

Proposed Amendment of Rule 7 of the Rules Concerning the State Bar of Michigan

(Dated October 28, 2020)

On order of the Court, this is to advise that the Court is considering an amendment of Rule 7 of the Rules Concerning the State Bar of Michigan. Before determining whether the proposal should be adopted, changed before adoption, or rejected, this notice is given to afford interested persons the opportunity to comment on the form or the merits of the proposal or to suggest alternatives. The Court welcomes the views of all. This matter also will be considered at a public hearing. The notices and agendas for public hearings are posted at Administrative Matters & Court Rules page.

Publication of this proposal does not mean that the Court will issue an order on the subject, nor does it imply probable adoption of the proposal in its present form.

[Additions to the text are indicated in underlining and deleted text is shown by strikeover.]

Section 1. President, President-elect, Vice-president, Secretary, and Treasurer.

The officers of the Board of Commissioners of the State Bar of Michigan are the president, the president-elect, the vice-president, the secretary, and the treasurer. The officers serve for the year beginning with the adjournment of the annual meeting following their election and ending with the adjournment of the next annual meeting. A person may serve as president only once. After the election of board members but before the annual meeting each year, the Board of Commissioners shall elect from among its members, by majority vote of those present and voting, if a quorum is present:

- (1) a vice-president who, after serving a one-year term, automatically succeeds to the office of president-elect for a one-year term, and then to the office of president, for a one-year term;
- (2) a secretary; and
- (3) a treasurer.

If a vice-president is not able to assume the duties of president-elect, the Board of Commissioners also shall elect from among its members, by majority vote of those present and voting, if a quorum is present, a president-elect who becomes president on the adjournment of the next succeeding annual meeting.

A commissioner whose term expires at the next annual meeting is not eligible for election as an officer unless the commissioner has been reelected or reappointed for another term as a commissioner. If the remaining term of a commissioner elected treasurer, secretary, vice-president, or president-elect will expire before the commissioner completes a term as president, the term shall be extended for an additional year or years to allow the commissioner to serve consecutive terms in each successive office through the completion of the commissioner's term as president, provided that the commissioner is elected by the Board of Commissioners to serve in each successive office. If the term of an elected commissioner is so extended, the authorized membership of the board is increased by one for that period; a vacancy in the district the treasurer, secretary, vice-president, or president-elect represents exists when the term as a commissioner would normally

expire, and an election to choose a successor is to be held in the usual manner.

No person holding judicial office may be elected or appointed an officer of the Board of Commissioners. A judge presently serving as an officer may complete that term but may not thereafter, while holding judicial office, be elected or appointed an officer. A person serving as an officer who, after the effective date of this amendment, is elected or appointed to a judicial office, must resign as an officer of the board on or before the date that person assumes judicial office.

Section 2–Section 4 [Unchanged.]

STAFF COMMENT: The proposed amendment of Rule 7 of the Rules Concerning the State Bar of Michigan would ensure that all main officers (president, vice-president, treasurer, and secretary) move sequentially through the leadership roles of the Board of Commissioners. The proposal was submitted by the State Bar of Michigan.

The staff comment is not an authoritative construction by the Court. In addition, adoption of an amendment in no way reflects a substantive determination by this Court.

A copy of this order will be given to the Secretary of the State Bar and to the State Court Administrator so that they can make the notifications specified in MCR 1.201. Comments on the proposal may be sent to the Supreme Court Clerk in writing or electronically by February 1, 2021, at P.O. Box 30052, Lansing, MI 48909, or ADMcomment@courts.mi.gov. When filing a comment, please refer to ADM File No. 2020-24. Your comments and the comments of others will be posted under the chapter affected by this proposal at Proposed & Recently Adopted Orders on Admin Matters page.

Amendment of Administrative Order No. 1999-4 Establishment of Michigan Trial Court Records Management Standards (Dated November 18, 2020)

On order of the Court, the effective date of the May 22, 2019 order amending Administrative Order No. 1999-4 (Establishment of Michigan Trial Court Records Management Standards) is extended from January 1, 2021 to July 1, 2021.

Amendment of Administrative Order No. 2019-4 (Dated November 18, 2020)

On order of the Court, the following order amending Administrative Order No. 2019-4 is adopted, effective immediately.

[Additions to the text are indicated in underlining and deleted text is shown by strikeover.]

Administrative Order No. 2019-4—Electronic Filing in the 3rd, 6th, 13th, 16th, and 20th Circuit Courts

On order of the Court, the 3rd, 6th, 13th, 16th, and 20th Circuit Courts are authorized to continue their e-Filing programs in accordance with this order while the State Court Administrative Office develops and implements a statewide e-Filing system (known as MiFILE). This order rescinds and replaces Michigan Supreme Court

Administrative Orders 2007-3 (Oakland County), 2010-4 (the 13th Judicial Circuit), 2010-6 (the 16th Judicial Circuit), 2011-1 (the 3rd Circuit Court), and 2011-4 (Ottawa County).

(1)–(3) [Unchanged.]

(4) Personal Identifying Information

(a)–(d) [Unchanged.]

(e) These rules regarding personal information will remain in effect until they are superseded by amendments of MCR 1.109, MCR 8.119, and Administrative Order 1999-4. Those amendments, adopted by the Court on May 22, 2019, are effective on January 1, 2021.

