

A MOTION TO SET ASIDE AFFIDAVIT/ACKNOWLEDGMENT OF PARENTAGE (DS/FAMILY SUPPORT CASE)

You must file this motion and pay the \$20.00 fee with the Cheboygan County Clerk.

IF MOTION IS GRANTED

THE GENETIC TESTING COST IS THE FULL RESPONSIBILITY OF THE MOVING PARTY

Motions to set aside Affidavit/Acknowledgment of Parentage (DS/Family Support Case) must be heard before the Chief Judge, not the Judge assigned to the case.

- **The Chief Judge is Judge Scott L. Pavlich, 53rd Circuit Courtroom, 870 S Main St, Cheboygan County Courthouse, Cheboygan, MI 49721.**

- **THIS PACKET CONTAINS THE FOLLOWING:**

- **COVER SHEET**
- **INSTRUCTIONS: HOW TO FILE A MOTION TO SET ASIDE ORDER OF FILIATION**
- **MOTION-GENERIC**
- **CIRCUIT COURT PRAECIPE**
- **CERTIFICATE OF MAILING MOTION AND NOTICE OF HEARING**

Do Not Mail this Motion to the Friend of the Court

HOW TO FILE A MOTION TO SET ASIDE AFFIDAVIT OF PARENTAGE (DS/ FAMILY SUPPORT CASE), TO BE SET FOR HEARING BEFORE THE CHIEF JUDGE

1. This packet contains instructions and blank forms for Circuit Court Praecipe, Motion, and Certificate of Mailing.
2. By using this form packet you are representing yourself in a court action. In order to receive the relief you are requesting, you must follow these instructions. You may be required to conduct legal research in order to proceed. Court personnel are prohibited from providing legal advice. **If you fail to do even one of the required steps, your Motion may not be processed.**
3. All documents must be typed or written legibly using black ink, not pencil.
4. Use these instructions only if you are a party to an existing Family Support case (DS) for support. This process cannot be used to start a new case.
5. Use these instructions only if an Acknowledgment of Parentage or Affidavit of Parentage was signed, you now believe that a different man is the biological father and you want the Acknowledgment of Parentage or Affidavit of Parentage set aside and support terminated.
6. If the other party is incarcerated, you have certain additional requirements that you must meet. Please consult MCR 2.004 or a private attorney. Indicate on your papers following the person's name that the person is incarcerated and in what facility he or she is being held.
7. A motion is the document you prepare to ask the court to change the existing order. An existing order cannot be changed except by a new order.
8. A separate motion packet must be prepared for each case. Separate cases cannot be combined in the same documents.
9. Motions to set aside Acknowledgment of Parentage or Affidavit of Parentage in family support cases (DS) must be heard before the **Chief Judge, not the Judge assigned to your case.**
10. Complete all the case information on all forms. Write your motion.
11. **Remember that a motion must very specifically state what relief or modification you are requesting. It must also very specifically state why you believe the judge should rule in your favor. All relevant and necessary documentation must be attached to the motion. Some types of relief or requests have very specific requirements. You may need to research the law or consult an attorney. THIS MOTION REQUIRES AN AFFIDAVIT THAT IS NOTARIZED.**

12. Bring the original and **FOUR** copies of your Motion packet (Praecipe, Motion and Notice of Hearing) to the Cheboygan County Clerk, Room 204, 870 S Main St, Cheboygan County Courthouse, Cheboygan, MI 49721.
13. Visit the 53rd Judicial Court Office, Room 213, 870 S Main St, Cheboygan County Courthouse, Cheboygan, MI 49721 to receive a date and time for your motion to be heard.
14. Proceed to the Cheboygan County Clerk, Room 204. You must pay a \$20 Motion fee to the Cheboygan County Clerk. The County Clerk's Office accepts cash; debit cards; MasterCard, American Express, and Discover credit cards; and checks and money orders made payable to the **Cheboygan County Clerk**.
15. The clerk will stamp your original Motion Praecipe to indicate the fee has been paid. The clerk will file the original Motion packet and return the copies to you.
16. Take the **Judge** copy directly to the 53rd Judicial Court Office, Room 213. If you do not, your motion will not be set for hearing.
17. Deliver a courtesy copy to the Friend of the Court Office, Room 210, 870 S Main St, Cheboygan County Courthouse, Cheboygan, MI 49721
18. Mail (serve) a complete Motion packet (Praecipe and Motion) to the other party. Make sure you include copies of any additional pages you have written in the packet you send to the other party. You must mail the Motion packet at least **nine (9)** days before the hearing or your motion will not be heard.
 - a. If you do not have the address of the other party, you may obtain the address at the Cheboygan County Friend of the Court, Room 210, 870 S Main St, Cheboygan County Courthouse, Cheboygan, MI 49721.
 - b. If the address is marked "confidential" in the Friend of the Court records, then the Friend of the Court will mail the packet to the other party. You will need to leave a copy of the packet with the Friend of the Court if this occurs.
19. Bring a copy of your packet to the hearing.
20. Response from the other party: If you receive a response to your Motion from the other party, make sure you read it before you attend the hearing. Think about what you want to say on your behalf. You may want to make notes about what you will say in court.
21. **If genetic testing is granted the cost will be determined by the Court, regardless of the outcome of the test. The entire cost of any genetic testing is the full responsibility of the moving party.**

STATE OF MICHIGAN 53RD JUDICIAL CIRCUIT CHEBOYGAN COUNTY	MOTION/AFFIDAVIT TO SET ASIDE ACKNOWLEDGEMENT OF PATERNITY	CASE NO.: _____ DP HONORABLE SCOTT L. PAVLICH CHIEF JUDGE
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870 S Main St, Cheboygan County Courthouse, Cheboygan, MI 49721

Plaintiff's name, address and telephone no.	VS	Defendant's name, address and telephone no.
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I hereby verify to the Court the following*:

1. I am: (check one)

- The mother
- The acknowledged father (i.e., the man who signed Acknowledgement)
- An alleged father (i.e., man who could have fathered the child)
- Neither applies to my situation. Explain _____.

