

STATE OF MICHIGAN JUDICIAL DISTRICT 48TH JUDICIAL CIRCUIT COUNTY PROBATE	MOTION AND/OR ORDER TO SHOW CAUSE	CASE NO. 18-59153-DM
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Court address Court telephone no.
 113 Chestnut Street, Allegan, MI 49010 269.673.0300

Plaintiff(s)/Petitioner(s) Stephanie Marsh	v	Defendant(s)/Respondent(s)/Probationer Brett Marsh
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☐ Probate ☐ Juvenile In the matter of _____

MOTION AND AFFIDAVIT

1. I am interested in this matter as Defendant
2. Defendant, Brett Marsh ☒ has failed to comply with an order dated 11/04/2021
 Name (type or print) ☒ is in contempt for violating the Judgment of Divorce
 State with particularity admissible facts establishing this motion.
 Please see attached Plaintiffs Supplement to the Motion and Order to Show Cause
3. I request an order directing Brett Marsh to show cause why
 Name (type or print)
- ☒ a. he/she should not be found in ☒ civil ☐ criminal contempt of court.
☐ b. judgment should not be entered against him/her (as surety/agent) for the full amount of recognizance.
☐ c. judgment should not be entered against him/her for failure to file a garnishee disclosure.
4. This affidavit is made on my personal knowledge and, if sworn as a witness, I can testify competently to the facts in this motion and affidavit.

Subscribed and sworn to before me on January 27, 2023 Stephanie Marsh Signature Ottawa County, Michigan.
 Date

My commission expires: 1/15/2025 Signature: [Signature]
 Date

Notary public, State of Michigan, County of Ottawa

ORDER

TO: Brett Marsh
11140 Keller Road
Shelbyville, MI 49344

If you require special accommodations to use the court because of a disability or if you require a foreign language interpreter to help you fully participate in court proceedings, please contact the court immediately to make arrangements.

IT IS ORDERED:

5. You must appear before this court on 3-6-23 at 9:00am at ☒ the court address above ☒ courtroom no. B
 Date Time
- ☐ to show cause why
- ☐ you should not be held in ☐ civil ☐ criminal contempt
☐ for failure to comply with the order of this court as follows:
☐ for the reasons stated in the motion.
☐ a judgment should not be entered against you.
☐ your case should not be dismissed.
☐ other: _____

6. Failure to appear for a contempt hearing may result in a bench warrant being issued for your arrest.

7. A copy of this must be served ☒ personally ☒ by mail on the person ordered to appear at least 14 days before the hearing.

PROOF OF SERVICE**MOTION AND/OR ORDER TO
SHOW CAUSE**

Case No. 18-59153-DM

TO PROCESS SERVER: You must make and file your return with the court clerk. If you are unable to complete service, you must return this original and all copies to the court clerk.

CERTIFICATE / AFFIDAVIT OF SERVICE / NONSERVICE☐ **OFFICER CERTIFICATE**

OR

☐ **AFFIDAVIT OF PROCESS SERVER**

I certify that I am a sheriff, deputy sheriff, bailiff, appointed court officer, or attorney for a party [MCR 2.104(A)(2)], and that: (notarization not required)

Being first duly sworn, I state that I am a legally competent adult who is not a party or an officer of a corporate party, and that: (notarization required)

☐ I served a copy of the motion and/or order to show cause by:

☐ personal service ☐ first-class mail on:

Name(s)	Complete address(es) of service	Day, date, time

☐ I have personally attempted to serve the motion and/or order to show cause on the following person(s) and have been unable to complete service.

Name(s)	Complete address(es) of service	Day, date, time

I declare that the statements above are true to the best of my information, knowledge, and belief.