Proposed Amendments of Rules 1.109 and 8.119 of the Michigan Court Rules (Dated October 28, 2020)

On order of the Court, this is to advise that the Court is considering amendments of Rules 1.109 and 8.119 of the Michigan Court Rules. Before determining whether the proposal should be adopted, changed before adoption, or rejected, this notice is given to afford interested persons the opportunity to comment on the form or the merits of the proposal or to suggest alternatives. The Court welcomes the views of all. This matter also will be considered at a public hearing. The notices and agendas for public hearings are posted at Administrative Matters & Court Rules page.

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[Additions to the text are indicated in underlining and deleted text is shown by strikeover.]

Rule 1.109 Court Records Defined; Document Defined; Filing Standards; Signatures; Electronic Filing and Service; Access

(A)–(C) [Unchanged.]

(D) Filing Standards.

(1)–(8) [Unchanged.]

(9) Personal Identifying Information.

(a) [Unchanged.]

(b) Filing, Accessing, and Serving Personal Identifying Information

(i)–(ii) [Unchanged.]

(iii) If a party is required to include protected personal identifying information in a public document filed with the court, the party shall file the document with the protected personal identifying information redacted, along with a personal identifying information form approved by the State Court Administrative Office under subrule (i). The personal identifying information form must identify each item of redacted information and specify an appropriate reference that uniquely corresponds to each item of redacted information listed. All references in the case to the redacted identifiers listed in the personal identifying information form will be understood to refer to the corresponding complete

identifier. A party may amend the personal identifying information form as of right. Fields for protected personal identifying information may ~~will~~ not be included in SCAO-approved court forms, and the information will be protected, in the form and manner established by the State Court Administrative Office.

(iv)–(vii) [Unchanged.]

(c)–(e) [Unchanged.]

(10) Request for Copy of Public Document with Protected Personal Identifying Information; Redacting Personal Identifying Information; Responsibility; Certifying Original Record; Other.

(a) The responsibility for excluding or redacting personal identifying information listed in subrule (9) from all documents filed with or offered to the court rests solely with the parties and their attorneys. The clerk of the court is not required to review, redact, or screen documents at time of filing for personal identifying information, protected or otherwise, whether filed electronically or on paper. For a document filed with or offered to the court, the clerk of the court is not required to redact protected personal identifying information from that document before providing a requested copy of the document (whether requested in person or via the internet) or before providing direct access to the document via a publicly accessible computer at the courthouse. The clerk of the court is required to redact protected personal identifying information before providing direct access to the document via the internet, such as through the court's website.

(b)–(e) [Unchanged.]

(E)–(H) [Unchanged.]

Rule 8.119 Court Records and Reports; Duties of Clerks

(A)–(G) [Unchanged.]

(H) Access to Records. Except as otherwise provided in subrule (F), only case records as defined in subrule (D) are public records, subject to access in accordance with these rules. The clerk shall not permit any case record to be taken from the court without the order of the court. A court may provide access to the public case history information through a publicly accessible website, and business court opinions may be made available as part of an indexed list as required under MCL 600.8039. If a request is made for a public record that is maintained electronically, the court is required to provide a means for access to that record; ~~however, the documents cannot be provided through a publicly accessible website if protected personal identifying information has not been redacted from those documents.~~ If a public document prepared or issued by the court contains protected personal identifying information, the information must be redacted before it can be provided to the public, whether the document is provided via a paper or electronic copy, direct access via a publicly accessible computer at the courthouse, or direct access via the internet, such as on the

court's website. The court may provide access to any case record that is not available in paper or digital image, as defined by MCR 1.109(B), if it can reasonably accommodate the request. Any materials filed with the court pursuant to MCR 1.109(D), in a medium for which the court does not have the means to readily access and reproduce those materials, may be made available for public inspection using court equipment only. The court is not required to provide the means to access or reproduce the contents of those materials if the means is not already available.

(1)–(2) [Unchanged.]

(I)–(L) [Unchanged.]

STAFF COMMENT: The proposed amendments of MCR 1.109 and 8.119 would allow SCAO flexibility in protecting an individual's personal identifying information and clarify when a court is and is not required to redact protected personal identifying information.

The staff comment is not an authoritative construction by the Court. In addition, adoption of an amendment in no way reflects a substantive determination by this Court.

A copy of this order will be given to the Secretary of the State Bar and to the State Court Administrator so that they can make the notifications specified in MCR 1.201. Comments on the proposal may be sent to the Supreme Court Clerk in writing or electronically by February 1, 2020, at P.O. Box 30052, Lansing, MI 48909, or ADMcomment@courts.mi.gov. When filing a comment, please refer to ADM File No. 2020-26. Your comments and the comments of others will be posted under the chapter affected by this proposal at Proposed & Recently Adopted Orders on Admin Matters page.

Proposed Amendment of Rule 2.105 of the Michigan Court Rules (Dated November 18, 2020)

On order of the Court, this is to advise that the Court is considering an amendment of Rule 2.105 of the Michigan Court Rules. Before determining whether the proposal should be adopted, changed before adoption, or rejected, this notice is given to afford interested persons the opportunity to comment on the form or the merits of the proposal or to suggest alternatives. The Court welcomes the views of all. This matter also will be considered at a public hearing. The notices and agendas for public hearings are posted at Administrative Matters & Court Rules page.

