

INFORMATION CONCERNING THE FILING OF
OBJECTIONS AND REBUTTALS IN A
PROCEEDING BEFORE A SUPPORT MAGISTRATE

You have received a copy of an order of support signed by a Support Magistrate and a copy of the Support Magistrate's findings of fact upon which the order is based. This order must be obeyed.

Either party has a right to file specific written objections to this order with the clerk of the court. These objections must be filed within thirty (30) days of the date the order was received in court or personally served, or, if the order was received by mail, within thirty-five (35) days of the mailing of the order. The objections then will be reviewed by a Judge of the Family Court. Even if objections are filed, the amount ordered by the Support Magistrate must continue to be paid unless and until a Judge signs a different order. Note that if you were NOT in court for the hearing and this order was issued on default, you may not file objections but may challenge the order only by filing a motion to vacate the order.

Procedure for filing objections

1. The objections must be in writing and contain the name and docket number of the case and the date the order to which an objection is raised was issued. You may use Form 4-7b, which you may obtain from the Clerk of Court or on-line at: www.nycourts.gov/forms/familycourt/index.shtml.

2. The reasons for your objections and the parts of the order objected to must be clearly stated, but no new evidence or documents not in evidence may be presented with the objections.

3. The opposing party must be served with a copy of the objections, either in person or by mail, and an affidavit of service must be filled out. If the objection is served in person, service must be made by an individual 18 years of age or older who is not a party to this action. If the opposing party was represented by an attorney, the attorney must also be served and an affidavit of service must be filled out and notarized. The objection form, Form 4-7b, contains an affidavit of service form on the second page.

4. The original of the objections and the affidavit of service must be filed with the clerk of the court within (30) days of the date the order was received in court or personally served or, if the order was received by mail, within thirty-five (35) days of the mailing of the order.

5. A transcript will not be necessary unless the Judge requires one. If so, the clerk of the court will provide information on how to obtain a transcript. The person filing objections must pay the cost for the transcript. If an objecting party cannot afford to pay for a transcript, when it is required by a Judge, the clerk of the court will provide information about the procedure for obtaining the transcript without charge.

6. Even if the Judge does not require a transcript, either party may request a transcript, and the requesting party must pay the fee.

7. The party served with objections has a right to file a rebuttal. A rebuttal is an answer to the objections.

Procedure for filing a rebuttal

1. A rebuttal to objections must be in writing and contain the name and docket number of the case.

2. It must state the date the objections were received, the specific objections being answered and the reasons for the rebuttal.

3. The rebuttal must be filed with the Clerk of the Court. The opposing party must be served with a copy of the rebuttal, either in person or by mail, within thirteen (13) days after service of the objections, and an affidavit of service must be filled out. If the rebuttal is served in person, service must be made by an individual 18 years of age or older who is not a party to this action. If the opposing party was represented by an attorney, the attorney must also be served and an affidavit of service must be filled out. The rebuttal form, Form 4-7c, contains an Affidavit of Service on the second page.