

STATE OF MICHIGAN  
IN THE CIRCUIT COURT FOR THE COUNTY OF \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_ ,

Plaintiff,

v

File No.: \_\_\_\_\_

\_\_\_\_\_ ,

Hon. \_\_\_\_\_

(Name of Judge)

Defendant.

\_\_\_\_\_ /

\_\_\_\_ PLAINIFF'S \_\_\_\_ DEFENDANT'S  
BRIEF REGARDING PARENTING TIME

**LEGAL HISTORY**

(Set forth a brief legal history of the case. Explain what has happened in the past and why you are in court now.)

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**LEGAL ISSUES**

**1. Is there proper cause or a change in circumstances that would warrant a change or modification of custody or parenting time? Explain facts that support your conclusion.**

The case of Vodvarka v Grasmeyer, 259 Mich App 499; 675 NW2d 847 (2004), provides guidance as to what will constitute “proper cause” and/or a “change of circumstances”. The Vodvarka Court stated:

In summary, to establish “proper cause” necessary to revisit a custody order, a movant must prove by a preponderance of the evidence the existence of an appropriate ground for legal action to be taken by the trial court. The appropriate ground(s) should be relevant to at least one of the twelve statutory best interest factors, and must be of such magnitude to have a significant effect on a child’s well-being.

The Vodvarka Court further stated:

[W]e hold that in order to establish a “change of circumstances,” a movant must prove that since the entry of the last custody order, the conditions surrounding custody of the child, which have or could have a *significant* effect on the child’s well-being, have materially changed. Again, not just any change will suffice, for over time there will always be some changes in a child’s environment, behavior, and well-being. Instead, the evidence must demonstrate something more than the normal life changes (both good and bad) that occur during the life of a child, and there must be at least some evidence that the material changes have had or will almost certainly have an effect on the child.

The Michigan Court of Appeals’ recent decision in *Shade v Wright*, \_\_\_\_ Mich.App \_\_\_\_; \_\_\_\_ NW2d \_\_\_\_ (Docket no 296318, issued December 2, 2010), slip op at 6, instructs that “a more expansive definition of proper cause or change of circumstances is appropriate for determinations regarding parenting time when a modification in parenting time does not alter the established custodial environment,” however, no “expansive definition” is provided by the Court.















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(Set forth name and address of all people served a copy of your brief)

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(Your Signature)