

## **INFORMATION CONCERNING THE FILING OF OBJECTIONS AND REBUTTAL 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.
2. The reasons for your objections and the parts of the order objected to must be clearly stated.
3. The opposing party and his/her attorney must be served with a copy of the objections, either in person or by mail. Your objections must be served on the other party and his/her attorney by someone who is over 18 years of age and is not a party to the proceeding. You may not serve the objections yourself. You must provide proof to the court that the objections were served. Therefore, whoever served the objections on the other party and his/her attorney **must** fill out the affidavit of service on the reverse side and have his or her signature notarized by a notary public or court clerk. The Clerk of the Court will make a sample objection form available.
4. The **original** of the objections and the affidavit of service must be filed with the Clerk of the Court, **One Niagara Plaza, Buffalo, NY 14202, 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 or 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.
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. 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.
8. 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 other party and his/her attorney must be served with a copy of the rebuttal, either in person or by mail, **within (13) days after service of the objections.** It must be served on the other party and his/her attorney by someone who is over 18 years of age and is not a party to the proceeding. The rebutting party may not serve the rebuttal but must provide proof to the court that the rebuttal was served. Therefore, whoever served the rebuttal on the other party and his/her attorney must fill out the **affidavit of service on the reverse side and must have his or her signature notarized by a notary public or court clerk.**

The Affidavit of Service must be filled out and the copy of objections served by the Deponent. The Deponent must serve a copy of the Objections upon the **OPPOSING PARTY AND HIS/HER ATTORNEY**. In cases where the Erie County Department of Social Services is acting "on behalf of" (o/b/o) the opposing party, a **copy** of the Objections must be served upon the Erie County Department of Social Services, Office of Counsel, 746 Rath Building, 95 Franklin Street, Buffalo, NY 14202. **The Affidavit of Service together with the Objections must be timely filed with the Court at One Niagara Plaza, Buffalo, NY 14202.**

**AFFIDAVIT OF SERVICE**

FAMILY COURT  
STATE OF NEW YORK  
COUNTY OF ERIE SS:

For Personal Service or Service by Mail

Docket No: \_\_\_\_\_

\_\_\_\_\_, being duly sworn, deposes and says, that Deponent is  
(Print Deponent's Name)

over 18 years of age, and resides at \_\_\_\_\_; and further:  
(Print Deponent's address -- Include Number, Street, , City and State)

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**Personal Service**

That on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ at approximately \_\_\_\_\_ M., Deponent served a copy of the Objections to an  
(Day) (Month) (Year) (Time - A.M. or P.M.)  
order of support issued under Docket Number \_\_\_\_\_ upon \_\_\_\_\_, by delivering  
(Docket No.) (Name of opposing party or opposing attorney)  
a true copy of the Objections to h\_\_\_\_\_ personally at \_\_\_\_\_.  
(Him/Her) (Address at which Objections were served on opposing party or opposing attorney - Include No., Street, City, State)

Deponent knew the person so served to be the person mentioned and described as follows:

- |                                 |                                      |                                      |                                     |                                       |                                    |   |
|---------------------------------|--------------------------------------|--------------------------------------|-------------------------------------|---------------------------------------|------------------------------------|---|
| <input type="checkbox"/> Male   | <input type="checkbox"/> White Skin  | <input type="checkbox"/> Black Hair  | <input type="checkbox"/> White Hair | <input type="checkbox"/> 14-20 Yrs.   | <input type="checkbox"/> Under 5'  | <input type="checkbox"/> Under 100 lbs. |
| <input type="checkbox"/> Female | <input type="checkbox"/> Black Skin  | <input type="checkbox"/> Brown Hair  | <input type="checkbox"/> Balding    | <input type="checkbox"/> 21-35 Yrs.   | <input type="checkbox"/> 5'0"-5'3" | <input type="checkbox"/> 100-130 lbs.   |
|                                 | <input type="checkbox"/> Yellow Skin | <input type="checkbox"/> Blonde Hair |                                     | <input type="checkbox"/> 36-50 Yrs.   | <input type="checkbox"/> 5'4"-5'8" | <input type="checkbox"/> 131-160 lbs.   |
|                                 | <input type="checkbox"/> Brown Skin  | <input type="checkbox"/> Gray Hair   |                                     | <input type="checkbox"/> 51-65 Yrs.   | <input type="checkbox"/> 5'9"-6'0" | <input type="checkbox"/> 161-200 lbs.   |
|                                 | <input type="checkbox"/> Red Skin    | <input type="checkbox"/> Red Hair    |                                     | <input type="checkbox"/> Over 65 Yrs. | <input type="checkbox"/> Over 6'   | <input type="checkbox"/> Over 200 lbs.  |

Other Identifying Features: \_\_\_\_\_.

**OR** \*\*\*\*\*

**Mail Service**

That on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ Deponent served a copy of the Objections to an Order of support issued under  
(Day) (Month) (Year)  
Docket No. \_\_\_\_\_ by mailing a true copy of the Objections to \_\_\_\_\_, addressed to  
(Docket No.) (Name of opposing party or opposing attorney)  
\_\_\_\_\_, that being the address  
(Address to which Objections were mailed to opposing party or opposing counsel - Include No., Street, City, State)

designated by the said opposing party in the petition filed herein or is the last known address of the opposing party, by depositing a copy of Objections, properly enclosed in a post-paid wrapper in a Post Office Mailbox regularly maintained by the United States Government in the City of \_\_\_\_\_, County of \_\_\_\_\_.  
(City of Post Office Mailbox from where Objections were mailed) (County of Post Office Mailbox from where Objections were mailed).

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Sworn before me this  
\_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_

\_\_\_\_\_  
Signature of Deponent (Server)

\_\_\_\_\_  
Notary Public

\_\_\_\_\_  
Printed Name of Deponent (Server)