



2019 Caregiver Custody Training Manual

5. Sample Third-Party Custody Complaint and Answer

- a. Complaint for Custody
- b. Consent Answer

Disclaimer:

This sample pleading is for informational purposes only. It should be used only in conjunction with an attorney's own primary research and independent reading of cited statutes, rules, regulations, cases, and other materials in order to ensure accuracy and completeness. This is especially important as the law as well as "common practices" may have changed since the pleading was initially written. In addition, arguments and strategies that were helpful or appropriate in the sample case may be inapplicable or detrimental in your situation, because every case has its own facts and circumstances.

**SUPERIOR COURT OF THE DISTRICT OF COLUMBIA
FAMILY COURT
Domestic Relations Branch**

| | | |
|---------------------|---|-----------|
| [PLAINTIFF] |) | |
| [ADDRESS] |) | |
| <i>Plaintiff,</i> |) | |
| |) | Case No.: |
| v. |) | |
| |) | |
| [DEFENDANT] |) | |
| Last Known Address: |) | |
| [ADDRESS] |) | |
| |) | |
| and |) | |
| |) | |
| [DEFENDANT] |) | |
| [ADDRESS] |) | |
| |) | |
| <i>Defendants.</i> |) | |
| |) | |

COMPLAINT FOR CUSTODY OF [CHILD]

[PLAINTIFF] ("[PLAINTIFF]"), [CHILD]'s paternal grandmother and caretaker, through undersigned counsel, [ATTORNEY] of [ORGANIZATION], hereby requests that the court grant her request for sole physical custody of [CHILD] and for joint legal custody of [CHILD] with [CHILD]'s father, [DEFENDANT].

In support of her complaint, [PLAINTIFF] states to the court the following:

1. The court has jurisdiction of this matter pursuant to D.C. Code §§ 11-1101 and 16-4602.01 *et seq.* and 16-831.02(a)(1)(B).
2. [CHILD] is a male/female child born [DATE OF BIRTH].
3. [CHILD] has resided in the District of Columbia since [DATE/YEAR]

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- 4.. Plaintiff, [PLAINTIFF], is [CHILD]’s paternal grandmother and caretaker.
5. [DEFENDANT] is the biological mother of and [DEFENDANT] are the biological mother and father of [CHILD].
6. [DEFENDANT] and [DEFENDANT] were never married.
7. [DEFENDANT] has been incarcerated since approximately [DATE or YEAR] and is currently scheduled to be released on or about [DATE/YEAR].
8. [CHILD] and [DEFENDANT] lived with [PLAINTIFF] for approximately a year and a half from early [YEAR] to the fall of [YEAR].
9. After leaving [PLAINTIFF]’s residence [CHILD] and [DEFENDANT] lived with [DEFENDANT]’s uncle, [UNCLE] at [ADDRESS] for approximately one month. Upon information and belief, after living with [UNCLE] for approximately one month, [DEFENDANT] informed [UNCLE] that she was going to visit a friend and asked if he would watch [CHILD]. [DEFENDANT] never returned for [CHILD].
10. On or about the beginning of [DATE], approximately two weeks after [DEFENDANT] left [UNCLE]’s home, [UNCLE] contacted [PLAINTIFF] to care for [CHILD]. [CHILD] has lived with [PLAINTIFF] without interruption since [MONTH] of [YEAR].
11. [CHILD] currently resides in the care and custody of [PLAINTIFF] at [ADDRESS]. [CHILD] also resides with [PLAINTIFF]’s husband, [NAME (“[NAME]”), and [PLAINTIFF]’s mother, [NAME] (“[NAME]”).
12. [CHILD] is bonded with [PLAINTIFF] and the other members of her household and shares positive relationships with [PLAINTIFF]’s family.