Service fee	Miles traveled	Fee	
\$		\$	
Incorrect address fee	Miles traveled	Fee	TOTAL FEE
\$		\$	\$

Signature

Name (type or print)

Title

Subscribed and sworn to before me on _____, _____ County, Michigan.
Date

My commission expires: _____ Signature: _____
Date Deputy court clerk/Notary public

Notary public, State of Michigan, County of _____

ACKNOWLEDGMENT OF SERVICE

I acknowledge that I have received service of this motion and/or order to show cause on _____
Day, date, time

_____ on behalf of _____
Signature

For use by the court clerk only when the show cause proceeding is initiated by the court.

CERTIFICATE OF MAILING

I certify that on this date a copy of this motion and/or order to show cause was served on the person ordered to appear by first-class mail addressed to his or her last-known address as defined by MCR 2.107(C)(3).

Date

Signature

STATE OF MICHIGAN
IN THE 48TH CIRCUIT COURT FOR THE COUNTY OF ALLEGAN

STEPHANIE ANN MARSH,

Plaintiff,

CASE NO. 18-59153-DM

v

HON. ROBERTS A. KENGIS

BRETT DAVID MARSH,

Defendant.

Kendra J. Ortega (P82611)
Kendra Ortega, PLC
Attorney for Plaintiff
217 E 24th Street, Suite 102, Box M
Holland, MI 49423
(616) 288-4664
kendra@kofamilylaw.com

Corey Volmering (P85380)
Attorney for Defendant
Sharp & Associates Law Firm
6312 West Main Street
Kalamazoo, MI 49009
(269) 978-6560
corey@sharplawgroup.com

PLAINTIFF'S SUPPLEMENT TO THE MOTION FOR ORDER TO SHOW CAUSE

NOW COMES, Plaintiff, Stephanie Marsh, by and through her attorney, Kendra J. Ortega, and states for her Supplement as follows:

TAX DEPENDENTS

1. A consent Judgment of Divorce ("JOD") was entered in the above matter on or about February 7, 2019.
2. The JOD specifically states that the Plaintiff shall claim the parties' two older children every year on her tax return. It then states that the Plaintiff and the Defendant will alternate claiming the two younger children on their individual tax returns. When only the youngest

child remains, the parties are to alternate claiming him as a dependent with Plaintiff claiming the first year. (See Plaintiff's **Exhibit 1**).

3. The Plaintiff attempted to file her tax return for tax year 2021. On or about March 1, 2022, she received an email from the IRS stating that her federal tax return was rejected because a dependent had already been claimed on someone else's return. (See Plaintiff's **Exhibit 2**).
4. That same day, Plaintiff sent a message to Defendant through Our Family Wizard ("OFW") and asked him who he claimed on his tax return. (See Plaintiff's **Exhibit 3**). She never received a response.
5. Because she was unable to claim either of the two younger boys on her return, and Defendant will not answer the question, it is believed that Defendant claimed both boys on his 2021 tax return in violation of the JOD.
6. Plaintiff requests the court to hold Defendant in civil contempt for violating the JOD. She also requests an order that Plaintiff will claim the two younger boys (Jace and Josh) on tax returns for the tax year 2023.¹

FAMILY COUNSELING FOR THE MINOR CHILDREN

7. The Court entered a stipulated order regarding custody and parenting time on or about November 4, 2021.
8. Pursuant to paragraph 13 of the order, family counseling was to continue as recommended by the counselor. Defendant/father was to participate in the family counseling as recommended by the counselor.

¹ It is presumed that this motion will not be heard prior to Defendant filing his 2022 tax returns. It also presumed that Defendant will follow the JOD provisions for filing his 2022 tax returns as he has been put on notice that Plaintiff will be claiming the correct children on her 2022 tax returns.