2. One of the following is true: (check one)

- The child is less than three years old. The child's date of birth _____.
- Not more than one year has passed since the Acknowledgement of Parentage of signed. The Acknowledgement of Parentage was signed on (put in date) _____.
- Neither applies to my situation. Explain _____.

3. I am filing this motion because: (check one – use additional sheets if necessary)

- There has been a mistake of fact. Explain. _____
- There has been newly discovered evidence that I did not know before the acknowledgement was signed. Explain. _____
- There has been fraud. Explain. _____
- There has been misrepresentation or misconduct by _____ Explain. _____
- There was duress in signing the acknowledgement. Explain. _____

4. We stipulate (agree) to this modification/relief as shown by our signatures below.

Signature of Moving Party	Typed/printed name	Date
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Signature of Other Party (if in agreement)	Typed/printed name	Date
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***This form must be notarized: On this ____ day of _____, _____, before me the above individual personally appeared and to me known to be the persons described herein and who executed the forgoing instrument and acknowledged that they executed the same as their free act and deed.**

/s/ _____
 Notary public, State of Michigan, County of _____.

My commission expires _____.

Acting in the County of _____.

STATE OF MICHIGAN 53RD JUDICIAL CIRCUIT CHEBOYGAN COUNTY	REQUEST FOR HEARING ON A MOTION (PRAECIPE) ORDER/JUDGMENT	CASE NO.: _____ DP
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870 S Main St, Cheboygan County Courthouse, Cheboygan, MI 49721

Plaintiff's name, address and telephone no.	VS	Defendant's name, address and telephone no.
Plaintiff's attorney, bar no., addresses and telephone no.	VS	Defendant's attorney, bar no., address and telephone no.

1. Motion Title: Motion to Set Aside Affidavit/Acknowledgement of Parentage

2. Moving Party: Plaintiff Defendant Other (circle)

3. Please place on the motion calendar for:

Judge PAVLICH	Bar No. 28593	Date:	Time:
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4. I certify that I have made personal contact with Plaintiff or Defendant (circle) on _____ regarding concurrence in relief sought in this motion and that concurrence has been denied or that I have made reasonable and diligent attempts to contact counsel regarding concurrence with motion.

Date _____ Moving Party _____ Bar No. P- _____

ORDER / JUDGMENT

DATE _____
IT IS ORDERED THAT THIS MOTION IS:

DENIED GRANTED IN PART/DENIED IN PART TAKEN UNDER ADVISEMENT DENIED

GRANTED, SEE SEPARATE GENETIC TESTING ORDER

CHIEF JUDGE SCOTT L. Pavlich

Approved as to form and substance by Counsel for:

Plaintiff _____

Defendant _____

Date _____

STATE OF MICHIGAN 53RD JUDICIAL CIRCUIT CHEBOYGAN COUNTY	CERTIFICATE OF MAILING RE: MOTION AND NOTICE OF HEARING	CASE NO.: _____ DP
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870 S Main St, Cheboygan County Courthouse, Cheboygan, MI 49721

Plaintiff's name, address and telephone no.	VS	Defendant's name, address and telephone no.
Plaintiff's attorney, bar no., addresses and telephone no.	VS	Defendant's attorney, bar no., address and telephone no.

I certify that on this date I served the other party with a copy of the attached motion and notice of hearing by ordinary mail with first-class postage fully pre-paid, addressed to the person at the address indicated on the motion at least nine days prior to the hearing.

Date

Signature of Moving Party

*** YOU MUST: Mail (serve) a complete Motion packet (Praecipe and Motion) to the other party. Make sure you include copies of any additional pages you have written in the packet you send to the other party. You must mail the Motion packet at least nine (9) days before the hearing or your motion will not be heard.

a. If you do not have the address of the other party, you may obtain the address at Cheboygan County Friend of the Court, Room 210, 870 S Main St, Cheboygan County Courthouse, Cheboygan, MI 49721.

b. If the address is marked “confidential” in the Friend of the Court records, then the Friend of the Court will mail the packet to the other party. You will need to leave a copy of the packet with the Friend of the Court if this occurs.

FILE EITHER IN PERSON OR BY MAIL WITH: CHEBOYGAN COUNTY CLERK, ROOM 204, 870 S MAIN ST, CHEBOYGAN COUNTY COURTHOUSE, CHEBOYGAN, MI 49721.

*NOTICE RE REFUND OF JUDGMENT FEE UPON DISMISSAL: If this case involves child custody, child support, or parenting time and a judgment fee was paid, the payer of the judgment fee will receive a refund of the fee if the case is dismissed.