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[Additions to the text are indicated in underlining and deleted text is shown by strikeover.]

Rule 2.105 Process; Manner of Service

(A)–(G) [Unchanged.]

(H) Limited Liability Company. Service of process on a limited liability company may be made by:

- (1) serving a summons and a copy of the complaint on a member or the resident agent;
- (2) serving a summons and a copy of the complaint on a member or person in charge of an office or business establish-

ment of the limited liability company and sending a summons and a copy of the complaint by registered mail, addressed to the registered office of the limited liability company.

- (3) If a limited liability company fails to appoint or maintain an agent for service of process, or the agent for service of process cannot be found or served through the exercise of reasonable diligence, service of process may be made by delivering or mailing by registered mail to the director of the Department of Licensing and Regulatory Affairs (pursuant to MCL 450.4102) a summons and copy of the complaint.

(H)–(K) [Relettered (I)–(L) but otherwise unchanged.]

STAFF COMMENT: The proposed amendment of MCR 2.105 would establish the manner of service on limited liability companies.

The staff comment is not an authoritative construction by the Court. In addition, adoption of an amendment in no way reflects a substantive determination by this Court.

A copy of this order will be given to the Secretary of the State Bar and to the State Court Administrator so that they can make the notifications specified in MCR 1.201. Comments on the proposal may be sent to the Supreme Court Clerk in writing or electronically by March 1, 2021, at P.O. Box 30052, Lansing, MI 48909, or ADMcomment@courts.mi.gov. When filing a comment, please refer to ADM File No. 2020-20. Your comments and the comments of others will be posted under the chapter affected by this proposal at Proposed & Recently Adopted Orders on Admin Matters page.

Proposed Amendment of Rule 2.302 of the Michigan Court Rules (Dated November 18, 2020)

On order of the Court, this is to advise that the Court is considering an amendment of Rule 2.302 of the Michigan Court Rules. Before determining whether the proposal should be adopted, changed before adoption, or rejected, this notice is given to afford interested persons the opportunity to comment on the form or the merits of the proposal or to suggest alternatives. The Court welcomes the views of all. This matter also will be considered at a public hearing. The notices and agendas for public hearings are posted at Administrative Matters & Court Rules page.

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[Additions to the text are indicated in underlining and deleted text is shown by strikeover.]

Rule 2.302 Duty to Disclose; General Rules Governing Discovery

(A) [Unchanged.]

(B) Scope of Discovery.

(1)–(2) [Unchanged.]

(3) Trial Preparation; Materials.

(a)–(c) [Unchanged.]

(d) If a party intends to introduce an audio or video recording during a proceeding, the party will file transcripts of that audio or video recording in accordance with MCR 2.302(H).

(4)–(7) [Unchanged.]

(C)–(H) [Unchanged.]

STAFF COMMENT: The proposed amendment of MCR 2.302 would require transcripts of audio and video recordings intended to be introduced as an exhibit at trial to be transcribed.

The staff comment is not an authoritative construction by the Court. In addition, adoption of an amendment in no way reflects a substantive determination by this Court.

A copy of this order will be given to the Secretary of the State Bar and to the State Court Administrator so that they can make the notifications specified in MCR 1.201. Comments on the proposal may be sent to the Supreme Court Clerk in writing or electronically by March 1, 2021, at P.O. Box 30052, Lansing, MI 48909, or ADMcomment@courts.mi.gov. When filing a comment, please refer to ADM File No. 2020-19. Your comments and the comments of others will be posted under the chapter affected by this proposal at Proposed & Recently Adopted Orders on Admin Matters page.

Proposed Addition of Rule 3.906 of the Michigan Court Rules (Dated November 4, 2020)

On order of the Court, this is to advise that the Court is considering an addition of Rule 3.906 of the Michigan Court Rules. Before determining whether the proposal should be adopted, changed before adoption, or rejected, this notice is given to afford interested persons the opportunity to comment on the form or the merits of the proposal or to suggest alternatives. The Court welcomes the views of all. This matter also will be considered at a public hearing. The notices and agendas for public hearings are posted at Administrative Matters & Court Rules page.

Publication of this proposal does not mean that the Court will issue an order on the subject, nor does it imply probable adoption of the proposal in its present form.

[NEW] Rule 3.906 Use of Restraints on a Juvenile

(A) Instruments of restraint, such as handcuffs, chains, irons, or straitjackets, cloth and leather restraints, and other similar items, may not be used on a juvenile during a court proceeding and must be removed prior to the juvenile being brought into the courtroom and appearing before the court unless the court finds that the use of restraints is necessary due to one of the following factors:

- (1) Instruments of restraint are necessary to prevent physical harm to the juvenile or another person.
- (2) The juvenile has a history of disruptive courtroom behavior that has placed others in potentially harmful situations or presents a substantial risk of inflicting physical harm on himself or herself or others as evidenced by recent behavior.
- (3) There is a founded belief that the juvenile presents a substantial risk of flight from the courtroom.

(B) The court shall provide the juvenile's attorney an opportunity to be heard before the court orders the use of restraints. If restraints are ordered, the court shall state on the record or in writing its findings of fact in support of the order.

(C) Any restraints shall allow the juvenile limited movement of the hands to read and handle documents and writings necessary to the hearing. Under no circumstances should a juvenile be restrained using fixed restraints to a wall, floor, or furniture.

