

****PLEASE READ BEFORE REFEREE STATUS CONFERENCE****

IMPORTANT: Review each Referee Notice (notice to appear) very carefully to determine when, how (**via Zoom or in-person**), and where your hearing will take place. The 13th Circuit Court has four locations where hearings are held: Robert P. Griffin Hall of Justice (Traverse City), Historic Courthouse (Traverse City), Government Center (Suttons Bay), and Historic Courthouse (Bellaire). Please note that all court hearings scheduled to be heard via Zoom are mandated by the Supreme Court to be livestreamed on YouTube for public viewing. If you have any questions, please contact Stacy Osborne, Circuit Court Specialist, at (231) 922-4702, or sosborne@13thcircuitcourt.org.

You have been scheduled to attend a Status Conference as it relates to a Motion or Objection that has been filed with the Court. Along with your Referee Notice (notice to appear) for the Status Conference, you were sent a Domestic Relations Scheduling Conference Order or Domestic Relations Pre-Trial Order. **Review that paperwork carefully.** Certain documents (i.e. Witness List, Exhibit List and/or Trial Brief) are to be filed at least 7 days prior to the Status Conference. Consult your Scheduling Order for which documents are required for your case. If you are self-represented and fail to file the documents with the Clerk of the Court, you may be given a new deadline at the Status Conference to file those documents and serve copies on the opposing party (co-parent). If you fail to file these documents by the second deadline, you may be subject to penalties. Be prepared to let the Referee know how long it will take for you to present your case. If you are not sure, tell the Referee how many witnesses you will present.

Witness List

You must prepare a list of names and addresses of any witnesses you may want to call in support of your position on the Motion or Objection. If you wish to have any persons qualified as expert witnesses, you must identify them as such. You must list any witnesses that you may want to call at an evidentiary hearing. If you list them, however, you do not have to call them as witnesses. The other party is entitled to know in advance of the hearing who you may wish to call as a witness.

Subpoenas

Sometimes, a witness may require a Subpoena (Order to appear to testify), in order to appear to testify on your behalf. You may have those Subpoenas issued by the Clerk of the Court. You must complete a standard Michigan Subpoena form (MC 11), available at our website: <http://13thcircuitcourt.org/220/Forms>. Fill out the Subpoena including the date, time and location of the scheduled hearing. Present it to the Clerk for issuance and then make arrangements for service of the Subpoena on the witness. Some witnesses may accept service of the Subpoena while others you may need to hire a process-server to have them served. Witnesses who have been subpoenaed are also paid a witness fee and a rate for mileage. The payment of fees and mileage is usually by the requesting party at the time of service. See MCR 2.506(G)(1). The witness fee is currently \$12 per day and \$6 per half day (MCL 600.2552). Experts may have different reimbursement requests; please consult directly with the expert to determine their requirements.

The Referee will tell you which party will go first to put on their case at the evidentiary hearing. You may want to coordinate scheduling of witnesses so that your witnesses do not have to wait throughout the hearing to testify.

Exhibit List

You must also prepare a list identifying and describing any exhibits you may wish to introduce during an evidentiary hearing. Commonly listed exhibits include: school records of the children, medical records of the children, text messages between the parties, etc. **DO NOT ATTACH COPIES OF THE EXHIBITS TO YOUR LIST. DO NOT FILE THEM WITH THE CLERK OF THE COURT.**

To be prepared for the evidentiary hearing, you should have **3 copies** of any **exhibits** you wish to ask to be entered during the hearing – a set for the opposing party (co-parent), a set for yourself and a set to give to the Referee. **Note:** The Referee will not be able to make copies of any exhibits for the parties. In addition, if any of your exhibits are in digital format, please have those transcribed or somehow made into paper format. **If your evidentiary hearing is being conducted via Zoom,** you may email the Referee’s copy of your exhibits to Stacy Osborne, Circuit Court Specialist, at sosborne@13thcircuitcourt.org. This should be done **no later than 3 days prior to your evidentiary hearing for Referee Paciorka and Referee Hagen.** You will also need to mail or email a copy to the opposing party or their attorney if represented.

Trial Brief

You must prepare a Trial Brief addressing those legal issues raised by the Motion/Objection (custody, parenting time, etc.). Sample Trial Briefs can be found at our website: <http://13thcircuitcourt.org/220/Forms>. This Brief helps you to frame your argument for the Referee and to narrow down the issues.

Filing your Witness List, Exhibit List and Trial Brief

Prior to the deadline, you will file your Witness List, Exhibit List and Trial Brief with the Clerk of the Court. When you file your documents, you must also file a Proof of Service indicating the title of the documents sent, the date you sent them and to which address you mailed them. (A Proof of Service form is included in this mailing. Additional copies can be found on our website: <http://13thcircuitcourt.org/220/Form>.) Filing the Proof of Service with the Court advises the Court the documentation has been shared with the opposing party (co-parent). If the moving party fails to file the documents by the new deadline (provided at the Status Conference), the Court may dismiss the Motion or Objection. If either party fails to file the documents by the new deadline, they may be advised that they may not call any witnesses to testify or introduce their exhibits at the hearing. In addition, the Court reserves the right to issue any additional sanctions it deems appropriate.

