



**Michigan Supreme Court**  
**State Court Administrative Office**  
**Trial Court Services Division**  
Michigan Hall of Justice  
P.O. Box 30048  
Lansing, MI 48909

March 4, 2009

TO: Michigan Court Forms Committee (Friend of the Court representatives only)

FROM: Traci Gentilozzi, Forms and Manuals Analyst

RE: Agenda and Materials for **March 19, 2009 Meeting**

PLACE: **Michigan Hall of Justice**, 925 West Ottawa, downtown Lansing (map enclosed)

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Below is the agenda for the March 19 meeting for the Friend of the Court Section of the Michigan Court Forms Committee. The meeting starts at 9:30 a.m. and ends at 3:30 p.m. **Luncheon reservations have been made for you; if you cannot attend, please contact me at least two days before the meeting.** Please note that our office is located at 925 West Ottawa. A map and directions are provided.

Although documentation is provided with the agenda, it would be helpful to bring a copy of the Michigan Court Rules and any other resources you believe are necessary.

### **Notice of Minor Revisions**

Forms requiring minor changes, such as spelling, citations, grammar, punctuation, etc., will be corrected by the State Court Administrative Office and provided with the agenda materials, but do not require discussion or approval by the committee. Any of these forms will be discussed if members raise substantive issues or if also included in the agenda for other purposes. These forms will be corrected and distributed in June 2009: FOC 1a, FOC 1b, FOC 6, FOC 12, FOC 39a (listed below for discussion on another issue), FOC 39c (listed below for discussion on another issue), FOC 39d (listed below for discussion on another issue), FOC 39e (listed below for discussion on another issue), FOC 58, FOC 60, FOC 62, FOC 67, FOC 82, FOC 83, FOC 84, FOC 86, and FOC 91.

#### 1. Verified Pleadings and Declaration Language

Last year the committee asked the SCAO to research the need to include the standard declaration language on various pleadings. Pursuant to MCR 2.114, only “verified”

pleadings require an oath or, in the alternative, the declaration language. The SCAO suggests the declaration language be removed from the following forms because there is no requirement that they be verified: FOC 2, FOC 2a, FOC 13, FOC 13a, FOC 19, FOC 21, FOC 24, FOC 39d, FOC 40, FOC 43, FOC 45, FOC 47, FOC 50, FOC 51, FOC 61, FOC 65, FOC 66, FOC 68, FOC 78, FOC 79, FOC 81, FOC 85, FOC 87, FOC 88, FOC 100, and FOC 109.

2. Certificate of Mailing

Last year the committee decided the standard Certificate of Mailing should say: “I certify that on this date I served a copy of this [name of document] on the parties or their attorneys by first-class mail addressed to their last-known addresses as defined in MCR 3.203.” The SCAO agreed to identify the forms that need the Certificate of Mailing revised and to include notice of them in the 2009 agenda. The forms include: FOC 2, FOC 2a, FOC 19, FOC 21, FOC 24, FOC 30a, FOC 40, FOC 43, FOC 45, FOC 47, FOC 50, FOC 51, FOC 61, FOC 65, FOC 66, FOC 68, FOC 78, FOC 79, FOC 81, FOC 85, FOC 87, FOC 88, FOC 92, FOC 102, FOC 103, FOC 104, FOC 106, FOC 107, FOC 109, FOC 110, FOC 111, FOC 112, FOC 113, and FOC 114. See also comment made during publication.

3. FOC 8, Order for Release for Work or to Seek Work

Last year the committee suggested this form should not be a friend of the court form and recommended it be published in 2009 for possible deletion. See the attached meeting minutes.

4. FOC 10/52, Uniform Child Support Order

Item 3 needs revised because the social security benefit credit is misplaced. Section 3.07 of the Michigan Child Support Formula Manual requires the social security benefit credit be subtracted from the total child-support obligation. See the attached e-mail.

It has also been asserted that this form does not specifically order anyone to pay child support. Should the form be revised to state this more specifically?