STAFF COMMENT: The proposed addition of MCR 3.906 would establish a procedure regarding the use of restraints on a juvenile in court proceedings.

The staff comment is not an authoritative construction by the Court. In addition, adoption of an amendment in no way reflects a substantive determination by this Court.

A copy of this order will be given to the Secretary of the State Bar and to the State Court Administrator so that they can make the notifications specified in MCR 1.201. Comments on the proposal may be sent to the Supreme Court Clerk in writing or electronically by March 1, 2021, at P.O. Box 30052, Lansing, MI 48909, or ADMcomment@courts.mi.gov. When filing a comment, please refer to ADM File No. 2020-17. Your comments and the comments of others will be posted under the chapter affected by this proposal at Proposed & Recently Adopted Orders on Admin Matters page.

Proposed Alternative Amendments of Rule 6.502 of the Michigan Court Rules (Dated October 28, 2020)

On order of the Court, this is to advise that the Court is considering proposed alternative amendments of Rule 6.502 of the Michigan Court Rules. Before determining whether either proposal should be adopted, changed before adoption, or rejected, this notice is given to afford interested persons the opportunity to comment on the form or the merits of the proposal or to suggest alternatives. The Court welcomes the views of all. This matter also will be considered at a public hearing. The notices and agendas for public hearings are posted at Administrative Matters & Court Rules page.

Publication of this proposal does not mean that the Court will issue an order on the subject, nor does it imply probable adoption of the proposal in its present form.

[Additions to the text are indicated in underlining and deleted text is shown by strikeover.]

ALTERNATIVE A

Rule 6.502 Motion for Relief from Judgment

(A)–(C) [Unchanged.]

(D) Return of Insufficient Motion. If a motion is not submitted on a form approved by the State Court Administrative Office, or does not substantially comply with the requirements of these rules, the court shall either direct that it be returned to the defendant with a statement of the reasons for its return, along with the appropriate form, or adjudicate the motion under the provisions of these rules. When a *pro se* defendant files his or her first motion effectively seeking to set aside or modify the judgment but styles the motion as something other than a motion for relief from judgment, the court shall promptly notify the defendant of its intention to recharacterize the pleading as a motion for relief from judgment; inform the defendant of any effects this might have on subsequent motions for relief,

see MCR 6.502(B), (G); and provide the defendant ___ days to withdraw or amend his or her motion before the court recharacterizes the motion. If the court fails to provide this notice and opportunity for withdrawal or amendment, the defendant's motion cannot be considered a motion for relief from judgment for purposes of MCR 6.502(B), (G). The clerk of the court shall retain a copy of the motion.

(E)–(G) [Unchanged.]

ALTERNATIVE B

Rule 6.502 Motion for Relief from Judgment

(A)–(C) [Unchanged.]

(D) Return of Insufficient Motion. If a motion is not submitted on a form approved by the State Court Administrative Office, or does not substantially comply with the requirements of these rules, the court shall either direct that it be returned to the defendant with a statement of the reasons for its return, along with the appropriate form, or adjudicate the motion under the provisions of these rules. Where the defendant files a motion effectively seeking to set aside or modify the judgment but styles the motion as something other than a motion for relief from judgment, the court shall direct that it be returned to the defendant with a statement of the reasons for its return, along with the appropriate form. The clerk of the court shall retain a copy of the motion.

(E)–(G) [Unchanged.]

STAFF COMMENT: The proposed alternative amendments of MCR 6.502 would address the issue of a court's recharacterization of a defendant's motion for relief from judgment that is styled as something other than a motion for relief from judgment. Under Alternative A, the court would be required to notify the defendant of its intent to recharacterize the motion and allow the defendant an opportunity to withdraw or amend the motion. Under Alternative B, the court would be required to return the motion to the defendant with a statement of the reason for return.

The staff comment is not an authoritative construction by the Court. In addition, adoption of an amendment in no way reflects a substantive determination by this Court.

A copy of this order will be given to the Secretary of the State Bar and to the State Court Administrator so that they can make the notifications specified in MCR 1.201.

Comments on the proposal may be sent to the Supreme Court Clerk in writing or electronically by February 1, 2021, at P.O. Box 30052, Lansing, MI 48909, or ADMcomment@courts.mi.gov. When filing a comment, please refer to ADM File No. 2020-07. Your comments and the comments of others will be posted under the chapter affected by this proposal at Proposed & Recently Adopted Orders on Admin Matters page.

Amendments of Rules 1.109, 2.002, 2.302, 2.306, 2.315, 2.603, 3.101, 3.222, 3.618, and 8.119 of the Michigan Court Rules (Dated October 28, 2020)

On order of the Court, notice of the proposed changes and an opportunity for comment having been provided, and consider-

ation having been given to the comments received, the following amendments of Rules 1.109, 2.002, 2.302, 2.306, 2.315, 3.101, 3.222, 3.618, and 8.119 of the Michigan Court Rules are adopted, effective January 1, 2021.

[Additions to the text are indicated in underlining and deleted text is shown by strikeover.]

Rule 1.109 Court Records Defined; Document Defined; Filing Standards; Signatures; Electronic Filing and Service; Access

(A)–(C) [Unchanged.]

(D) Filing Standards.

(1) Form and Captions of Documents.