9. At the time the order was entered, the family counselor was Erica Enz, LMSW. Defendant/father unilaterally discontinued therapy after only six sessions. (See Plaintiff's **Exhibit 4**).
10. On April 8, 2022, Defendant/father sent a message via OFW expressing concern that Plaintiff/mother was having some sessions with each individual child as recommended by the therapist. It is believed that his concern stemmed from one of the children expressing that his father tells him what to say regarding his mother.
11. The counselor also made specific recommendations that the parties would individually attend a session with both children because there had been allegations that the children were afraid of Defendant. The counselor wanted to evaluate the dynamic between the children and each parent. Plaintiff refused to continue with the recommendations as required in the November 4, 2021 Order, paragraph 13.
12. Plaintiff requests the Court to issue an Order to Show Cause and to find Defendant in contempt for his noncompliance with the November 4, 2021 order as it relates to family therapy.
13. Plaintiff also requests that family counseling resumes with Erica Enz as ordered.

MEDICAL APPOINTMENTS

14. Paragraph 9 of the November 4, 2021 orders states that appointments for the children's medical providers shall be shared as soon as practical after the appointment is made or changed. Defendant/father has failed to notify Plaintiff of several appointments or failed to properly notify Plaintiff. The parties did not share joint legal custody until June of 2022. However, the notification requirement is enforceable whether or not the parties shared legal custody at that time.

15. One recent example is the children's therapy appointments at Barry County Community Health on Friday, January 20, 2023. The Our Family Wizard appointment was set from 2:30 p.m. to 3:30 p.m. When Plaintiff arrived to attend the appointment, she was told that the appointments did not begin until 3:30 p.m., and that there was an hour appointment time for each child. Because the OFW calendar was incorrect, Plaintiff was unable to stay for the later appointment time. Defendant is aware that Barry County CMH has not been releasing information to Plaintiff and it is believed that he has done what he can to block access to the medical, educational, and mental health providers. Therefore, it is believed that Defendant intentionally shared an incorrect time because he does not want Plaintiff involved in these matters.
16. On several occasions, Plaintiff asked for the children's appointment schedule and extra-curricular schedules prior to the parties sharing joint legal custody. Mr. Marsh ignored those requests. Specifically, requests were made on June 17, 2022, June 18, 2022, and July 22, 2022.
17. Therefore, Plaintiff requests the Defendant be held in contempt for violating that provision of the November 4, 2021 order.

LEGAL CUSTODY

18. Pursuant to the November 4, 2021 order, the Defendant/father was awarded sole legal custody of the minor children. The parties were awarded joint legal custody to begin at the end of the 2021-2022 school year. Because of this, Defendant/father has done what he can to prevent Plaintiff's participation in appointments and school information and activities.
19. The parties now share legal custody. However, the Plaintiff has made several attempts to contact the school for the boys' education information, access to the school portal, and gain

information from the teachers. She had to add herself as a parent in the system. She was then told she could not receive the information, nor attend conferences and school events because she had a child abuse conviction (which is untrue).

20. She also made several attempts to contact the children's current counselor through Barry County CMH to discuss the children's progress and current prescribed medications. The newest counselor finally returned her call just today, January 26, 2023. Plaintiff has asked Defendant for all of this information and he states she can get it from CMH. She made Defendant aware that they are not allowing her access. He is nonresponsive.
21. The children's counselor was also changed during the time period the parties' shared joint legal custody. Plaintiff was never consulted on the change.
22. One of the minor children is prescribed medication for his mental health diagnoses. There have been changes in medication since joint legal was put in place and Plaintiff was not consulted nor did she have an opportunity to consent. There is one sleeping medication that Plaintiff was never made aware of by the Defendant. She recently requested records from Barry County CMH and discovered these items.
23. Plaintiff had not been listed as a parent on the children's mental health record. Instead, the children's step-mother had been attending some of the appointments. For instance, there was a medication review appointment on 6/30/2022 and Plaintiff/mother was not notified of the appointment. There was a medication review on 08/18/2022. Plaintiff was not notified of that appointment and medications were changed. The record indicates that the child had been taking Prozac, of which Plaintiff/mother was unaware and this is extremely concerning especially because she had been exercising week on/week off parenting time

all summer. Defendant/father expressed to the provider that it was causing the child to want to “self harm.” This was never discussed with the Plaintiff/mother.

