

Instructions for filing a
“OBJECTION TO A MAGISTRATE’S DECISION”
Civil Rule 53
(to be filed in an existing case)

If you think that the Magistrate has not determined the factual issues or applied the law correctly in your case, you may file an “Objection to a Magistrate’s Decision” or “Motion to Set Aside Magistrate’s Order.”

This packet contains two forms that must be used to file an objection to a Magistrate’s Decision. The forms enclosed are (A) “OBJECTION TO A MAGISTRATE’S DECISION” and (B) “CERTIFICATE OF SERVICE.”

An “Objection to a Magistrate’s Decision” must be filed within 14 days of the filing of the Magistrate’s Decision or within 10 days of the filing of another party’s objections.

These instructions are intended to be a general guide to help you complete the forms, file them with the Court, serve them on the opposing party, and get your request properly before the Court. These instructions are not intended to be a legal analysis of your request and do not guarantee you will be successful in your objection, but are merely to assist you in preparing and presenting your request.

***It will be helpful to read ALL the instructions prior to completing the forms and you may refer back to them as much as you need. The clerks cannot help you with the forms, but will verify that all sections are completed prior to filing. Incomplete forms will not be accepted.

A. OBJECTION TO A MAGISTRATE’S DECISION

(Fill out the form completely and entirely)

1. Header & Case Caption:
 - a. Case No.: is the current case number.
 - b. In the Matter of: is the minor child’s name.
 - c. Plaintiff: **Must be the same as the existing case caption.**
 - d. Defendant: **Must be the same as the exiting case caption.**
2. Fill in your name, as the Movant, your pronoun and the file stamp date of the Decision you are objecting to.
3. Enter the objections you have. Be specific. Use clear and concise language.
4. There is no filing fee.
5. Sign the motion and complete your demographic information at the bottom.

B. CERTIFICATE OF SERVICE

1. Fill in the case caption as indicated above.
2. Enter your name and which document you are serving.
3. Enter the name of the party, their address, how you served them and the date served for each party to the case.
4. Sign and complete your demographic information at the bottom.

Civil Rule 53(D)(3) Magistrate's decision; objections to magistrate's decision

(a) Magistrate's decision

(i) When required

Subject to the terms of the relevant reference, a magistrate shall prepare a magistrate's decision respecting any matter referred under Civ.R. 53(D)(1).

(ii) Findings of fact and conclusions of law

Subject to the terms of the relevant reference, a magistrate's decision may be general unless findings of fact and conclusions of law are timely requested by a party or otherwise required by law. A request for findings of fact and conclusions of law shall be made before the entry of a magistrate's decision or within seven days after the filing of a magistrate's decision. If a request for findings of fact and conclusions of law is timely made, the magistrate may require any or all of the parties to submit proposed findings of fact and conclusions of law.

(iii) Form; filing, and service of magistrate's decision

A magistrate's decision shall be in writing, identified as a magistrate's decision in the caption, signed by the magistrate, filed with the clerk, and served by the clerk on all parties or their attorneys no later than three days after the decision is filed. A magistrate's decision shall indicate conspicuously that a party shall not assign as error on appeal the court's adoption of any factual finding or legal conclusion, whether or not specifically designated as a finding of fact or conclusion of law under Civ.R. 53(D)(3)(a)(ii), unless the party timely and specifically objects to that factual finding or legal conclusion as required by Civ.R. 53(D)(3)(b).

(b) Objections to magistrate's decision

(i) Time for filing

A party may file written objections to a magistrate's decision within fourteen days of the filing of the decision, whether or not the court has adopted the decision during that fourteen-day period as permitted by Civ.R. 53(D)(4)(e)(i). If any party timely files objections, any other party may also file objections not later than ten days after the first objections are filed. If a party makes a timely request for findings of fact and conclusions of law, the time for filing objections begins to run when the magistrate files a decision that includes findings of fact and conclusions of law.

(ii) Specificity of objection

An objection to a magistrate's decision shall be specific and state with particularity all grounds for objection.

(iii) Objection to magistrate's factual finding; transcript or affidavit

An objection to a factual finding, whether or not specifically designated as a finding of fact under Civ.R. 53(D)(3)(a)(ii), shall be supported by a transcript of all the evidence submitted to the magistrate relevant to that finding or an affidavit of that evidence if a

transcript is not available. With leave of court, alternative technology or manner of reviewing the relevant evidence may be considered. The objecting party shall file the transcript or affidavit with the court within thirty days after filing objections unless the court extends the time in writing for preparation of the transcript or other good cause. If a party files timely objections prior to the date on which a transcript is prepared, the party may seek leave of court to supplement the objections.

(iv) Waiver of right to assign adoption by court as error on appeal

Except for a claim of plain error, a party shall not assign as error on appeal the court's adoption of any factual finding or legal conclusion, whether or not specifically designated as a finding of fact or conclusion of law under Civ.R. 53(D)(3)(a)(ii), unless the party has objected to that finding or conclusion as required by Civ.R. 53(D)(3)(b).

Please Note: *Costs of requested transcripts are the responsibility of the filer.*

The Court of Common Pleas

JUVENILE DIVISION
HOLMES COUNTY, OHIO

In the Matter of:

(Child's Name)

Plaintiff *(please use current case caption)*

vs

Defendant *(please use current case caption)*

Case No. _____
(existing Case No.)

JUDGE THOMAS C. LEE

MAGISTRATE _____

OBJECTION TO A MAGISTRATE'S DECISION

Now comes _____ (name), Movant, who hereby gives
notice of ☐ his ☐ her objection(s) to the Magistrate's Decision filed on _____,
My objection(s) are as follows:

_____.

Respectfully submitted,

Signature

Address

City State Zip

Phone No.

The Court of Common Pleas

JUVENILE DIVISION
HOLMES COUNTY, OHIO

In the Matter of:

(Child's Name)

Case No. _____
(existing Case No.)

JUDGE THOMAS C. LEE

MAGISTRATE _____

Plaintiff (please use current case caption)

vs

Defendant (please use current case caption)

Instructions: Before submitting documentation/filings to the Court, a copy of the document must be served (by hand, regular or certified mail) to all parties or their attorneys if they are represented. When submitting the original document, you must attach this completed "CERTIFICATE OF SERVICE" form.

CERTIFICATE OF SERVICE

I, _____ (name), hereby certify that a true and accurate copy
of the foregoing document _____ (title of document) was
served as follows to:

Name of Party: _____

Address: _____

Served by: ☐ Regular US Mail

☐ Certified Mail

☐ Hand Delivered

Date Served: _____

Name of Party: _____

Address: _____

Served by: ☐ Regular US Mail

☐ Certified Mail

☐ Hand Delivered

Date Served: _____

CERTIFICATE OF SERVICE

Name of Party: _____

Served by: ☐ Regular US Mail

Address: _____

☐ Certified Mail

☐ Hand Delivered

Date Served: _____

Name of Party: _____

Served by: ☐ Regular US Mail

Address: _____

☐ Certified Mail

☐ Hand Delivered

Date Served: _____

Name of Party: _____

Served by: ☐ Regular US Mail

Address: _____

☐ Certified Mail

☐ Hand Delivered

Date Served: _____

Respectfully submitted, _____
(Signature of Applicant)

Printed Name: _____

Address: _____

City, State, Zip: _____

Phone No: _____

Email Address: _____