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13. [CHILD] has not had any contact with or from [DEFENDANT] since on or about [DATE/YEAR].
14. [PLAINTIFF]'s adult daughter, [NAME] ("[NAME]"), contacted [DEFENDANT] on [DATE] to inform [DEFENDANT] that [CHILD] was in [PLAINTIFF]'s care. Upon information and belief, [NAME] received no response from [DEFENDANT].
15. In the summer of [YEAR] [PLAINTIFF]'s husband [NAME], obtained a telephone number for [DEFENDANT]. [NAME] contacted [DEFENDANT] by phone on [DATE] in an attempt to obtain [CHILD]'s birth certificate. [DEFENDANT] refused to provide any documents or assist in [PLAINTIFF]'s care of [CHILD].
16. [UNCLE] has not had any contact with or from [DEFENDANT] since on or about [DATE/YEAR].
17. [DEFENDANT] may reside in [CITY], [STATE] but her exact whereabouts are unknown.
18. [PLAINTIFF] does not know of any person not named as a defendant to these proceedings who has custody of [CHILD] or claims to have custody or visitation rights with respect to [CHILD].
19. There are no other prior or pending actions based on or including this same claim or subject matter in this court or in any other state.

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20. [PLAINTIFF] is a fit and proper person to have legal and physical custody of [CHILD] and it is in the best interest of [CHILD] that the court award [PLAINTIFF] and [DEFENDANT] joint legal custody of [CHILD].

WHEREFORE, in light of the foregoing, the plaintiff, [PLAINTIFF], asks this court to:

1. Award her sole physical custody of [CHILD];
2. Award her joint legal custody of [CHILD] with the biological father, [DEFENDANT]; and
3. Provide such other and further relief as the court finds just and proper.

I, [PLAINTIFF], solemnly swear or affirm under criminal penalties for the making of a false statement that I have read the foregoing complaint for custody and that the factual statements made in it are true to the best of my personal knowledge, information, and belief.

[PLAINTIFF'S SIGNATURE]

Date

Respectfully Submitted,

[ATTORNEY NAME]
DC Bar #[NUMBER]
[ORGANIZATION]
[ADDRESS]
Phone: [PHONE]
Fax: [FAX]
Email: [EMAIL]
Counsel for [PLAINTIFF]

**SUPERIOR COURT OF THE DISTRICT OF COLUMBIA
FAMILY COURT
DOMESTIC RELATIONS BRANCH**

CONSENT ANSWER

I, [Defendant's full name], state to the Court as follows:

1. I am the Defendant in the above-captioned matter.
 2. I am the biological [mother/father] of [child's full name], who was born on [child's date of birth], and I understand that [child's full name] is the subject of this custody complaint.
 3. The biological [mother/father] of [child's full name] is [insert other parent's full name if known].
 4. I am not under the influence of any drugs or medication.
 5. I do not have any physical or mental disability impairing my ability to understand this document.
 6. [I have reviewed this consent with my attorney.]
 7. I agree with all of the statements in Plaintiff's Complaint for Custody.

8. I consent to the relief sought by [plaintiff]. It is my desire that the Plaintiff [Plaintiff's full name] be awarded [sole/joint] legal and [sole/joint] physical custody of [child's full name].
9. I understand that by signing this consent I am giving up my right to a custody trial to determine who should have the legal rights and responsibilities to care for [child's full name] and that at that trial there would be a presumption in my favor that custody of [child's full name] should be with me.
10. I understand that this custody arrangement will remain in effect until (a) the child reaches majority, (b) the Plaintiff and I agree to change it, or (c) a judge determines that a change in circumstances justifies a change in the custody arrangement.
11. I understand that if custody is given to [Plaintiff's full name], then for me to be able to change the custody arrangement, I will have to file a motion to modify custody with the court and show that there has been a substantial and material change in circumstances and that the change in custody would be in the [child's full name] best interests. I understand that, in future proceedings for a modification of custody, there would not be a presumption in my favor that custody of [child's full name] should be with me.
12. There are no contested issues for the court to decide.

I respectfully request that the court grant all the relief requested in Plaintiff's Complaint for Custody.

[Defendant's full name]

[DATE]

VERIFICATION

I, [Defendant's full name], solemnly swear or affirm under criminal penalties for the making of a false statement that I have read the foregoing Consent Answer and that the factual statements made in it are true to the best of my personal knowledge, information, and belief.

[Defendant's full name]

[DATE]