****PLEASE READ FOLLOWING REFEREE STATUS CONFERENCE****

Following your Status Conference, the Referee may find that further proceedings are necessary: Mediation (if appropriate) may be ordered (if it wasn't already). A Settlement Conference, Trial (evidentiary hearing), and In-Camera Interview (if appropriate), may be scheduled to occur after the mediation date/deadline. If mediation is successful and the Mediation Agreement is approved by the assigned Referee, all referee proceedings will be cancelled.

Mediation

Most cases are referred to facilitative mediation. Mediation is a Court-ordered appearance. If a party fails to appear for mediation, it is likely a Show Cause hearing will be scheduled at which the person who failed to appear will be ordered to appear and show cause why they should not be held in contempt for failing to appear for the scheduled mediation. If you are found to be in contempt for failing to appear, you could be ordered to pay the entire cost of mediation.

Facilitative mediation is a process by which the parties sit down with a trained, neutral third-party mediator. The mediator will guide a conversation between the parties as to the outstanding issues. If an agreement is reached at mediation, the mediator will draft the Mediation Agreement and ask the parties to sign it. Once the parties sign the Agreement, it is a binding and enforceable agreement between the parties. An **Order** reflecting the terms of the Agreement will need to be entered with the Court. **It is not sufficient to submit the Mediation Agreement instead of an Order.** If both parties are self-represented, the Circuit Court Specialist handling your case will submit the Mediation Agreement to the Office of the Friend of the Court to prepare a new Order. Please make sure the Friend of the Court has your updated contact information so they can contact you should they have any questions or concerns about your Agreement. You will receive the new Order in the mail. If the matter is resolved **in full** at mediation, then the evidentiary hearing (Trial) (as well as the Settlement Conference and In-Camera Interview) with the Referee will be cancelled. If a partial or interim agreement is reached at mediation, the balance of the issues will be heard at the scheduled evidentiary hearing. **Note:** The Referee may adjust the length of the hearing depending on how many unresolved issues remain following mediation.

Evidentiary Hearing

If mediation was unsuccessful, or mediation was deemed inappropriate, you will proceed to the scheduled evidentiary hearing. At the evidentiary hearing, you will have a block of time to present your position on the issue at hand, question your witnesses and introduce your exhibits. Please read the following to know what to expect at your evidentiary hearing:

Preparing for Your Evidentiary Hearing

When representing yourself at your evidentiary hearing, you should be prepared to make a brief opening statement. The opening statement is an overview of your position on the Motion/Objection. It should not include evidence or testimony. Following your opening statement, you must be prepared to question your witnesses in order to provide to the Court information relevant to the issues at-hand. You will also have an opportunity to question any witnesses the other party may call in support of their position

(cross-examination). Please prepare questions for those witnesses should you choose to question them. Expert witnesses fall under different rules of evidence.

Be prepared to introduce and explain your exhibits during your presentation. If the hearing will be “in person,” please remember to have your 3 copies of each exhibit (one for you, one for the opposing party {co-parent} and one for the Referee).

NOTE: Documents that have been attached to Motions/Objections are not part of the record. To be made part of the record, they must be included on your Exhibit List and be prepared to be introduced as exhibits at the evidentiary hearing.

Sequestration of Witnesses

A party may request and/or the Referee may direct that witnesses be sequestered. Sequestration means that witnesses may not be in the Courtroom until it is their turn to testify. Once they have testified, they may listen to the rest of the hearing. Sequestration also means that witnesses should not discuss their testimony or questions asked of them with other witnesses who have yet to testify.

In-Camera Interviews

If the Court determines your child(ren) is of sufficient age (generally older than 6 years) to state a preference as to custody or parenting time, the Court will likely schedule an In-Camera Interview. “In-camera” means in the Referee’s office (i.e. chambers). The interview is conducted privately by the Referee with each child individually. The child is asked whether they have a preference as to custody or parenting time, and asked some questions to gauge whether their preference is a reasonable preference. The children are not to be called as witnesses. Their preference is kept private by the Referee. Any Referee Recommendation and Order prepared by the Referee will indicate whether or not an In-Camera Interview occurred; whether or not the child was able to state a preference; and whether or not that preference was a reasonable preference. Please keep in mind that the child’s reasonable preference is one of many factors to be considered by the Court when a parent is requesting modification of custody or parenting time. **DO NOT** bring the child to the Courthouse until directed by the Referee, or you have received a Referee Notice (notice to appear) of “In-Camera Interview” to do so. It is not appropriate for children to be waiting in the lobby while their parents are meeting with the Referee. Children of the case at-hand will not be allowed to sit in the Courtroom while the Referee is meeting with their parents. **Please read your Referee Notice for the In-Camera Interview carefully as it may be scheduled to take place via Zoom or in-person.**