

Order

Michigan Supreme Court
Lansing, Michigan

January 18, 2023

Elizabeth T. Clement,
Chief Justice

ADM File No. 2017-28

Brian K. Zahra
David F. Viviano
Richard H. Bernstein
Megan K. Cavanagh
Elizabeth M. Welch
Kyra H. Bolden,
Justices

Retention of the 4/1/22
Amendment of Rule 1.109
of the Michigan Court Rules,
With Further Amendments
as Indicated

By order dated December 6, 2021, the Court adopted an amendment of Rule 1.109 of the Michigan Court Rules, effective April 1, 2022. Notice and opportunity for public comment having been provided, effective immediately, the amendment of Rule 1.109 is retained, with further amendment appearing in underlining and/or strikethrough below.

[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)-(iv) [Unchanged.]

(v) Consent.

(A) [Unchanged.]

(B) The State Court Administrative Office will maintain a list of authorized individuals who are permitted~~may~~ ~~have~~ access to a party's date of birth contained in a court

record for purposes of verifying the identity of that particular person without the need to present a stipulation to the court. To be placed on this list, these individuals must conform to the following procedures:

- (1) In a written document, identify the entity for which they work and provide assurance to the State Court Administrative Office that each time they seek verification of a party's date of birth, it will be in the course of their work and with that person's consent. The consent ~~must~~may be retained in the possession of the authorized individual, the entity for whom the individual works, the person or organization seeking the information about the person, or someone acting on behalf of that person or organization. Such assurance may be satisfied by a letter from the entity for which the individual works or other document establishing authorization. The assurance required under this provision shall be updated at least every six months, beginning from the date of the original submission. The update ~~must~~may be provided by the individual who seeks access to a person's date of birth or by the entity that authorizes the individual to operate on its behalf in accessing the information.

- (2) Submit proof of their employer's or hiring entity's current professional liability insurance in effect during the period when an authorized individual will be seeking date of birth information from a court. Failure to do so will result in the individual being removed from the list or in the individual not being placed on the list. The information provided in support of this provision shall be nonpublic. The proof of insurance required under this provision shall be updated upon the expiration or termination of the insurance policy~~annually~~.

- (3) Courts must verify the identity of anyone who claims to be an authorized individual by ensuring the name on the individual's state-issued identification matches the name in SCAO's authorized user list. Courts and the State Court Administrative Office may create secure, individualized accounts that allow authorized individuals to access a party's date of birth electronically. A court ~~must~~ may issue a public register of actions or other public document that includes a party's date of birth to an authorized individual.

(vi)-(vii) [Unchanged.]

(c)-(e) [Unchanged.]

(10) [Unchanged.]

(E)-(H) [Unchanged.]

Staff Comment (ADM File No. 2017-28): The amendments of MCR 1.109(D)(9)(B) clarify some aspects of the process for providing authorized individuals access to a party's date of birth for purposes of identity verification.

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.



I, Larry S. Royster, Clerk of the Michigan Supreme Court, certify that the foregoing is a true and complete copy of the order entered at the direction of the Court.

January 18, 2023

Clerk