

COURT OFFICER
APPOINTMENT PROCEDURES
(MCR 3.106)

PROCEDURES FOR APPOINTMENT OF COURT OFFICERS

Because of different issues associated with employee and independent contractor classifications, separate procedures for appointing court officers as employees and appointing court officers as independent contractors have been developed. The first set of procedures apply to appointing court officers as employees. The second set of procedures apply to court officers who are appointed as independent contractors.

A model independent contractor agreement is included. If any changes are made to this form, courts should have labor counsel review those changes.

In addition to the model independent contractor agreement form, both sets of procedures include model application and other forms associated with the appointment processes. The forms can be formatted to allow courts to enter the appropriate court number, funding unit(s) and court letterhead, where appropriate. Courts may use locally developed forms that solicit and provide the same information as the model forms. Courts should ensure that local forms are in compliance with applicable state and federal statutes and regulations.

Access to applications for employment as an independent contractor is subject to trial court or funding unit policy for applications for court employment..

COURT OFFICER

**INDEPENDENT CONTRACTOR
APPOINTMENT PROCEDURES**

COURT OFFICER - INDEPENDENT CONTRACTOR

Independent Contractor Forms:

The following forms are attached in the sequence in which they are discussed in steps of the appointment procedures:

- Request for Appointment as Court Officer Form
- Reference Check Form
- Consent Form: Conviction/Criminal History Background Check
- Credit Report Authorization Form-Independent Contractor
- Certification to Consumer Reporting Agency Form
- Independent Contractor Agreement for Court Officer
- Order of Appointment-Independent Contractor
- Arrest Authorization Form

APPOINTMENT PROCEDURES

1. Request for Appointment:

All individuals requesting appointment as an independent contractor should be required to complete and sign the Request for Appointment as Court Officer Form. Resumes should not be substituted for a completed appointment form, but may be attached to the appointment form as a supplement.

2. Reference Checks:

Professional reference checks should be conducted **before** offering appointment as an independent contractor. The Reference Check Form should be completed for each reference check conducted.

Where possible, at least two former employers/contractors should be contacted. For an individual who has recently completed some phase of an educational or certification process, instructors, professors, or certification officials should be contacted for verification.

3. Criminal Record Check:

A criminal record check should be conducted **after** the applicant completes the Consent Form: Conviction/Criminal History Background Check. Criminal history information may be obtained directly from a court's LIEN terminal or, in the absence of a LEIN terminal, from the State Police or local police or sheriff department.

4. Credit Reports:

Because of the nature of the work that court officers perform, courts should consider requesting credit reports on applicants for appointment and current contractual court officers, if deemed necessary. The Fair Credit Reporting Act (FCRA) requires that specific procedures be followed when requesting credit reports.

Courts must comply with the following steps when requesting the credit report of any applicant or when using any non-court employee to screen, interview, perform background checks or otherwise investigate a current or prospective independent contractor:

A. Obtain written permission from the consumer (applicant) before ordering a consumer report.

Before obtaining a consumer report (**even if voluntarily provided by an applicant**), courts must notify the consumer that it may ask for a report and get his or her written permission. The written permission cannot be part of an employment application or employee handbook. Courts must therefore ask prospective independent contractors to fill out and sign a fair credit authorization form. A Credit Report Authorization Form-Independent Contractor has been provided for that purpose.

Courts must comply with additional requirements if they hire a third party, such as a private investigator or a firm that conducts employee background checks, to conduct a background investigation that will involve, even in a small part, information about the consumer's "character, general reputation, personal characteristics, or mode of living ... obtained through personal interviews with neighbors, friends, or associates." Because such an investigation fits into the definition of an "investigative consumer report," Courts must, in addition to the steps outlined above, give the consumer (i) written advance notice that an investigative consumer report may be obtained; (ii) a copy of the Federal Trade Commission's summary of his or her rights as a consumer;¹ and (iii) notification that he or she may request "a complete and accurate disclosure of the nature and scope of the investigation requested." Such notice must be made in a written statement that is mailed, or otherwise delivered, to the consumer no later than 5 days after the date on which the request was received from the consumer or the report was first requested, whichever is later.