5. FOC 13a, Complaint for Enforcement of Health Care Expense Payment

It has been suggested the form’s title is misleading and court staff may incorrectly label it as a complaint that starts a new cause of action, when that is not the form’s purpose. The term “complaint” is used in the title of the form because “complaint” is used in MCL 552.511a. Should the form’s title be changed?

Also, the SCAO suggests that MCL 552.602 be deleted from the foot of the form because the statute no longer defines health-care expense.

See also comment made during publication.

6. FOC 23, Verified Statement and Application for IV-D Services

It has been suggested that a provision be included to notify parties a fee is charged when applying for IV-D services. Because not all parties are charged for IV-D services and parties are given fee information in other ways (e.g., an information package), should this provision be included?

7. FOC 29, Order Allowing Change of Domicile/Legal Residence

A request has been made that the reference to modification of support be deleted in item 2 because friend of the court offices can only accept a Uniform Child Support Order to modify support. It is suggested that the language in item 2 be changed to: "The support of the minor child(ren) shall be that as contained in the Uniform Child Support Order entered contemporaneously with this Order and incorporated herein by reference." MCR 3.211(D)(2)(a) provides, "No judgment or order concerning a minor ... shall be entered unless either: (a) The final judgment or order incorporates by reference a Uniform Support Order ...." See the attached e-mail.

The SCAO suggests the committee also consider the following:

(1) The factors in MCL 722.31(4) must be considered by the court and this should be referenced in item 1.

(2) Whether item 1 should be revised pursuant to MCL 722.31(2) and MCR 3.211(C) to clarify that either: (a) the 100-mile rule does not apply to sole custody situations, or (b) the 100-mile rule only applies to joint custody situations.

(3) Whether the form should provide for situations where less than all the children are removed from the current domicile.

(4) Whether this is an "order awarding custody." If so, MCR 3.211(C)(1)-(3) should be included on the form.

(5) The language in item 5 regarding the parties' addresses, etc., is not permitted by court rule or statute and should be deleted, unless this is determined to be an order awarding custody.

See also comments made during publication.

8. FOC 39a, 39b, 39c, and 39d, Friend of the Court Case Questionnaire (pages 1, 2, 3 and 4)  
FOC 39e, Child Care Verification

The SCAO has suggested the committee thoroughly review the questionnaire due to recent changes in the Michigan Child Support Formula Manual. Specifically, the committee should address whether: (1) any requested information should be deleted because it is no longer permitted or necessary (e.g., item 40), (2) any requested information should be revised/updated, and (3) new information should be added, such as cell phone number, e-mail address, and professional licenses.

Pursuant to §3.03 of the Michigan Child Support Formula Manual, effective October 1, 2008, a parenting-time offset is now available. The questionnaire should be revised accordingly to include the number of overnight stays a child has with each party. See the attached e-mails.

Pursuant to §2.08 of the Michigan Child Support Formula Manual, it has been suggested that space be included on the questionnaire for additional (biological or adopted) minor children, including: (1) those from a relationship with someone other than the other parent in the case under consideration; (2) those in common with the other parent in this case who live in a third party's custody, when determining support for children living with either parent; and (3) those in common with the other parent in this case who live with either parent, when determining support for other children in common who live in a third party's custody. The SCAO suggests that item 39 may be revised to somehow include this information. See the attached e-mail.

A request has been made to move the signature line on FOC 39d (page 4) to FOC 39a (page 1) because parties forget to sign the form after it is completed. It is asserted that placing the signature line at the beginning of the form will help solve this problem. There currently is a boldface instruction on FOC 39a that says, "Complete this form and sign on page 4." Should the signature line be moved to page 1 as suggested? Or should the current instruction on page 4 be displayed more prominently? See the attached e-mail.

A similar request has been made to move the checkbox for IV-D services on FOC 39d (page 4) to FOC 39a (page 1) so that persons completing the form do not forget to check the box. It is suggested the following language be used: "USE NOTE: Complete this form and send the original to the friend of the court. Keep a copy for yourself. Do not file this form with the office of the clerk of the court.  I request child-support services under the child-support-enforcement program of Title IV-D of the Social Security Act. (If you want friend of the court services, you must check this box.)" See the attached e-mail.