(a) All documents prepared for filing in the courts of this state and all documents ~~issued~~prepared by the courts for placement in a case file must be legible and in the English language, comply with standards established by the State Court Administrative Office, and be on good quality 8½ by 11 inch paper or transmitted through an approved electronic means and maintained as a digital image. Except for attachments, the font size must be 12 or 13 point for body text and no less than 10 point for footnotes, except with regard to forms approved by the State Court Administrative Office. Transcripts filed with the court must contain only a single transcript page per document page, not multiple pages combined on a single document page.

(b)–(g) [Unchanged.]

(2)–(8) [Unchanged.]

(E)–(F) [Unchanged.]

(G) Electronic Filing and Service.

(1) [Unchanged.]

(2) Electronic-Filing and Electronic-Service Standards. Courts shall implement electronic filing and electronic service capabilities in accordance with this rule and shall comply with the standards established by the State Court Administrative Office. Confidential and nonpublic information or documents and sealed documents must be that are electronically filed or electronically served must be filed or served in compliance with these standards to ensure secure transmission of the information.

(3) Scope and Applicability.

(a)–(d) [Unchanged.]

(e) If a party or attorney in a case is registered as an authorized user in the electronic-filing system, a court must may electronically send to that authorized user any serve notices, orders, opinions, ~~and~~ other documents issued by the court in that case by means of the electronic-filing system. This rule shall not be construed to eliminate any responsibility of a party, under these rules, to serve documents that have been issued by the court.

(f) For the required case types, attorneys must electronically file documents in courts where electronic filing has been implemented, unless an attorney filing on behalf

- of a party is exempted from electronic filing under subrule (j) because of a disability. All other filers are required to electronically file documents only in courts that have been granted approval to mandate electronic filing by the State Court Administrative Office under AO 2019-XX2.
- (g) [Unchanged.]
- (h) Upon request, the following persons are exempt from electronic filing without the need to demonstrate good cause:
- (i) a person who has a disability as defined under the Americans with Disabilities Act that prevents or limits the person's ability to use the electronic filing system;
- (ii)–(iii) [Unchanged.]
- (i) A request for an exemption must be filed with the court in paper where the individual's case will be or has been filed as follows: If the individual filed paper documents at the same time as the request for exemption, the clerk shall process the documents for filing. If the documents meet the filing requirements of subrule (D), they will be considered filed on the day they were submitted.
- (i) The request for an exemption must be on a form approved by the State Court Administrative Office, must specify the reasons that prevent the individual from filing electronically, and be verified under MCR 1.109(D)(3). The individual may file supporting documents along with the request for the court's consideration. There is no fee for the request.
- (ii) ~~The request must specify the reasons that prevent the individual from filing electronically. The individual may file supporting documents along with the request for the court's consideration.~~
- (ii) A request made under subrule (h) shall be approved by the clerk of the court on a form approved by the State Court Administrative Office. If the clerk of the court is unable to grant an exemption, the clerk shall immediately submit the request for judicial review.
- (iii) ~~A judge must review the request and any supporting documentation and requests that are not granted by a clerk, requests made under subrule (g), and requests made under subrule (h)(i). The judge shall issue an order granting or denying the request within two business days of the date the request was filed.~~
- (j) If the individual filed paper documents at the same time as the request for exemption under subrule (i), the clerk shall process the documents for filing. If the documents meet the filing requirements of subrule (D), they will be considered filed on the day they were submitted.
- (k) ~~(iv)~~ The clerk of the court must hand deliver or promptly mail the clerk approval granted or order entered under subrule (i) to the individual. The clerk must place the request, any supporting documentation, and the clerk approval or order in the case file. If the request was made under subrule (h)(i), both the Request for Exemption from Use of MiFILE and the Request for Reasonable Accommodations, along with any support-
- ing documentation and the clerk approval or order shall be maintained confidentially. If there is no case file, the documents must be maintained in a group file.
- (l) ~~(v)~~ An exemption granted under this rule is valid only for the court in which it was filed and for the life of the case unless the individual exempted from filing electronically registers with the electronic-filing system. In that event, the individual waives the exemption and becomes subject to the rules of electronic filing and the requirements of the electronic-filing system. An individual who waives an exemption under this rule may file another request for exemption.
- (4)–(5) [Unchanged.]
- (6) Electronic-Service Process.
- (a) General Provisions.
- (i) [Unchanged.]
- (ii) Service of process of all other documents electronically filed shall be accomplished electronically among authorized users through the electronic-filing system, ~~unless one or more parties have~~ If a party has been exempted from electronic filing; or a party has not filed a response or answer or has not registered with the electronic-filing system and that party's e-mail address is unknown. In those circumstances, service shall be made on that party by any other method required by Michigan Court Rules.
- (iii)–(v) [Unchanged.]
- (b)–(c) [Unchanged.]
- (7) Transmission Failures.
- (a)–(c) [Unchanged.]
- (d) In the event the electronic-filing system fails to transmit a document selected for service, if deemed necessary to ensure due process rights are protected, the State Court Administrator shall provide notice to the affected persons in either of the following ways:
- (i) file, as a nonparty, a notice of defective service in each affected case and, as deemed appropriate, serve the notice, or
- (ii) send notice of a system-wide transmission failure to each affected system user.
- (e) If notice is provided under subrule (d), the clerk of the court where the affected case is filed must enter the event in the case history in accordance with MCR 8.119(D)(1)(a).
- (f) A fee shall not be assessed on a motion filed claiming that rights in the case were adversely affected by transmission failure of a document selected for service.
- Rule 2.002 Waiver of Fees for Indigent Persons
- (A) Applicability and Scope.
- (1)–(3) [Unchanged.]
- (4) If fees are waived under this rule before judgment, the waiver continues through the date of judgment unless ordered otherwise under subrule (J). If fees are waived under this rule postjudgment, the waiver continues through the date of adjudication of the postjudgment proceedings. In