24. Another medication review appointment occurred on September 29, 2022. Plaintiff/mother was never notified. At that appointment, the child’s medication was changed. Plaintiff neither consented nor was notified of the change.

25. Child had a counseling appointment on 11/2/2022. Plaintiff/mother was never notified. Child also had an appointment on 11/17/2022. Plaintiff/mother was never notified. At this same appointment, Defendant was told that the child would have a new therapist beginning in December. Plaintiff was never consulted nor notified of the change. On 12/2/2022, the children had an appointment with said new therapist. The session was jointly held with Defendant/father and both children. Plaintiff was neither invited nor notified.

26. An annual clinical assessment appointment was completed on 9/7/2022. Plaintiff/mother was not notified of the appointment.

27. By father continuing his one-sided narrative to the children’s health professionals at Barry County CMH, and the bias that CMH is showing in their lack of cooperation and communication with the Plaintiff on Defendant’s behalf, it is requested that the Court appoint another counselor for the minor children’s individual therapy.

28. Additionally, Plaintiff requests this Court to issue an Order to Show Cause and hold Defendant in contempt for each violation of the legal custody provisions of the November 4, 2021 order.

WHEREFORE, pursuant to MCR 3.606(A), the Plaintiff requests this Honorable Court to issue the following relief:

- A. Enter the attached Order to Show Cause due to the Defendant's failure to follow the Judgment of Divorce and November 4, 2021 Order Regarding Custody and Parenting Time;
- B. Find the Defendant in civil contempt for violating the Judgment of Divorce as related to tax dependents;
- C. Find the Defendant in civil contempt for violating the aforementioned provisions of the Custody and Parenting Time Order;
- D. Award Plaintiff attorney fees and costs associated with filing this Motion pursuant to MCR 3.206(D)(2)(b); and,
- E. Grant Plaintiff any other relief as this Court deems just and appropriate.

I DECLARE THAT THE STATEMENTS ABOVE ARE TRUE TO THE BEST OF MY KNOWLEDGE, INFORMATION, AND BELIEF.

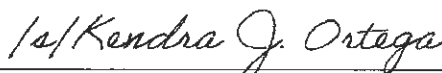
Dated: Jan 27, 2023


Stephanie Marsh (Jan 27, 2023 09:47 EST)

Stephanie Marsh
Plaintiff

Dated: January 26, 2023

Respectfully Submitted,


Kendra J. Ortega (P82611)
Attorney for Plaintiff

debts in their own names after the date of separation, and shall hold the other harmless, and further, it is understood by this Court that there are no joint debts subsequent to the parties' separation.

INCOME TAX EXEMPTIONS

IT IS FURTHER ORDERED AND ADJUDGED that the Plaintiff mother of the minor children Nickolas Marsh and Jonathon Marsh to be entitled to claim the above minor children on any and all city, state or federal income tax returns for this year and thereafter. Should the Parties agree otherwise, the agreement must be stated in a written document signed, witnessed and executed by the Parties.

IT IS FURTHER ORDERED AND ADJUDGED that the Parties to each have the ability to claim one of the minor children, Jace Marsh and Joshua Marsh, on any and all city, state or federal income tax returns for this year and thereafter. Plaintiff shall be granted the ability to claim Jace on all even numbered years and Defendant shall claim Joshua on even numbered years beginning with the 2018 tax year.

When Jace Marsh reaches the age of 18, the parties shall alternate the ability to claim Joshua Marsh on any and all city, state or federal income tax returns for this year and thereafter. Plaintiff mother shall claim him the first year and alternate with the Defendant father thereafter.

EFFECTIVE DATE

IT IS FURTHER ORDERED AND ADJUDGED that this Judgment of Divorce shall be given effect immediately forthwith upon entry.

All Orders currently in place not affected by this Judgment of Divorce shall remain in full force and effect.



Sent from Yahoo Mail on Android

----- Forwarded Message -----

From: "TurboTax@intuit.com" <TurboTax@intuit.com>

To: "millmine2023@yahoo.com" <millmine2023@yahoo.com>

Sent: Tue, Mar 1, 2022 at 2:51 PM

Subject: ACTION NEEDED! Your rejected federal tax return

Your federal tax return was rejected

This happens from time to time, but we're here to help.