It has been questioned why there are four different form numbers (39a, 39b, 39c, and 39d) when a "complete" questionnaire includes all four forms/pages. It is asserted that labeling the questionnaire this way causes confusion. In order to clarify that all four pages are necessary for a "complete" questionnaire, it is suggested the title of the forms indicate "Page 1 of 4," "Page 2 of 4," "Page 3 of 4," and "Page 4 of 4." See the attached e-mail.

The SCAO has suggested that FOC 39e, Child Care Verification, be removed from the questionnaire "package" of forms and be given a separate form number (not part of the "39 series"). It is asserted that accessing the form would be easier this way, and the form is often used without the questionnaire.

See also comment made during publication.

9. FOC 50, Motion Regarding Support

The SCAO has suggested that item 2 in the Instructions include information about the \$40 judgment and order entry fee (in an action where support of minor children is determined). Some courts require that this fee be paid when the motion is filed. A draft is provided.

10. FOC 55, Statement of Account

Last year committee members were asked about the purpose of this form. The distribution shows a copy going in the court file, but the address in the masthead is the friend of the court. Typically, when the friend of the court address is in the masthead, it is a form generated by the friend of the court, a copy of which goes in the friend of the court file rather than the court file. Members indicated the original should go to the requesting party and no copy should go to MiCSES or to the friend of the court because the record is generated from MiCSES and the data can be regenerated whenever necessary; however, members were undecided about placement of the document in the court file. The SCAO inquired whether this form needed to be SCAO-Approved if its use is merely for the benefit of a party when requested by one of them. After further discussion, the committee recommended the form be published for possible deletion in 2009.

The SCAO notes the purpose of this form was also questioned in 2004. At that time, the committee decided the form should be changed for use as a "Statement of Account" pursuant to MCL 552.509(5), rather than a "Certificate of Overdue Support." Reference to the friend of the court was changed to MiCSES in both the distribution of the form and item 3.

Since last year's recommendation to possibly delete the form, the SCAO has been advised that, pursuant to MCL 552.1601(1)(c), interstate caseworkers use this form to "certify arrears" and often include a month-by-month printout with it. Caseworkers have indicated that the form is beneficial because it succinctly clarifies matters for other states. See the attached e-mail.

See also comments made during publication.

11. FOC 70, Determination on Arrearage

Last year the committee considered a suggestion to revise the form to comply with the version used by MiCSES. The SCAO noted the MiCSES form is supposed to mirror the SCAO-Approved form, and not vice versa. Committee members discussed the changes and additions made by MiCSES, and indicated they were desirable. The SCAO inquired whether it was necessary for this form to be SCAO-Approved because it is not filed with the court and is a notice. The SCAO remarked that the committee had reviewed many of the MiCSES forms several years ago and had identified many forms that could be created

and maintained by the Office of Child Support without the need for an underlying SCAO-Approved form. It was suggested that perhaps this is one of those forms that can be deleted. Members recommended the form be published in 2009 for possible deletion.

12. FOC 72a, Citizen Advisory Committee Request to Access Friend of the Court Records

Last year the committee was asked if FOC 72a could be considered for possible deletion because there are so few Citizen Advisory Committees and, where they exist, a local administrative order is in place to handle requests for access to friend of the court records. Committee members agreed to publish the form for possible deletion in 2009.

13. FOC 90, Notice of Lien

Last year the committee discussed whether this form meets the requirements of MCL 565.201 *et seq.*, both substantively and with regard to format. The SCAO agreed to research the formatting requirements in MCL 565.201(f) to determine whether the form is in compliance; it has examined the form and believes the form satisfies the statutory requirements. As for the substantive requirements, the committee suggested the actual name of the drafter should be included on the form, indicating that reference to the friend of the court generally as the claimant does not meet the statutory requirements.