probate proceedings, “postjudgment” means any proceeding in the case after the original petition is adjudicated. If jurisdiction of the case is transferred to another court, the waiver continues in the receiving court according to this rule unless ordered otherwise by the receiving court under subrule (J). If an interlocutory appeal is filed in another court, the waiver continues in the appellate court.

(5) [Unchanged.]

(B)–(K) [Unchanged.]

Rule 2.302 Duty to Disclose; General Rules Governing Discovery

(A)–(G) [Unchanged.]

(H) Filing and Service of Disclosure and Discovery Materials.

(1) Unless required by a particular rule, disclosures, requests, responses, depositions, and other discovery materials may not be filed with the court except as follows:

(a) If the materials are to be used in connection with a motion, they must either be filed separately or be attached to the motion, response, or an accompanying affidavit;

(b) If the materials are to be used at trial, they shall not be filed with the court, but must be submitted to the judge and made an exhibit under MCR 2.518 or MCR 3.930;

(c) [Unchanged.]

(2)–(4) [Unchanged.]

Rule 2.306 Depositions on Oral Examination of a Party

(A)–(E) [Unchanged.]

(F) Certification and Transcription; Filing; Copies.

(1)–(2) [Unchanged.]

(3) Except as provided in subrule (C)(3) or in MCR 2.315(E), a deposition may not be filed with the court unless it has first been transcribed. If a party requests that the transcript be filed, the person conducting the examination or the stenographer shall promptly file the certified transcript with the court in which the action is pending via the statewide electronic-filing system, by delivering it personally to the court, or by registered or certified mail to the clerk of the court; after transcription and certification; and shall give prompt notice of its filing to all other parties, unless the parties agree otherwise by stipulation in writing or on the record.

(a) If the transcript is personally delivered to the court, securely seal the transcript; it must be securely sealed in an envelope endorsed with the title and file number of the action and marked “Deposition of [name of witness];” and promptly file it with the court in which the action is pending or send it by registered or certified mail to the clerk of that court for filing;

(b) give prompt notice of its filing to all other parties, unless the parties agree otherwise by stipulation in writing or on the record.

(G) [Unchanged.]

Rule 2.315 Video Depositions

(A)–(D) [Unchanged.]

(E) Filing; Notice of Filing. If a party requests that the deposition be filed, the person who made the recording shall

(1)–(3) [Unchanged.]

A video deposition cannot be electronically filed with the court.

(F)–(I) [Unchanged.]

Rule 2.603 Default and Default Judgment

(A) Entry of Default; Notice; Effect.

(1) If a party against whom a judgment for affirmative relief is sought has failed to plead or otherwise defend as provided by these rules, the clerk must enter the default of that party if that fact is:

(a) known to the clerk of the court, or

(b) ~~and that fact is~~ verified in the manner prescribed by MCR 1.109(D)(3) and filed with the court in the request for default; ~~the clerk must enter the default of that party.~~

(2)–(3) [Unchanged.]

(B)–(E) [Unchanged.]

Rule 3.101 Garnishment After Judgment

(A)–(B) [Unchanged.]

(C) Forms. ~~The State Court Administrative Office~~ state court administrator shall publish approved forms for use in garnishment proceedings. The verified request and writ forms and the garnishment release form approved by the State Court Administrative Office must be used. Where e-Filing is implemented, when a request and writ form is filed with a court, the instructions and blank proof of service must not be filed. Separate forms shall be used for periodic and nonperiodic garnishments. The verified statement, writ, and ~~The~~ disclosure filed in garnishment proceedings must be substantially in the form approved by the State Court Administrative Office ~~state court administrator~~.

(D) Request for and Issuance of Writ. The clerk of the court that entered the judgment shall review the request. The clerk shall issue a writ of garnishment if the writ appears to be correct, complies with these rules and the Michigan statutes, and if the plaintiff, or someone on the plaintiff’s behalf, makes and files a statement verified in the manner provided in MCR 1.109(D)(3) stating:

(1)–(3) [Unchanged.]

(4) whether the garnishee is to make all payments directly to the plaintiff or the plaintiff’s attorney or to send the funds to the court.

(E) Writ of Garnishment.

(1) The writ of garnishment ~~must have attached or must include a copy of the~~ and the verified statement requesting for issuance of the writ must be included on the same form; ~~and~~ The writ must include information that will permit the garnishee to identify the defendant, such as the defendant’s address, social security number, employee identification number, federal tax identification number, employer number, or account number, if known.

(2) [Unchanged.]

(3) The writ shall direct the garnishee to:

(a)–(d) [Unchanged.]

