



Michigan Supreme Court

State Court Administrative Office

Field Services Division

Michigan Hall of Justice

P.O. Box 30048

Lansing, Michigan 48909

Phone (517) 373-4835

Ryan P. Gamby
Field Services Director

February 22, 2022

TO: Michigan Court Forms Committee, Civil Workgroup
FROM: SCAO Forms Team
RE: Agenda and Materials for **March 10, 2022 Meeting**
PLACE: Meeting to be held by Zoom

Below is the agenda for the March 10, 2022 meeting of the Michigan Court Forms Committee, Civil Workgroup. The meeting will be held by Zoom and will begin at 9:30 a.m. and continue until all items have been addressed, but no later than 3:30 p.m. A half-hour break is planned for lunch at noon. We do ask that attendees appear on camera whenever possible so that all members easily know who is speaking. An email invitation with the Zoom link will be sent separately.

Links to the relevant statutes, court rules, and forms are provided within this document. Draft documents are provided as attachments for reference. If needed, the links to the full online resources for Michigan statutes and the Michigan Court Rules are as follows:

- [Michigan Legislative MCL search page](#)
- [Michigan Court Rules](#)

Please note that any drafts included with the agenda are for discussion purposes only and not for distribution.

DISTRICT COURT SESSION

1. DC 84, Affidavit and Claim, Small Claims

- A. A suggestion was received from a court to add "Evening and Saturday court hours may be made available upon written request and need shown" to the form.

[MCL 600.8404\(2\)](#) requires the clerk to inform plaintiffs and defendants that evening and Saturday court hours may be available upon written request and need shown.

Should the suggested language be added to the “Additional Notice and Instructions” page which is addressed to both plaintiff and defendant?

- B. An additional suggestion was made to consolidate the “Additional Notice and Instructions” with the second page of the form.

Would the form work better if the Additional Notice and Instructions could be fit on page two, which would keep the form to two pages?

Public Comments:

- Regarding the language for evening and weekend hours for Small Claims matters, I don't think it is fair to the courts, who are continually losing revenue with changes including the reductions in probation and sanctions on civil infractions, to be asked to pay overtime to staff to meet this demand. I understand that access to justice is of the utmost importance, but this level of access requires funding that many courts do not have. In my court our budget for overtime is very small and is typically reserved for tax garnishment season when the court receives thousands of filings that must be processed. I fear adding this language to the Small claims forms will pose an undue hardship to courts. Court hours are defined by Local Administrative Order. If a litigant can't make it during normal business hours it is not the court's duty to adjust hours to accommodate them. It would be like asking a bus driver to alter his route because an individual can't get to a bus stop at the regularly scheduled time.

Thank you for your time regarding this matter.

Matthew Sawicki
17th District Court
Wayne County

- I am emailing to comment on the proposed addition of language on the DC 84 Affidavit and Claim, Small Claims form stating that “Evening and Saturday court hours may be made available upon written request and need shown.” The additional language should not be added. This language has been a part of MCL 600.8404(2) for some time now (since 1985?) and the language has not been included on the form. Courts already work with the parties to a case to set or re-set dates so that all parties can appear because this practice saves time, resources and effort for all involved. Putting this language on the form will encourage those who can appear during normal business hours to request special times, and it will be perceived that Evening and Saturday hearings are an entitlement, not an exception. Added dockets

during what are now non-business hours for most courts may be difficult or impossible to staff, given that many courts are short-staffed due to lingering effects of the COVID pandemic. Opening the courts for additional hours would require court recorders, clerks and security in addition to a judge to hear cases. District courts, for the most part, do not have the budgets to absorb these additional costs, particularly while they are trying to address the backlog of criminal dockets and criminal jury trials.

Sincerely,
Shryl Samborn
15th District Court
Washtenaw County

2. **[DC 85, Judgment/Dismissal, Small Claims](#)**

A suggestion was received to modify the certificate of mailing language that makes it a requirement that [DCi84](#) be mailed to the “parties” given that the relevant statute only requires the instructions to be offered to the plaintiff.

[MCL 600.8409](#) states in relevant part:

The state court administrator shall prepare instruction sheets clearly explaining in plain English how, and under what circumstances, a plaintiff in whose favor a judgment has been entered may request the court to issue execution, attachment, or garnishment to enforce payment of the judgment. A copy of the instruction sheet shall be offered to the plaintiff at the same time as a copy of the judgment is given to the plaintiff under section 8410. Additional copies of the instruction sheets, and forms for writs of garnishment, shall be made available at the office of each clerk and deputy clerk of the district court.

Should the language be modified to clarify that the [DCi84](#) must be mailed only to the plaintiff? Or should the defendant also receive a copy of the instructions to help them understand the collection process?