Apparently, some registers of deeds are rejecting this form, claiming it does not comply with the statutes because: (1) there is no line to print or type the name of the person who signs as the “authorized agent or attorney for obligee” and (2) there is no line to print the name of the notary public. It is asserted the name of the person executing the instrument and the notary public are currently being handwritten or typed underneath the signature lines to ensure compliance. Pursuant to MCL 565.201a, an instrument “shall contain the name of the person who drafted the instrument and the business address of such person.” Pursuant to MCL 565.201(1)(a) and (c), a register of deeds “shall not” receive an instrument for recording unless: (1) the name of each person executing the instrument is legibly printed, typewritten, or stamped beneath the original signature or mark of the person, and (2) the name of the notary public whose signature appears on the instrument is legibly printed, typewritten, or stamped on the instrument “immediately beneath” the signature of that notary. MCL 565.203 states, “The provisions of paragraphs (a), (c) ... of section 1 shall not apply to any instrument upon which the signature itself is printed, typewritten or stamped.” Should the form include lines for entering the printed, typewritten, or stamped name of the person executing the instrument and of the notary public? Or is the form currently in compliance with the statutes? See the attached e-mails.

The SCAO also questions whether checkbox “B.” should be deleted if the friend of the court is the only claimant.

Because FOC 90 is used in conjunction with FOC 91, FOC 92, and FOC 93, any changes to FOC 90 may also require changes to these other forms, so they are included for

reference purposes.

A request has been made to add a Certificate of Mailing to this form. It is asserted that (1) courts must currently prepare a separate Certificate of Mailing and it would be more efficient to have it on the form, and (2) a Certificate of Mailing should be on the form in case an issue arises regarding when and to whom the form was mailed. It is intended that a copy of FOC 91, Notice of Perfection of Lien, and a copy of FOC 90 are both sent to the payer after FOC 90 has been sent to the person/entity holding the payer's property. The Certificate of Mailing on FOC 91 serves as the Certificate of Mailing for FOC 90 (it states that both FOC 90 and FOC 91 were sent to the payer). In light of that fact, should FOC 90 contain a separate Certificate of Mailing? See the attached e-mail.

Related to the Certificate of Mailing is the distribution of the form, and the SCAO suggests the committee determine the appropriate distribution.

The form is being republished for comment.

14. FOC 92, Notice to Release Lien

Last year the committee discussed whether this form meets the requirements of MCL 565.201 *et seq.*, both substantively and with regard to format. The SCAO agreed to research the formatting requirements in MCL 565.201(f) to determine whether the form is in compliance; it has examined the form and believes the form satisfies the statutory requirements. As for the substantive requirements, the committee suggested the actual name of the drafter should be included on the form, indicating that reference to the friend of the court generally as the claimant does not meet the statutory requirements. Pursuant to MCL 565.201a, an instrument "shall contain the name of the person who drafted the instrument and the business address of such person." Pursuant to MCL 565.201(1)(a) and (c), a register of deeds "shall not" receive an instrument for recording unless: (1) the name of each person executing the instrument is legibly printed, typewritten, or stamped beneath the original signature or mark of the person, and (2) the name of the notary public whose signature appears on the instrument is legibly printed, typewritten, or stamped on the instrument "immediately beneath" the signature of that notary. MCL 565.203 states, "The provisions of paragraphs (a), (c) ... of section 1 shall not apply to any instrument upon which the signature itself is printed, typewritten or stamped." Should the form include lines for entering the printed, typewritten, or stamped name of the person executing the instrument and of the notary public? Or is the form currently in compliance with the statutes? See the attached e-mails.

Last year the committee also considered whether the declaration needs to be on this form, but was uncertain. The SCAO was asked to research the requirement and report back to the committee. The SCAO believes this particular declaration language should remain on the form pursuant to MCL 565.202(b).

Because FOC 92 is used in conjunction with FOC 90, FOC 91, and FOC 93, any changes

to FOC 92 may also require changes to these other forms, so they are included for reference purposes.

The form is being republished for comment.

15. FOC 95, Findings and Report on Arrearage Payment Amount

Last year when the committee was reviewing this form for various suggested revisions, it decided to table discussion and recommended the form be published in 2009 for possible deletion. The SCAO requires additional time to research the background on the development of the form and the continued need for the form. Therefore, it is recommended further discussion on the form be tabled until 2010.

16. FOC 99, Notice of Registration of Out-of-State Child-Custody Determination (UCCJEA)

The SCAO has suggested the following revisions to this form:

(1) Item 3 – Include the Order date.

