

# MICHIGAN SUPREME COURT

## PUBLIC ADMINISTRATIVE HEARING

**JANUARY 14, 2026**

**CHIEF JUSTICE MEGAN CAVANAGH:** All right. Good morning everyone. Welcome to the Court's January administrative hearing. We have a single item on the agenda today. Just a couple of housekeeping reminders: each speaker will have two minutes to give comments; Justices will have the opportunity to ask questions, obviously. There's a clock in the corner that should help with keeping time. And then just a reminder that, given the nature of this proceeding, we just remind the commenters that to avoid talking about specific cases or controversies, right? And keep their comments focused on the reactions and recommendations regarding the court rule that's under consideration. So, with that, I will turn to our first speaker, Elinor Jordan, from the Michigan Poverty Law Program. Miss Jordan.

**ELINOR JORDAN, MICHIGAN POVERTY LAW PROGRAM:** Thank you. Trying to unmute myself. Chief Justice and Justices, thank you for the opportunity to speak. My name is Elinor Jordan and I'm an attorney with Michigan Poverty Law Program. We work statewide with civil legal aid to promote the health, safety, and economic security of low-income Michiganders, and to advance racial justice. MPLP strongly supports the proposed amendment to Rule 8.115. This amendment goes to the very core of every court's mission: ensuring that disputes can be resolved and the law can be fairly applied. Immigration enforcement activity in courthouses undermines racial justice. When staff and court visitors may be stopped or questioned based on race, accent, or perceived immigration status, while their white counterparts pass freely, it's traumatic, intimidating, and destabilizing.

Legal services clients are often very nervous about their legal proceedings to begin with because of the high stakes. For instance, they fear becoming unhoused or losing the ability to feed their families. So, courts simply cannot function if litigants, witnesses, and victims stay away out of fear. In public benefits cases, courts depend on the testimony and records from individuals whose benefits were denied. If eligible people stay away, erroneous denials go uncorrected and the statutory right to judicial review becomes hollow. The same is very true in housing cases. Tenants must be able to safely appear to raise defenses. When they're too afraid to attend, judges hear only the landlord's side. Default judgments may enter, not because the landlord is right, but because the landlord could, or the tenant, could not safely come to court. Many tenants

facing severe conditions such as mold, no heat, infestations, or unsafe wiring are immigrants or live in mixed status families. And when these litigants disappear from the process out of fear, landlords learn that they can ignore repair obligations without any consequences; and housing standards decline for the whole community.

So, it comes down to this. When the most marginalized Michiganders cannot safely access the courts, everyone suffers. The rule here would strengthen the court's ability to do their essential work, and we would urge this court to adopt it. Thank you so much. I'd be happy to answer any questions.

**CHIEF JUSTICE MEGAN CAVANAGH:** Thank you, Miss Jordan. Any questions?

**JUSTICE NOAH HOOD:** Miss Jordan, in your view, does it make a difference if the rule applies only to mandatory court appearances, or should it apply more broadly to both mandatory and discretionary court appearances?

**ELINOR JORDAN, MICHIGAN POVERTY LAW PROGRAM:** Thank you so much for that question. My colleague's going to speak a little bit more to some safety considerations. So, I'll try to let her answer that even more further. However, I would say it matters a lot that it apply more broadly because this would allow it to not just to the person who's mandatory to appear, but also, I've worked a lot in domestic violence cases and cases where people are very nervous to come to court. So, having anyone who would support you, you should be able to have the person that most can support you in that moment of fear and nervousness come to court with you without fear of additional enforcement possibilities or just being questioned, or otherwise feel intimidated. So, I think you will see that the courts will get better testimony, more effective testimony, more accurate testimony, if the people who are coming to do their testimony have the support people in place who are the most important in their personal set of supporters if that makes sense.

**JUSTICE NOAH HOOD:** Yes. Thank you.

**CHIEF JUSTICE MEGAN CAVANAGH:** Thank you. Any other questions? Okay. Thank you, Miss Jordan. We appreciate you being here. Our next speaker is Yvonne Black, who I do not see, so we will go past her, and we'll circle back in case she joins us later. The next speaker is Lisa Varnier, if I'm saying that correctly.