3. **[DC 102b, Complaint Damage/Health Hazard to Property](#)**

A suggestion was received by a court to add checkboxes to the complaint form to allow the filer to indicate whether a police report has been filed related to substance abuse concerns or whether the police were notified in cases where physical harm is threatened. If a report was filed or police were notified, the filer could then include information identifying the relevant police department.

[MCL 600.5714\(1\)](#) identifies when a person is entitled to the recovery of possession of premises by summary proceedings and requires the filing of a police report for situations related to controlled substances or notification of the event in cases where there is a threat of physical injury to an individual. Subsections (b) and (d) state in relevant part:

(1) A person entitled to possession of premises may recover possession by summary proceedings in the following circumstances:

(b) When a person holds over premises for 24 hours following service of a written demand for possession for termination of the lease pursuant to a clause in the lease providing for termination because a tenant, a member of the tenant's household, or other person under the tenant's control has unlawfully manufactured, delivered, possessed with intent to deliver, or possessed a controlled substance on the leased premises. This subdivision applies only if a formal police report has been filed alleging that the person has unlawfully manufactured, delivered, possessed with intent to deliver, or possessed a controlled substance on the leased premises.

* * *

(e) When a person holds over premises for 7 days following service of a written notice to quit for termination of the lease after the tenant, a member of the tenant's household, or a person under the tenant's control, on real property owned or operated by the tenant's landlord, has caused or threatened physical injury to an individual. This subdivision applies only if the police department with jurisdiction has been notified that the person, on real property owned or operated by the tenant's landlord, caused or threatened physical injury to an individual. This subdivision does not apply in either of the following cases:

- (i) The individual who was physically injured or threatened is the tenant or a member of the tenant's household.
- (ii) Application would result in a violation of federal housing regulations.

The suggestor indicates that adding this information to the complaint will make reviewing the complaint more time-efficient for the Judge.

Should checkboxes be added to allow the filer to indicate whether a police report has been filed related to substance abuse concerns or whether the police were notified in cases where physical harm is threatened?

Public Comments:

- Yes. We have started to get a few of these in our court. More often than not I have to reach out to the plaintiff and remind them that they need to be indicating if a police report was filed. Not only would check boxes help the judge when reviewing the complaint, it would help the clerk process cases and build cases more efficiently.

Elizabeth Braxton
44th District Court Civil Clerk
Oakland County

4. **DC 102d, Complaint, Termination of Tenancy, Mobile Home Park – Mobile Home Owner (Just-Cause Termination)**

A suggestion was received to add instructions to the filer that no more than three (3) lines of information can be added as a factual basis explanation in item 5. The suggestor indicates that anything more than 3 lines makes the information unreadable because the space available on the form is static and cannot be expanded when using the online version.

Other SCAO-approved forms instruct the filers to “Attach a separate piece of paper if more space is needed” or “Use a separate sheet of paper if needed” where there may be a space issue.

Would an instruction regarding adding an extra page be helpful on item 5 to ensure the filed document is legible?

5. **DC 104, Summons (Landlord-Tenant/Land Contract)**

A suggestion was made by an attorney to amend item 2 by adding the word “court” before the words “the address above” to clarify which address above is being referenced. The suggesting attorney indicates that approximately one to two times monthly tenants appear at his office instead of the court.

Should the form be modified to read, “You are summoned to be in the district court on _____ (Day, date, and time) [] at the **court** address above”?

Public Comment:

- I agree, this has happened in our court a few times as well.

Elizabeth Braxton
44th District Court Civil Clerk
Oakland County

6. [DC 105, Judgment, Landlord-Tenant](#)

A suggestion was made by an attorney to add a line to item 2 for the assessment of “Late fees.” The form currently contains a line for “other money due.”

Michigan landlord-tenant law is silent on the issue of late fees. However, such fees have been contractually enforced if included in the lease.

Is the “other money due” line the appropriate place to document this additional fee, or should the form be amended to include a separate line specifically for late fees?

JOINT SESSION

7. [MC 07a, Default Request, Entry, and Judgment \(Sum Certain\)](#)

A suggestion was received by a court clerk to add a “payments/credits” section to the form for the documentation of any post-filing credits or payments made by the defendant. The suggestor indicates the addition of this field would be helpful to provide an accounting to the parties and ensure the damages amount is properly calculated and reflected on the default judgment.

The relevant portion of [MCR 2.603\(B\)\(2\)](#) allows entry of a default judgment by the clerk “[o]n written request of the plaintiff verified under [MCR 1.109\(D\)\(3\)](#) as to the amount due” if:

- (a) the plaintiff’s claim against the defendant is a sum certain or for a sum that can by computation be made certain.

Should the suggested field be added to the form to facilitate the computation?

