendation to file an objection and request a de novo hearing before the judge. Use the packet FOC 68, "Objection to Referee's Recommended Order."

INSTRUCTIONS FOR COMPLETING "RESPONSE TO MOTION REGARDING PAYMENT PLAN/ DISCHARGE OF ARREARS"

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

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

(A) Before you fill in the Case No., get your copy of the Motion Regarding Payment Plan/Discharge of Arrears (Form FOC 109) and copy the Case No. from that paper onto this form.

(B) Also use the motion form 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 the names where they belong, you must check the box "moving party" in the same box as the other party's name.

(C) Check whether you are or are not responding to the request for payment plan under fear, coercion, or duress.

(D) Check whether it "is" or "is not" in the best interests of the parties and child(ren) that a payment plan be ordered.

(E) Check whether you "agree" or "do not agree" with a payment plan as stated in the the Motion form (FOC 109). If you checked the box "do not agree," you must **explain in** as much **detail** as possible why you do not agree. If you need more space, use a separate sheet of paper. You will need four copies of this sheet to attach to copies of this form.

(F) If you and the other party have made an agreement that some or all of the arrearage that is owed to you should be discharged, check this box.

(G) If you agree with the request in the Motion form (FOC 109), check box "**a.**" If you do not agree with the request and want the court to order something different, check box "**b.**" and write in the space provided what you want. If you do not agree with the request and want the court to deny the motion, check box "**c.**"

(H) Write in today's date and sign your name.

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

Read page 3 of this booklet for details on mailing this form to the other party.

(I) On the date you mail one copy (and the separate sheets) 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.

You must read this booklet for directions on the legal process.

Approved, SCAO

Original - Court
1st copy - Other party
2nd copy - Moving party

3rd copy - Friend of the court
4th copy - Proof of service
5th copy - Proof of service

STATE OF MICHIGAN 36th JUDICIAL CIRCUIT Van Buren COUNTY	RESPONSE TO MOTION REGARDING PAYMENT PLAN/DISCHARGE OF ARREARS	(A) CASE NO.

Court address
Friend of the Court 219 Paw Paw Street, Paw Paw, MI 49079

Court telephone no.
F (269) 657-8282; P (269) 657-7734

(B)

Plaintiff's name, address, and telephone no. ☐ moving party	v	Defendant's name, address, and telephone no. ☐ moving party
Third party name, address, and telephone no. ☐ moving party		

(C) 1. I state that I ☐ am ☐ am not acting under fear, coercion, or duress.

(D) 2. It ☐ is ☐ is not in the best interests of the parties and the child(ren) that a payment plan be ordered.

(E) 3. I ☐ agree ☐ do not agree with the payment plan as presented in the motion.
Explain in detail what you do not agree with in item 9a of the motion and why. Include all necessary facts. Use a separate sheet of paper if needed and attach.

(F) ☐ 4. I agree with the other party to discharge support owed to me in the amount of $ _____ .

(G) 5. I **ask** the court to
☐ a. order the payment plan requested in the motion.
☐ b. order a modified payment plan as follows:

☐ c. deny the motion for payment plan.

(H) _____ 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.

(I) _____ Date

_____ Responding party's signature