**LISA VARNIER:** Varnier, but I'll take—

**CHIEF JUSTICE MEGAN CAVANAGH:** Sorry. Sorry about that.

**LISA VARNIER:** Good morning, Your Honors. My name is Lisa Varnier, and I'm an attorney in Oakland County. I have been helping immigrants comply with federal and state laws for several years now. So, I strongly support the Court's proposed revisions to the court rule. My one suggestion is that the term civil arrest be defined so that it expressly includes civil immigration warrants. The reason for my request is this: the Michigan court rules do not define what a civil arrest is, at least I couldn't find any definition. But MCL 600.6075, which defines the grounds for a civil arrest, refers only to civil arrests pertaining to contempt of court, an action to recover a fine or penalty, and actions against judgment debtors.

My concern is that the revised court rule will be interpreted to apply only to the civil arrests described in this state statute so that immigrants would not be protected from civil immigration arrests in a court building. From my work with immigrants, I can tell you that even though they are fully documented, and are in this country with the permission of the federal government, they are absolutely terrified of going to any court building for fear that they will be arrested by ICE. Their fear precludes them from participating in criminal and civil justice systems as well as going to the county clerk's office, the register of deeds, and other county offices where they need to do business; because the building that houses those offices, and as an example in Oakland County Circuit Court, contains several county offices that my clients may need to access. So, I very much appreciate the time to comment, and I invite any questions you might have.

**CHIEF JUSTICE MEGAN CAVANAGH:** Thank you. Any questions? No. Thank you, Miss Varnier. Thank you for being here. Our next speaker is Emily Duthinh. I may have that correct, please—or incorrect, please correct me. Emily, how do you say your last name?

**EMILY DUTHINH:** My name is Emily Duthinh, and I'm trying to turn on my video here. Here we go. So, thank you very much. My name is Emily Cord Duthinh. I am also in Oakland County, and I urge you to support this ruling. I'm a concerned member of the community who cares deeply about law and order. In the past months, we've seen alarming incidents in our region, including in the Pontiac area, in which noncriminal law-abiding Latino families have been targeted by federal immigration enforcement, separated, intimidated, or made to live in constant fear of losing their livelihoods and children. These incidents reflect a pattern that is deeply harmful effects on our families, our children's education and well-being, and the sense of security in our neighborhoods. Because ICE disguises their identity and lives routinely, they are destroying the community's trust in law enforcement. This undermines law and order and makes all of us less safe. Families are understandably afraid to go to courthouses to conduct normal

business such as contesting traffic violations, getting marriage licenses, and appearing as witnesses. We're helping one person who wants to contest a traffic violation, maintain that she is innocent of that relatively minor traffic, and we are urging her just to plead guilty and pay the fine because we are concerned she would be arrested by ICE at the courthouse. That has nothing to do with a traffic violation.

Michigan residents should not have to fear encountering masked secret police when they are coming to our courthouses to comply with our laws. Such publicly funded spaces should prohibit non-emergency ICE activity unless accompanied by a valid judicial warrant. Supporting law and order requires protecting us from overreaching government actions. New York, California, and Illinois have already made state court houses ICE-free zones so immigrants can comply with law without fear of being unjustly detained. Please extend this protection to our immigrant neighbors in Michigan. Thank you.

**CHIEF JUSTICE MEGAN CAVANAGH:** Thank you very much. Any questions? No. All right. Thank you. Thank you for your comments. Our next speaker is Syeda Davidson from the ACLU of Michigan. Oh, I don't think we can hear you.

**SYEDA DAVIDSON, ACLU OF MICHIGAN:** Oh, that's because I'm not speaking.

**CHIEF JUSTICE MEGAN CAVANAGH:** There you go. Okay.

**SYEDA DAVIDSON, ACLU OF MICHIGAN:** Good morning. My name is Syeda Davidson, and I'm a senior staff attorney at the ACLU of Michigan. I'm here to provide comment on behalf of both the ACLU and the Michigan Immigrant Rights Center. We appreciate the Court having considered this matter on an expedited basis. I recognize that the Court has received a lot of information from us on this court rule already, namely the original request for implementation, and our submitted written comment. So, instead of repeating the points made in those communications, I'd like to highlight the fact that other courts have implemented such rules and that they have been found not to be preempted by federal law. Absent a clear and manifest purpose expressed by Congress, there is a presumption against federal law preempting state law. The INA, which is the federal statute that confers authority to make warrantless immigration arrests, is silent as to whether those arrests are prohibited in courthouses. And thus, there is no indication that Congress intended to abrogate long-standing privilege against civil arrests in courthouses. The same rationale exists here where Michigan's courts have held that the same privilege exists since at least 1929. I know that the Court asked that we not name any cases specifically, so I will just add that I have at least one citation if you would like it.

