

Form 36 FOC L05

MOTION REGARDING PAYMENT PLAN AND TO DISCHARGE OR ABATE ARREARAGE

YOU CANNOT USE THIS FORM IF:

- > If you have an attorney. Contact your attorney for legal assistance.
- > If your case number contains any of the following case code types:
DI,DF,DW,TI,UW,DR,UC,UN,UD,UI,UO,UF,DU,TU,UE,UM. If you want to modify a support order in any of these types of cases, please contact your support enforcement officer for assistance.

FILE YOUR MOTION AND PAY YOUR \$60.00 FEE (\$20.00 MOTION FEE, \$40.00 ORDER ENTRY FEE) TO THE COUNTY CLERK. DO NOT FILE YOUR MOTION AT THE FRIEND OF THE COURT OFFICE. DO NOT MAKE YOUR PAYMENT PAYABLE TO THE FRIEND OF THE COURT.

INSTRUCTIONS FOR USING FORM 36 FOC L05 PAYMENT PLAN MOTION

FILING A MOTION

1. FILL OUT THE MOTION FORM.

Use the instructions on page 4. Type or print neatly. **If you fail to provide all of the required information, your motion may be denied or dismissed.**

2. FILE THE MOTION FORM WITH THE COUNTY CLERK.

Take the original and four (4) copies of the form to the Office of the Van Buren County Clerk (Van Buren County Clerk, 212 Paw Paw Street, Paw Paw, MI 49079)

You must pay a \$20.00 motion fee and a \$40.00 order entry fee. The total, \$60.00, is due at the time you file your Motion. Make your money order payable to "Van Buren County Clerk". No personal checks will be accepted by the County Clerk.

The County Clerk will keep the original and all copies of the motion and any attachments for the court file and the Friend of the Court. A copy will then be returned to you at the address you provided on the form, with a hearing date scheduled by the Friend of the Court.

INFORMATION ABOUT ATTENDING THE HEARING:

Bring all supporting papers you have.

1. By using this form packet, you are representing yourself in a court action regarding a support judgment. Since 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 feel is important for the Referee or Judge to know. The information should relate to the reasons stated in your motion. You can use this as a reminder to bring up the points you feel are important.
3. If you feel you need an order requiring 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. Get there 10 or 15 minutes early. Be prepared to spend most of the morning or afternoon in court.

5. Do not interrupt any hearing in progress. Take a seat in the back of the courtroom and wait for your case to be called.
6. When you are called, sit at the appropriate table, marked "Plaintiff" or "Defendant" You may be asked the following:
 - 1) Your name
 - 2) What your request(s) is (are)
 - 3) The facts or reasons for your request (bring papers showing your income such as pay stubs, W-2 forms, income tax forms, etc.)
 - 4) Why you believe this order would be in the best interests of the child(ren)
 - 5) Whether you have witnesses in court who are willing to testify Answer the questions clearly and directly. If the referee wants to hear from the other witnesses, ask them to tell the court what they saw or know regarding your situation.
 - 6) If the other party is in court, he or she will have the chance to speak also.
When the other party talks, take notes. Do not interrupt the other party.

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? (**Four** of any attachments) Yes
3. Pay the motion fee to the County Clerk? Yes

IF YOU CANNOT ANSWER "YES" TO ALL OF THE ABOVE STEPS, A HEARING ON YOUR MOTION MAY BE DELAYED OR YOUR MOTION MAY BE DISMISSED.

•IMPORTANT•

If the other party is represented by an attorney, you must include that attorney's name and complete business address on the front of the motion form.

INSTRUCTIONS FOR COMPLETING

PAYMENT PLAN MOTION

Please print neatly or use a typewriter.