8. [MC 15a, Order Regarding Installment Payments](#)

A suggestion was received from an attorney to add a new paragraph to the form. The paragraph would be a checkbox item that would read, “The defendant moved for an order for installment payments within 91 days after a previous installment order was set aside. Defendant shall pay costs of _____ to plaintiff by _____ as a condition of entry of this order.” The suggestor indicates that this will facilitate the court’s assessment of costs against a defendant as a condition of entry of a new order pursuant to [MCR 3.104\(D\)](#).

[MCR 3.104\(D\)](#) states, “If the defendant moves for an order for installment payments within 91 days after a previous installment order has been set aside, unless good cause is shown the court shall assess costs against the defendant as a condition of entry of the new order.”

Should a checkbox item addressing [MCR 3.104\(D\)](#) be added to the form?

9. [MC 57, Certificate of Records Transmitted for Appeal and Notice to Parties](#)

A suggestion was made to add the Michigan Supreme Court to the caption and body of this form to allow the form to be used during the transfer of records between trial courts or tribunals and the Supreme Court when a case is appealed.

[MCR 7.210\(G\)](#) governs the transmission of records on appeal to the Court of Appeals and requires the trial court or tribunal clerk to “append a certificate identifying the name of the case and the papers with reasonable definiteness.” This form acts as that required certificate.

When the Court of Appeals disposes of a case and an application for leave to appeal is filed with the Supreme Court, that record is transferred to the Court of Appeals in a way that does not require this form. However, in approximately 10-15% of cases that are heard by the Supreme Court, the records are requested directly from the trial court or tribunal. The addition of the Supreme Court to MC 57 would thus allow the trial courts and tribunal courts to use the same form for the transmission of records for cases on appeal to the Michigan Supreme Court that they are familiar with using for transmitting records to the Court of Appeals.

Should the form be amended to also allow its use by trial courts and tribunals when remitting records directly to the Michigan Supreme Court?

10. [MC 391, Order Canceling Assignment of Wages](#)

A suggestion was received to amend item 2 of MC 391 to include an option for “other” and a space for the court to write in the reason why a wage assignment is unnecessary. The suggestor indicates that the two reasons identified by the form, “voluntary payments are being made,” and “the debt has been satisfied” do not always apply or explain the court’s reasoning for ordering the cancellation of a wage assignment. The suggestor indicates that an “other” option would thus allow the court to identify the proper reason for the cancellation.

Wage assignments are authorized by [MCL 780.826\(15\)](#). However, there are no specific reasons identified by the legislature for cancellation of a wage assignment.

Should item 2 be modified to include an “other” option as one of the reasons for cancellation of the wage assignment?

11. General Discussion – Formatting of Forms

As the SCAO Forms Unit processes form changes and adjusts margins on the forms for processing through the electronic document environment of MiFILE, several forms that were previously single-page forms are expanding to multiple pages. The Forms Unit is bringing the matter to the committee for awareness. Draft versions of two forms that are scheduled for publication with previous committee recommended changes are attached to this agenda. The forms are [MC 11, Subpoena, Order to Appear and/or Produce](#), and [MC 55, Claim of Appeal](#). These drafts are not for circulation.

CIRCUIT COURT SESSION

12. [CC 381, Notice of Hearing on Petition for Personal Protection Order](#)

A suggestion was made to amend the language of the form regarding service by petitioner. Specifically, the suggestion is that the language is incorrect regarding the service of a petition that was not issued ex parte. The form currently indicates that the notice should be served no later than 5 days before the date of the hearing. The suggestor indicates that in some cases only a 1-day notice is required by court rule.

[MCR 3.705\(B\)\(2\)](#) states:

(2) The petitioner shall serve on the respondent notice of the hearing along with the petition as provided in [MCR 2.105\(A\)](#). If the respondent is a minor, and the whereabouts of the respondent's parent or parents, guardian, or custodian is known, the petitioner shall also in the same manner serve notice of the hearing and the petition on the respondent's parent or parents, guardian, or custodian. One day before the hearing on a petition seeking a PPO under [MCL 600.2950](#) or [MCL 600.2950a\(1\)](#) is deemed sufficient notice. Two days before the hearing on a petition seeking a PPO under [MCL 600.2950a\(2\)](#) is deemed sufficient notice.

In other words, where a hearing is necessary because the petition was not filed ex parte or the judge declined to enter a PPO without a hearing, [MCR 3.705\(B\)\(2\)](#)

indicates that one day is sufficient notice before a hearing on a domestic PPO petition (Forms [CC 375](#) and [CC 375m](#)) or a non-domestic PPO petition (Forms [CC 377](#) and [CC 377m](#)). Further, two days before the hearing is sufficient notice for hearing on a sexual assault PPO petition ([CC 395](#) and [CC 395m](#)).

Should the language regarding service by the petition be amended to reflect the minimum notice period identified under [MCR 3.705\(B\)\(2\)](#)?