¹ A *Summary of Your Rights Under the Fair Credit Reporting Act* may be downloaded from the FTC's web site at www.ftc.gov/bcp/online-edcams/fcra/summary.html. The summary describes the consumer's rights to (i) access his or her file; (ii) dispute the accuracy of the information in the file; (iii) correct or delete inaccurate information; (iv) prevent the release of outdated information; (v) consent before information is released; and (vi) sue violators.

Courts must certify to any “consumer reporting agency” that it has taken these steps. A Certification to Consumer Reporting Agency Form has been provided for that purpose.

B. Notice requirement before taking adverse action on the basis of a report.

At least five days before taking adverse action (such as denying someone a job, a promotion or a reassignment) based in whole or in part on a consumer report (or an investigative consumer report), courts must: (i) notify the consumer of the action it plans to take; (ii) give the consumer a copy of the FTC’s summary or rights.

C. Notice requirements after taking adverse action on the basis of a report.

Within a reasonable time after making an adverse employment or appointment decision on the basis of a consumer report, courts must (i) give the consumer (applicant) notice of the adverse decision; (ii) provide the name, address and phone number of the credit reporting agency that provided the report the court relied upon, in whole or in part; (iii) provide a statement explaining that the consumer reporting agency simply provided the report and that it is not the one that made the adverse decision; (iv) explain that he or she can get a free copy of the report from the consumer reporting agency within sixty days; and (vii) explain to the consumer that he or she has a right to dispute the accuracy or completeness of the report with the consumer reporting agency.

5. Independent Contractor Appointment:

Following reference checks, a criminal record check and a credit report (if required), applicants whose experience and other qualifications meet the court’s criteria are eligible for appointment as an independent contractor. **Court officers may be appointed for a term not to exceed two (2) years [MCR 3.106 (C)], and the court shall, in its sole and complete discretion, have the option to reappoint the independent contractor for a period of time up to two (2) years.**

The State Court Administrative Office has provided the Independent Contractor Agreement for Court Officer. We strongly recommend that courts use the enclosed model agreement, and make sure individuals or businesses sign the agreement before performing court officer services. Should a court decide to change the agreement, use a different agreement, or choose not to use the agreement, the court should consult with legal counsel with expertise in employment law before doing so.

Courts should confirm the appointment of a Court Officer as an independent contractor with an Order or letter. The model Order of Appointment-Independent Contractor has been provided for that purpose. Courts can convert the Order to letter format, if desired.

6. Arrest Authorization:

It is important for courts to confirm in writing if arrest powers pursuant to MCR 2.103 (D) **have** or **have not** been delegated. The Arrest Authorization Form can be used for this purpose, but may not be necessary if the Order of Appointment-Independent Contractor is used (see 5. Independent Contractor Appointment).

7. Appointment Records and Record Retention:

The application for appointment, independent contractor agreement, and other general appointment related information should be kept in an appointment record file. The results of criminal record checks, credit reports, reference checks and other confidential information should be kept in a confidential records file.

Appointment records for current independent contractors must be kept while under contract with the court, and for 10 years following termination of the contractual relationship. Applications for appointment and other records related to the appointment process must be retained for 3 years.

Access to confidential information should be limited to the chief judge, or designee. The designee would typically be another judge, the court administrator or court personnel/human resources director.

EQUAL OPPORTUNITY

<input type="checkbox"/> Judicial District <input type="checkbox"/> Judicial Circuit <input type="checkbox"/> County Probate	REQUEST FOR APPOINTMENT AS COURT OFFICER PURSUANT TO MCR 3.106 (INDEPENDENT CONTRACTOR)	Appointment Period: _____ to _____ (Not to exceed 2 years) Renewal Application? <input type="checkbox"/> Yes <input type="checkbox"/> No
--	--	--

ALL QUESTIONS MUST BE ANSWERED

PLEASE PRINT

GENERAL INFORMATION

DATE: _____

Name: _____ Soc. Sec. No.: _____
Last First Middle

Home Address: _____
Street City State Zip

Phone No.: _____ Fax No.: _____

Pager No.: _____ Cellular No.: _____

Business Address: _____
Street City State Zip

Phone No.: _____ Fax No.: _____

- Are you authorized to work in the United States? [] Yes [] No
Please submit copies of your driver's license and social security card.
- Are you a resident of the State of Michigan? [] Yes [] No
- Are you over 18 years of age? [] Yes [] No
- Did you graduate high school or obtain a G.E.D. certificate? [] Yes [] No
- Specify the types of service you are requesting:
 General Process
 Orders for Seizure of Property
 Orders of Eviction
 Arrest Authority [Pursuant to MCR 2.103(D)]

6. List all courts in which you are currently appointed to serve process under MCR 3.106. Include the name of the court, the date(s) of appointment, the approximate expiration date of the appointment, and the nature of services you performed, are performing or are authorized to perform.