We'll walk you through updating and e-filing your return every step of the way.

What happened

IND-507 - A dependent on your return has already been claimed (or claimed themselves) on another return.

Next step

We'll help you get this updated on your federal return and e-file.

To update your return

Simply sign in to TurboTax and we'll walk you through making the updates you need, then help you e-file your updated return.

If it isn't possible to e-file your updated return, we'll make sure you have everything you need to print and file your tax return by mail.

Need your user ID or password? C

PLAINTIFF'S
EXHIBIT

2

a quick reminder



Like to track the status of your return?

Track the e-filing status of your return and more, all on your personalized TurboTax home page



Important filing deadlines

If your return is rejected before the April 18, 2022 tax extension filing deadline has passed, you can still correct and re-file your tax return until April 23, 2022. [Learn more](#)

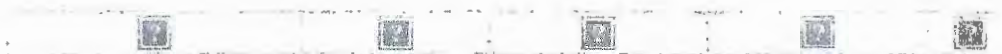
If you e-filed any state returns, you'll receive a separate status email about that return. And remember, keeping a copy of all status update emails like this one is always a good idea.

Thanks again for choosing TurboTax



Check before you click!

*TurboTax will never ask you for personal information in an email.
When you click on a link, the address should always contain "intuit.com".*



Legal

Privacy

Security

Intuit respects the personal nature of email. Please note that if you have chosen not to receive marketing messages from Intuit, that choice applies only to promotional materials. You will continue to receive notifications that are legally required or could affect your service, software or account.

This email was sent to the following address:
millmine2023@yahoo.com
Did you receive this email in error? Find out why

If you receive a suspicious email, please report it by forwarding the email to spoof@intuit.com.

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Message Report

Generated: 01/21/2023 at 04:34 PM by Kendra Ortega

Number of messages: 1

Timezone: America/New_York

Parents: Brett Marsh, Stephanie Marsh

Child(ren): Jace Marsh, Joshua Marsh

Third Party:



our family wizard

OurfamilyWizard, LLC.

230 13th Avenue NE, Minneapolis, MN 55413

ourfamilywizard.com

info@ourfamilywizard.com

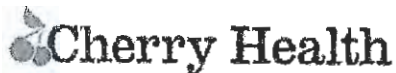
(866) 755-9991

Message 1 of 1

Sent: 03/01/2022 at 02:57 PM
From: Stephanie Marsh
To: Brett Marsh (*First Viewed: 03/01/2022 at 03:53 PM*)
Subject: Taxes

Who did you claim on taxes?





Barry Community BH Telehealth
200 S Boltwood St
Hastings MI, 49058-1993
Phone: (269)945-4220 | Fax: (269)945-4229

01/12/2023 09:41 AM

Stephanie Marsh
43
..., MI, 49323-

Dear Stephanie,

Hi Stephanie. I hope you are doing well. Per our conversation, here are the dates of appointments attended, as well as no showed appointments, in regards to family therapy with both of your boys:

11/16/2021- Family Therapy 11/30/2021- Family Therapy 12/14/2021- Family Therapy

2/15/2022- Family therapy with one son 3/1/2022- Family Therapy

3/17/2022- Family Therapy with one son 3/22/2022- No Show Family therapy, but you attended.

4/12/2022- No Show Family therapy, but you attended.

There has been no communication from the boy's father since the last attended family therapy session; he did not call to cancel or reschedule any family therapy sessions. It should be noted that you and the boys were making progress towards improving all of your relationships with one another.

Please let me know if you have any further questions/concerns! I can be reached at 269-350-4584.

Sincerely,
Cherry Health

Erica E LMSW CAAAC

Erica Enz, LMSW

You can reach us 24 hours a day, 7 days a week, 365 days a year at the number above.