Courthouses have an immense impact on people's lives. People arrest—people appear in court for their own civil matters. They handle custody proceedings and they seek PPOs. They cooperate with prosecutors when they are victims of crime and when they're facing criminal charges, they have an absolute right to appear in court to defend them.

Both the Michigan and United States Constitutions guarantee everyone the right to meaningfully access courts. This right has long been recognized to apply to citizens and non-citizens alike. We urge the court to adopt this rule because it is critical to the integrity of our justice system that everyone be able to access our courts to handle whatever their legal business is without fear of being arrested. Thank you.

**CHIEF JUSTICE MEGAN CAVANAGH:** Thank you, Miss Davidson. Does anyone have any questions? No. Okay. Thank you. We appreciate you being here and appreciate your comments.

**SYEDA DAVIDSON, ACLU OF MICHIGAN:** Thank you.

**CHIEF JUSTICE MEGAN CAVANAGH:** Our next speaker is Emily Miller, from the Crime Victims Legal Assistance Project. Miss Miller.

**EMILY MILLER, CRIME VICTIMS LEGAL ASSISTANCE PROJECT:** Your Honor, Chief Justice, Justices, thank you for the opportunity to speak. My name is Emily Miller, and I'm the program director for the Crime Victims Legal Assistance Project. My program consists of 23 attorneys who provide free civil legal assistance to low-income victims of crimes statewide, including in domestic violence and elder abuse cases. We strongly support the proposed amendment. Our attorneys regularly represent victims of crime regardless of their immigration status. Our clients are often in desperate need to access courts in order to find safety, stability for themselves and for their children. The chilling effect the potential civil arrest has on families who depend on family court orders like personal protection orders, or various custody orders, divorce, to provide them with safety from violence is very real. Victims who experience domestic violence are already taught by their perpetrators that there will be consequences if they disclose abuse or seek help. A court system that allows immigration enforcement effectively furthers that coercive control in an abusive relationship undermining the protective purposes of family court orders and deterring victims further from seeking legal remedies. Being arrested in court, even if it is only a risk, will deter clients from seeking access to family law protections because if they're arrested, their children are

very likely to be placed with the abusive parent. Our clients will prefer to remain in a position where they know they can protect their children with their own bodies, if necessary, rather than risking removal by ICE and leaving the abusive parent with unfettered access to their kids.

In addition to working in family court, our lawyers also represent clients in consumer matters to address issues of financial abuse. Clients who have been financially exploited are often racked with credit card debt, getting bills for fraudulently purchased cars, and can't find housing because of bad credit. Untangling these legal messes is often complicated. Without assurances that litigants and witnesses can come forward without fear of arrest is, justice is very much compromised and the most vulnerable are left to bear the lasting consequences of abuse that they did not choose. Thank you.

**CHIEF JUSTICE MEGAN CAVANAGH:** Thank you, Miss Miller. Any questions? No. Okay. Thank you for being here. Thank you for your comment. Our next speaker is Diana Marin of the Hispanic Bar Association of Michigan. Miss Marin.

**DIANA MARIN, HISPANIC BAR ASSOCIATION OF MICHIGAN:** Thank you, Your Honor. Good morning, Justices. I am Diana Marin, vice president of the Hispanic Bar Association of Michigan, also known as HBAM. HBAM submitted a comment in support of the proposed amendment to Michigan Court Rule 8.115 and I am testifying today to reiterate the organization's support for the addition of subsection D. HBAM was created in 1991 in order to provide a voice for the Michigan Hispanic community, especially those involved in the legal profession. We counsel and assist the Hispanic community, not just legally, but by supporting local and charitable organizations, and advocate for the greater representation of Hispanics in the legal profession and in public office. We are comprised of a diverse group of Hispanic and non-Hispanic attorneys, law students, and legal professionals who regularly practice in Michigan state courts across multiple legal disciplines. HBAM leadership and members are as diverse as the legal profession itself. We are litigators, transactional attorneys, law professors, legal administrators, and we assist individuals across the state of Michigan, and have expertise in court and administrative forums.

Now more than ever, Michigan courthouses must be physical spaces that are free from unnecessary interference or actions that chill an individual's access to the legal system. The proposed rule promotes this rule of law as it ensures that warrantless civil arrests are not a deterrent for individuals who need to attend court for legitimate reasons as has been already listed by the previous individuals who have testified. This would include individuals seeking protective orders, filing for custody of their children, attending a marriage ceremony, or attending court to testify in a civil or criminal

proceeding either as a victim or a witness. The right to access the legal system, including courthouses, is enshrined in the U.S. Constitution and our Michigan Constitution, and it's long been held to apply to both citizens and non-citizens.