(e) ~~in the discretion of the court and in accordance with subrule (J), order the garnishee either to~~

- ⊕ make all payments directly to the plaintiff or the plaintiff's attorney or
- ⊕ send the funds to the court, ~~in the manner~~ as specified by the plaintiff in the writ request under subrule (D)(4).

(4) [Unchanged.]

- (5) The writ shall inform the defendant that unless the defendant files objections within 14 days after the service of the writ on the defendant or as otherwise provided under MCL 600.4012,
- (a) without further notice the property or debt held pursuant to ~~under~~ the garnishment may be applied to the satisfaction of the plaintiff's judgment, and
 - (b) periodic payments due to the defendant may be withheld and paid according to subrule (3)(e) until the judgment is satisfied and ~~in the discretion of the court~~ paid directly to the plaintiff.

(6) [Unchanged.]

(F)–(I) [Unchanged.]

(J) Payment.

- (1) After 28 days from the date of the service of the writ on the garnishee, the garnishee shall transmit all withheld funds to the plaintiff, plaintiff's attorney, or the court as directed by the court pursuant to subrule (E)(3)(e) unless notified that objections have been filed.

(2)–(7) [Unchanged,]

(K)–(T) [Unchanged.]

Rule 3.222 Uniform Collaborative Law Act Process and Agreements

(A)–(B) [Unchanged.]

(C) Establishing Jurisdiction and Starting the Statutory Waiting Period. At any time after a collaborative law participation agreement is signed, if the parties are not already under the court's jurisdiction, the parties may commence an action to submit to the court's jurisdiction.

(1) [Unchanged.]

- (2) To commence an action at any time before the conclusion of the collaborative law process, the parties shall file a petition for court jurisdiction and declaration of intent to file a proposed final judgment or proposed final order on a form approved by the State Court Administrative Office.

- (a) The petition shall be brought "In the Matter of" the names of Party A and Party B and shall state the type of action corresponding to the assigned case type code ~~under~~ MCR 8.117 (~~listed under Case File Management Standard [A](6)~~). The petition shall:

(i)–(v) [Unchanged.]

The petition may also contain a request to waive the six-month statutory waiting period under MCL 552.9f.

(b)–(e) [Unchanged.]

(D)–(F) [Unchanged.]

Rule 3.618 Emancipation of Minor

(A)–(F) [Unchanged.]

(G) Order. To fulfill requirements of the Social Security Administration, the court must provide the minor with a copy of the

order of emancipation that includes the minor's full social security number, if the minor has one. The court shall not include the minor's social security number on the order maintained in the court's file.

(1) The minor must show his or her social security card to the judge at the hearing and the judge shall enter the number on the minor's copy of the order. If the minor does not bring his or her social security card to the hearing or does not have a social security card, the minor can present his or her social security card to the clerk of the court at a later date, and after verifying the identity of the minor, the clerk of the court shall enter the social security number on a copy of the order to be given to the minor.

(2) The order must be entered on a form approved by the State Court Administrative Office, consisting of two parts. The first part is placed in the case file and shall not contain the minor's social security number. The second part shall contain the minor's social security number and a statement that the order is a certified copy of the order on file with the court except that the social security number appears only on the minor's copy of the order. The minor's copy of the order shall be signed by the clerk of the court. There is no fee for the certified copy.

Rule 8.119 Court Records and Reports; Duties of Clerks

(A)–(B) [Unchanged.]

(C) Filing of Documents and Other Materials. The clerk of the court shall process and maintain documents filed with the court as prescribed by Michigan Court Rules and the Michigan Trial Court Records Management Standards and all filed documents must be file stamped in accordance with these standards. The clerk of the court may only reject documents submitted for filing that do not comply with MCR 1.109(D)(1) and (2), are not signed in accordance with MCR 1.109(E), or are not accompanied by a required filing fee or a request for fee waiver, unless already waived or suspended by court order. Documents prepared or issued by the court for placement in the case file are not subject to rejection by the clerk of the court and shall not be stamped filed but shall be recorded in the case history as required in subrule (D)(1)(a) and placed in the case file.

(D) Records Kept by the Clerk of the Court. The clerk of the court shall maintain the following case records in accordance with the Michigan Trial Court Records Management Standards. Documents and other materials made nonpublic or confidential by court rule, statute, or order of the court pursuant to subrule (I) must be designated accordingly and maintained to allow only authorized access. In the event of transfer or appeal of a case, every rule, statute, or order of the court under subrule (I) that makes a document or other materials in that case nonpublic or confidential applies uniformly to every court in Michigan, irrespective of the court in which the document or other materials were originally filed.

(1) [Unchanged.]

- (a) Case History. The clerk shall create and maintain a case history of each case, known as a register of actions, in

the court's automated case management system. The automated case management system shall be capable of chronologically displaying the case history for each case and shall also be capable of searching a case by number or party name (previously known as numerical and alphabetical indices) and displaying the case number, date of filing, names of parties, and names of any attorneys of record. The case history shall contain both pre- and post-judgment information and shall, at a minimum, consist of the data elements prescribed in the Michigan Trial Court Records Management Standards. Each entry shall be brief, but shall show the nature of each item filed, each item issued by order or judgment of the court, and the returns showing execution. Each entry ~~The case history entry of each item filed shall be dated with not only the date of filing (if relevant), but with and the date and initials of the person recording the action, except where the entry is recorded by the electronic filing system. In that instance, the entry shall indicate that the electronic filing system recorded the action. The case history entry of each order, judgment, opinion, notice, or other item issued by the court shall be dated with the date of entry issuance and the initials of and shall indicate the person recording the action.~~

(b) [Unchanged.]

