



## 2018 Caregiver Custody Training Manual

### 5. Sample Third-Party Custody Complaint and Answer

- a. Complaint for Custody
- b. Custody Consent Answer

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

<b>[PLAINTIFF]</b>	)	
<b>[ADDRESS]</b>	)	
<i>Plaintiff,</i>	)	Judge : [JUDGE]
	)	Case No.: [CASE NUMBER]
v.	)	
	)	
<b>[DEFENDANT]</b>	)	
<b>Last Known Address:</b>	)	
<b>[ADDRESS]</b>	)	
	)	
and	)	
	)	
<b>[DEFENDANT]</b>	)	
<b>[ADDRESS]</b>	)	
	)	
<i>Defendants.</i>	)	
	)	

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**[PLAINTIFF]'S 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).

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2. The plaintiff seeks sole physical and joint legal custody of the minor, [CHILD] (“[CHILD]”), born [DATE] in [STATE].
3. Plaintiff, [PLAINTIFF], is [CHILD]’s paternal grandmother and caretaker, as well as the mother of the defendant [DEFENDANT] (“[DEFENDANT]”).
4. Upon information and belief defendants [DEFENDANT] (“[DEFENDANT]”) and [DEFENDANT] are the respective biological mother and father of [CHILD].
5. Upon information and belief, [DEFENDANT] and [DEFENDANT] were never married.
6. Upon information and belief, no other putative father of [CHILD] has been identified.
7. Upon information and belief, [DEFENDANT] has been incarcerated since [MONTH] of [YEAR] and is currently scheduled to be released in [MONTH] of [YEAR].
8. [CHILD] and [DEFENDANT] lived with [PLAINTIFF] for approximately a year and a half from early [YEAR] to the fall of [YEAR].
9. Upon information and belief, after leaving [PLAINTIFF]’s residence [CHILD] and [DEFENDANT] lived with [DEFENDANT]’s uncle, [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].

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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. Upon information and belief, [CHILD] has not had any contact with or from [DEFENDANT] since [MONTH] of [YEAR].
13. Upon information and belief, [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].
14. Upon information and belief, 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].
15. Upon information and belief, [UNCLE] has not had any contact with or from [DEFENDANT] since [MONTH] of [DATE].

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16. Upon information and belief, [DEFENDANT] may reside in [CITY], [STATE] but her exact whereabouts are unknown.
17. This court has jurisdiction to decide child custody because D.C. is [CHILD]'s home state, where he currently lives and has lived for more than six months.
18. [PLAINTIFF] has standing to pursue custody of [CHILD] pursuant to § 16-831.02(a)(1)(B) of the Safe and Stable Homes for Children and Youth Act of 2007 because [PLAINTIFF] has resided with [CHILD] for the last six months without interruption and primarily assumed the duties and obligations for which a parent is legally responsible, including providing [CHILD] with food, clothing, shelter, financial support, and other care to meet his needs. [PLAINTIFF] has consistently taken on the full parental responsibilities necessary to provide [CHILD] with a stable home environment and ensured that [CHILD] is part of a warm, loving family.
19. [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].
20. [PLAINTIFF] is a fit and proper person to have legal custody of the child and make decisions about [HIS/HER] wellbeing. [PLAINTIFF] believes it is in the best interest of [CHILD] that the court award her and [DEFENDANT] joint legal custody of [CHILD].

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21. [PLAINTIFF] is a fit and proper person to have physical custody of the child.

[PLAINTIFF] believes it is in the best interest of [CHILD] that sole physical custody be awarded to her.

22. According to D.C. Code § 16-831.07, the presumption in favor of parental custody must be rebutted based on clear and convincing evidence that: (1) the parents have abandoned the child or are unwilling to care for the child; (2) custody with a parent is or would be detrimental to the child's physical or emotional well-being; or (3) exceptional circumstances support rebuttal of the presumption.

23. The presumption in favor of parental custody is rebutted regarding [DEFENDANT] because, upon information and belief, [DEFENDANT] effectively abandoned [CHILD] by leaving [HIM/HER] at her uncle's house and failing to return for [HIM/HER]. [NUMBER] months after [DEFENDANT] left [CHILD] with her uncle, [DEFENDANT] provided further evidence for her abandonment of [CHILD] when [NAME] called her on [DATE] in an attempt to obtain [CHILD]'s birth certificate. [DEFENDANT] expressed no interest in engaging with [NAME] about her [SON/DAUGHTER] and has made no effort to get in touch with [NAME] or [PLAINTIFF] since [MONTH] of [YEAR].

24. Custody with [DEFENDANT] would also be detrimental to [CHILD]'s emotional wellbeing because he has bonded with [PLAINTIFF], [NAME], and [NAME] . By contrast, [DEFENDANT] has played no role in [CHILD]'s life and has had no contact with [CHILD] for approximately a year.

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25. The presumption in favor of parental custody is rebutted regarding [DEFENDANT]

because he is currently incarcerated and unable to physically care for [CHILD]. Further, [PLAINTIFF] expects [DEFENDANT] will consent to her request for custody of [CHILD].

26. According to D.C. Code § 16-831.08, to determine whether custody with a third party is

in the child's best interests, the court must consider: (1) the child's needs for continuity of care and caretakers, and for timely integration into a stable and permanent home, taking into account the differences in the development and the concept of time of children of different ages; (2) the physical, mental, and emotional health of all individuals involved to the degree that each affects the welfare of the child, the decisive consideration being the physical, mental, and emotional needs of the child; (3) the quality of the interaction and interrelationship of the child with his or her parent, siblings, relatives, and caretakers, including the third party complainant or movant; and (4) to the extent feasible, the child's opinion of his or her own best interests in the matter.

27. It is in [CHILD]'s best interests for [PLAINTIFF] to have custody of [HIM/HER].

[PLAINTIFF] has been the only caretaker [CHILD] has known for the past year, and will continue to provide [CHILD] with a stable and permanent home. [PLAINTIFF] ensures that [CHILD]'s physical and emotional needs are met. In contrast to [DEFENDANT], [CHILD] is bonded with [PLAINTIFF] and the other members of her household and shares positive relationships with [PLAINTIFF]'s family.

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28. Upon information and belief, 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.

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.

Respectfully Submitted,

Date \_\_\_\_\_

\_\_\_\_\_  
[ATTORNEY NAME]  
DC Bar #[NUMBER]  
[ORGANIZATION]  
[ADDRESS]  
Phone: [PHONE]  
Fax: [FAX]  
*Counsel for [PLAINTIFF]*

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**VERIFICATION**

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.

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[PLAINTIFF]  
*Plaintiff*

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Date



7. The child is currently living with [his/her] [insert relationship, e.g., maternal grandmother], Plaintiff [Plaintiff's full name].
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 the subject child, [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 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.
11. I reserve my right to all reasonable visitation with the subject child.

\_\_\_\_\_  
[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]