Therefore, HBAM further supports this proposed rule as it would ensure meaningful access to all individuals in Michigan, regardless of their nationality, or citizenship. Thank you, and I'm available to answer any questions you may have.

**CHIEF JUSTICE MEGAN CAVANAGH:** Thank you, Miss Marin. Any questions? No. Okay. Thank you for your comment. Thank you for being here. Our final speaker is prosecutor, Elie Savit, of the Washtenaw County Prosecutor's Office.

**ELI SAVIT, WASHTENAW COUNTY PROSECUTOR'S OFFICE:** Thank you, Chief Justice, and good morning, Your Honor. I strongly encourage this Court to adopt the proposed rule. Since last year, we have seen a troubling increase in victims who are non-citizens failing to show up to court to testify against their abusers. I've talked to colleagues across the state and indeed across the nation and this is a trend that they are all experiencing. I just want to highlight exactly what that means. What that means is that victims of crime are frequently more afraid of the judicial system, more afraid of their own government, than they are of the person who harmed them. This dynamic is particularly troubling in domestic violence cases where we already see coercive dynamics at play and victims reluctant to show up to court. The prospect of civil arrests at the courthouse only exacerbates those dynamics. Equally, if not more concerning to me is the cases that I don't know about because when the judicial system is not seen as a safe place for victims, for victims who are non-citizen, it chills reporting crimes to law enforcement in the first place. It undermines prevention by disincentivizing people to seek PPOs.

I strongly urge the Court to adopt the proposed rule. It would allow our attorneys and our victim advocates to provide some assurance to non-citizen victims that they, their family members, and their supporters will be safe if they show up to testify in court. For these reasons, again, I strongly encourage the court to adopt the proposed rule to protect both public safety and the integrity of our justice system, and I'm of course happy to answer any questions.

**CHIEF JUSTICE MEGAN CAVANAGH:** Thank you. Any questions?

**JUSTICE NOAH HOOD:** I just have a clarifying question, Mr. Savit you, I think the phrase you used was "victims who are non-citizens." Am I correct in understanding that as a matter of practice you're not compelling say a complainant on a domestic violence

case to show up to court or even a complainant on a child sex crimes case to show up to court. Is that correct in that understanding?

**ELI SAVIT, WASHTENAW COUNTY PROSECUTOR'S OFFICE:** That is correct, Your Honor. We do not engage in that practice and that is because, of course, compelling a victim to show up to court would itself have chilling effects on future victims for coming forward. We don't try to treat victims, at least in Washtenaw County, as though they are individuals who did anything wrong. We try to treat them with respect and honor their choices.

**JUSTICE NOAH HOOD:** So, with that framework, if this rule were modified to apply only to required court appearances, would that—how would that impact the problems that you identified in your comment?

**ELI SAVIT, WASHTENAW COUNTY PROSECUTOR'S OFFICE:** I would oppose that modification actually for the same reasons that I think Miss Jordan gave in her first comment. It's really not just about the victims themselves; It's also about their support system. You know quite frequently we are seeing, and again not talking about any particular case, but this has also been an experience that I've talked to colleagues around the country about, we are seeing not just folks with uncertain immigration status not showing up to court, but also victims who are, have permanent residency status, are here on student or work visas, but may have family members or members of their support system that they need to be with them in court when they're testifying about probably the most traumatic experience that's happened in their life and their immigration status is uncertain. Those folks, that support system, of course that's in no way required, but from a victim's perspective, it's often necessary to have those supporters in court. So, I would oppose that modification and urge the court not to make it.

**JUSTICE NOAH HOOD:** Thank you.

**JUSTICE ELIZABETH WELCH:** Mr. Savit, I would assume you have the same concern for non-citizen witnesses to crimes. You know, somebody obviously scared to come to court even though they witnessed something.

**ELI SAVIT, WASHTENAW COUNTY PROSECUTOR'S OFFICE:** Yes, Justice Welch, absolutely. We want to be able to prosecute cases, prosecute them effectively and hold perpetrators accountable for the harm that they've done, and non-citizen witnesses are often key witnesses in these cases. If they are afraid to show up to court, it can undermine, sometimes fatally, a prosecution. So, absolutely.

**CHIEF JUSTICE MEGAN CAVANAGH:** Thank you. Any other questions? Thank you, Mr. Savit. I do not see that Miss Black is here. So, with that, that will conclude this hearing and the Court stands adjourned. Thank you.