(2)–(4) [Unchanged.]

(E)–(L) [Unchanged.]

STAFF COMMENT: The amendments of MCR 1.109, 2.002, 2.302, 2.306, 2.315, 2.603, 3.101, 3.222, 3.618, and 8.119 are the latest revisions made as part of the design and implementation of the state-wide electronic-filing system. The amendment of MCR 2.603(A), which requires a clerk to enter a default if a party's failure to plead or otherwise defend becomes known to the clerk, is intended to return the rule to its former posture. Under the rule's previous language, which was inadvertently deleted in making structural changes in the rule, the clerk was required to enter a default if a party's failure to plead or defend "is made to appear by affidavit or otherwise." The same policy would apply under the language adopted by amendment in this order.

The staff comment is not an authoritative construction by the Court. In addition, adoption of a new rule or amendment in no way reflects a substantive determination by this Court.

Amendment of Rules 1.109 and 8.119 of the Michigan Court Rules (Dated November 18, 2020)

On order of the Court, the effective date of the May 22, 2019 order amending MCR 1.109 and MCR 8.119 is extended from January 1, 2021 to July 1, 2021.

Amendment of Rule 6.110 of the Michigan Court Rules (Dated November 18, 2020)

On order of the Court, this is to advise that the amendment of Rule 6.110 of the Michigan Court Rules is adopted, effective immediately. Concurrently, individuals are invited to comment on the form or the merits of the amendment during the usual public

comment period. The Court welcomes the views of all. This matter also will be considered at a public hearing. The notices and agendas for public hearings are posted at Administrative Matters & Court Rules page.

[Additions to the text are indicated in underlining and deleted text is shown by strikeover.]

Rule 6.110 The Preliminary Examination

(A)–(B) [Unchanged.]

(C) Conduct of Examination. A verbatim record must be made of the preliminary examination. The court shall allow the prosecutor and the defendant to subpoena and call witnesses ~~Each party may subpoena witnesses, offer proofs, and examine and cross-examine witnesses at the preliminary examination. The court must conduct the examination in accordance with the Michigan Rules of Evidence.~~

(D)–(I) [Unchanged.]

STAFF COMMENT: The amendment of MCR 6.110 requires courts to allow a witness called by the prosecutor or defendant to appear at a preliminary examination as provided for by MCL 766.12. This proposal was submitted by the State Bar of Michigan.

The staff comment is not an authoritative construction by the Court. In addition, adoption of an amendment in no way reflects a substantive determination by this Court.

A copy of this order will be given to the Secretary of the State Bar and to the State Court Administrator so that they can make the notifications specified in MCR 1.201. Comments on the proposal may be sent to the Supreme Court Clerk in writing or electronically by March 1, 2021, at P.O. Box 30052, Lansing, MI 48909, or ADMcomment@courts.mi.gov. When filing a comment, please refer to ADM File No. 2020-22. Your comments and the comments of others will be posted under the chapter affected by this proposal at Proposed & Recently Adopted Orders on Admin Matters page.

Appointment of Deputy Grievance Administrator (Dated October 30, 2020)

On order of the Court, pursuant to MCR 9.109(A), Kimberly Uhuru is appointed Deputy Administrator of the Attorney Grievance Commission, effective January 1, 2021.

Appointment of Chief Judge of the 14B District Court (Dated November 18, 2020)

On order of the Court, effective January 1, 2021, the Honorable Erane C. Washington is appointed chief judge of the 14B District Court for the remainder of a term ending December 31, 2021.

Appointment of Chief Judge of the 24th Circuit Court, 73A District Court, and the Sanilac Probate Court (Dated November 18, 2020)

On order of the Court, effective January 1, 2021, the Honorable Gregory Ross is appointed chief judge of the 24th Circuit Court, 73A District Court, and the Sanilac Probate Court for the remainder of a term ending December 31, 2021.

Appointment of Chief Judge of the 28th District Court (Dated November 18, 2020)

On order of the Court, effective January 1, 2021, the Honorable Elisabeth Mullins is appointed chief judge of the 28th District Court for the remainder of a term ending December 31, 2021.

Appointment of Chief Judge of the 32A District Court (Dated November 18, 2020)

On order of the Court, effective January 1, 2021, the Honorable Rebekah R. Coleman is appointed chief judge of the 32A District Court for the remainder of a term ending December 31, 2021.

Appointment of Chief Judge of the 38th District Court (Dated November 18, 2020)

On order of the Court, effective January 1, 2021, the Honorable Kathleen G. Galen is appointed chief judge of the 38th District Court for the remainder of a term ending December 31, 2021.

Appointment of Chief Judge of the 57th Circuit Court (Dated November 18, 2020)

On order of the Court, effective January 1, 2021, the Honorable Valerie K. Snyder is appointed chief judge of the 57th Circuit Court for the remainder of a term ending December 31, 2021.

Appointment of Chief Judge of the 62B District Court (Dated November 18, 2020)

On order of the Court, effective January 1, 2021, the Honorable Amanda Sterkenburg is appointed chief judge of the 62B District Court for the remainder of a term ending December 31, 2021.

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