(2) Item 4 – There is no statutory basis for providing two copies (one certified) or a copy of the attachments to the parties and, therefore, it should say, “A copy is attached.”

(3) Item 5 – To better reflect MCL 552.1312, indicate that “a registered custody determination or any order to enforce issued by another state is entitled to full faith and credit, unless the order has been vacated, stayed, or modified.”

(4) Item 6 – To clarify matters, change the language to: “A hearing to contest the validity of the registered child-custody determination must be requested within 21 after service of this notice ...” (added language underlined).

(5) Request for Hearing – “Check this box to request a hearing ...” is redundant of the information below it and should be changed to say, “To request a hearing, check the appropriate box, sign and date the request, and return it to the court at the above address.”

(6) Request for Hearing – The first checkbox should say, “The issuing court did not have jurisdiction” because MCL 722.1304(4) permits a contest if the issuing court did not have jurisdiction under article 2, whether it’s personal jurisdiction or subject-matter jurisdiction.

See the attached e-mail. See also comment made during publication.

17. FOC 99a, Order Confirming Registration of Out-of-State Child-Custody Determination (UCCJEA)

The SCAO has suggested the committee consider including an option for vacating registration in addition to confirming registration. Can this be accomplished by including a checkbox in the title for “ Confirming” or “ Vacating,” changing the form’s title, and adding a checkbox option in the Order section? Should a separate form be developed and, if so, what is required to be on the form? It should be noted that, when the Uniform Child Custody Jurisdiction Enforcement Act forms were initially developed, the committee recommended creating only those forms pertaining to registering a foreign

order and providing notice of registration because the court rules were unclear regarding procedures and the act had not been in place for long.

It is also suggested the committee consider the following:

- (1) Item 4 – Include additional findings that follow the grounds for contesting registration, such as: “ The issuing state lacked jurisdiction to make the determination,” “ The child-custody determination has been vacated, stayed, or modified by a court of a state having jurisdiction to do so,” “ The respondent did not receive proper notice before the child-custody determination was issued,” “ This court lacks jurisdiction to enforce the order” and “ This court lacks jurisdiction over the respondent.”
- (2) Item 6 – “This registered order cannot be contested” should be clarified somehow because it exceeds what is permitted by law. Further contest of the custody determination/order is prohibited “with respect to any matter that could have been asserted at the time of registration.”

See the attached e-mail. See also comment made during publication.

18. FOC 100, Domestic Relations Judgment Information

A suggestion has been made that space be added for personal information on third-party custodians/guardians of children (e.g., social security number, address, and telephone number). It is asserted this would be helpful in divorce cases where there is a third-party custodian/guardian. Do the court rules permit gathering this information from someone who is not a party to the case? If so, is it necessary? See also comment made during publication.

19. New Form, Motion to Change Domicile

A request has been made to develop this form. A friend of the court has asserted she gets numerous calls requesting such a form. Currently, there is only an Order Allowing Change of Domicile/Legal Residence, FOC 29. The committee has not approved previous requests to develop this form. See the attached meeting minutes. No draft is provided.

See also comments made during publication.

20. New Form, Order for Interim Effect

It has been suggested that a form be developed pursuant to MCR 3.215(G) for any referee recommendations that will be given interim effect. Is this necessary? A draft is provided. See also comment made during publication.

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Attachments

cc: Steve Capps  
Anne Boomer  
Sally LaCross  
Amy Byrd  
Jim Inloes  
Bill Bartels  
Regional Administrators



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March 4, 2009

Hon. William C. Buhl  
Chair, Michigan Court Forms Committee  
36th Circuit Court  
Courthouse  
Paw Paw, MI 49079

Dear Judge Buhl:

Enclosed is the agenda and all materials for the March 19, 2009 Michigan Court Forms Committee. As in previous years, you will be presiding over the meeting as chairperson. Thank you for continuing in this position.

If you have any questions, please call me at 517-373-2217.

Sincerely,

Traci R. Gentilozzi  
Forms and Manuals Analyst  
Trial Court Services

Enclosures