Items A through H must be complete before your motion 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 Docket ID number, get your court papers for divorce, separate maintenance, paternity, or family support and copy the Docket ID number from those court papers onto this form.
- B** Also use your court papers to fill in the "Plaintiff" and "Defendant" boxes. If the other party has an attorney, include the attorney's name and address also. Please note, the Plaintiff and Defendant will always be according to the initial filing of the action, therefore, 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. Once you have written the names where they belong, you must check the box "moving party" in the same box as your name.
- C** You are asking the Court for specific relief regarding a support judgment. You are the "moving party". Fill your name in C.
- D** Contact the accounting department at the Friend of the Court Office to obtain the balance on your account. Tell them you are filing a Motion for a Payment Plan. Complete section D using the information you receive from the accounting department.
- E** Fill in the other party's name. You are responsible for contacting the other party if any of the support arrears are owed to them. The other party must agree to your payment plan for any arrearage that is owed to them.
- F** Fill in the amount of your weekly or monthly gross income. Indicate if it is a weekly or monthly amount.
- G** Explain what kind of a payment plan you think is reasonable based on the amount of arrearages you owe.
- H** Date and sign your Motion. Remember, you are signing this Motion and you are verifying all of the statements in the Motion are true.

**STATE OF MICHIGAN
IN THE 36TH JUDICIAL CIRCUIT COURT IN THE COUNTY OF VAN BUREN**

B _____ PLAINTIFF

moving party
vs.

A
Docket ID: _____
Case Number _____

_____ DEFENDANT

moving party

**MOTION FOR PAYMENT PLAN
AND TO DISCHARGE OR ABATE ARREARAGE**

C
I _____ state:
Moving party

1. Friend of the Court records show that I owe a child support arrearage in this case.

D
2. Friend of the Court records show that:

I owe \$ _____ to _____,
Amount Individual Payee

I owe \$ _____ to the State of Michigan, and
Amount

I owe \$ _____ to the Friend of the Court Office/political subdivision of
Amount

the State of Michigan, as of _____
Date

3. It is in the best interests of the parties and the children that a payment plan be ordered in this case.

E
4. As to arrears owed to _____, the payee consents to
Individual payee

entry of an ORDER FOR A PAYMENT PLAN AND TO DISCHARGE OR ABATE ARREARAGE.

- 5. I have not threatened or coerced the payee to agree to a payment plan.
- 6. I did not engage in conduct exclusively for the purpose of avoiding a support obligation.
- 7. I have no present ability, and will not have an ability in the foreseeable future, to pay the arrearage absent a payment plan.

F

- 8. I have gross income in the amount of \$ _____ per week/month.
circle one
- 9. Other information about my ability to pay: _____

RELIEF REQUESTED

I request this Honorable Court award the following relief:

G

- A. Order a payment plan and discharge or abatement of child support arrears in this case, as follows:

- B. If the Court is unable to order a payment plan as requested, then order a payment plan as found by the Court to be a reasonable portion of child support arrears owed, paid over a reasonable time, in accordance with my ability to pay.
- C. After completion of the plan enter an order discharging the remaining arrearage, if any.
- D. If the Court finds that I have substantially completed the payment plan, enter an order granting relief appropriate to the circumstances of the case.
- E. Grant me such other and further relief as is just and appropriate.

I declare that the above statements are true to the best of my information, knowledge, and belief.

H

Date

Moving party

NOTICE OF HEARING

A hearing will be held on this motion before Scott Smith, Referee
Name of Judge or Referee
on _____ at _____ at the Friend of the Court, 219 Paw Paw
Date Time
Street, Paw Paw, MI 49079.

NOTICE to the payee: If you fail to appear at the date and time scheduled for the hearing, or if you do not file a written response objecting to the payer's request, the Court will presume that you consent to the payer's request for a payment plan and discharge of arrearage.

CERTIFICATE OF MAILING

I certify that on this date I mailed a copy of this motion and notice of hearing on the other party(ies) by ordinary mail at the above address(es) and to the Office of Child Support Operations-Lansing.

Date

Friend of the Court Office

C/O Arrears Payment Plan Review Unit
PO Box 30744
Lansing, MI 48909-8250