<u>Court</u>	<u>Appointment</u> From: To:	<u>Services Performed</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

(Use Separate Sheet, If Needed)

7. List all counties in which you are currently deputized to serve process under MCR 3.106. Include the name of the department, the date(s) of appointment, the expiration date of the appointment, and the nature of services you performed, are performing or are authorized to perform.

<u>Court</u>	<u>Appointment</u> From: To:	<u>Services Performed</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

(Use Separate Sheet, If Needed)

8. List all previous court appointments where you were appointed to serve process under MCR 3.106 (excluding current court appointments). Include the name of the court, the dates of appointment and the services you performed.

<u>Court</u>	<u>Appointment</u> From: To:	<u>Services Performed</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

(Use Separate Sheet, If Needed)

9. List all previous counties that you were deputized to serve process under MCR 3.106 (excluding current counties where you are deputized). Include the name of the department, the dates of appointment and the services you performed.

<u>Court</u>	<u>Appointment</u> From: To:	<u>Services Performed</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

(Use Separate Sheet, If Needed)

10. Have you ever been denied appointment or re-appointment as a court officer or had your appointment or employment revoked or terminated by any court? Yes No
(If yes, provide details on a separate sheet).
11. Have you ever been convicted of a felony (or misdemeanor within the last 10 years)?
 Yes No (If yes, provide details on a separate sheet).
12. Have you had a civil judgment (excluding civil infractions) entered against you in the past ten years? Yes No
(If yes, provide details on a separate sheet).
13. Are any lawsuits pending or have there been any lawsuits or judgments filed against you as result of your duties as a Court Officer, Bailiff or Deputy? Yes No
(If yes, provide details on a separate sheet).
14. Have you ever filed for bankruptcy? Yes No
(If yes, provide the date of filing, name of court, case number and other relevant details).
15. Do you have a permit to carry a concealed weapon? Yes No
If yes,
(a) attach a copy of your CCW Permit.
(b) do you or would you carry a weapon in the course of your duties as a Court Officer?
 Yes No
16. Have you ever had a complaint against you filed with a court or a law enforcement agency regarding the use of your weapon during the performance of your duties as a Court Officer?
 Yes No If yes, provide the date and circumstances on an additional sheet of paper.
17. Have you ever had your license to carry a concealed weapon revoked?
If yes, please state the date and describe the circumstances of the incident(s).

18. List any special skills, training or certifications that are related to this appointment:

19. List any professional organizations to which you belong that are related to this appointment:

20. Were you in active U.S. Military Service Yes No

If yes, type of separation: _____

21. When are you available to begin an appointment as a Court Officer?

Immediately Need notice, time required _____

22. Why do you want to enter into an agreement to perform the services of a Court Officer?

23. EDUCATION

School	Name of School	Location City/state	Highest Yr. Completed	Major, Degree, Credential(s)	Graduate?
High School			1 2 3 4		
College					Yes <input type="checkbox"/> No <input type="checkbox"/>
Post-Graduate					Yes <input type="checkbox"/> No <input type="checkbox"/>

24. EMPLOYMENT HISTORY (Last 5 years)

Name of Employer: _____

Address: _____ Phone No.: _____

Start Date: _____ End Date: _____

Supervisor/Contact Person: _____

Position Held: _____ List Main Duties: _____

If no longer employed, reason for leaving? _____

Name of Employer: _____

Address: _____ Phone No.: _____

Start Date: _____ End Date: _____

Supervisor/Contact Person: _____

Position Held: _____ List Main Duties: _____

If no longer employed, reason for leaving? _____

Name of Employer: _____

Address: _____ Phone No.: _____

Start Date: _____ End Date: _____

Supervisor/Contact Person: _____

Position Held: _____ List Main Duties: _____

If no longer employed, reason for leaving? _____

Name of Employer: _____

Address: _____ Phone No.: _____

Start Date: _____ End Date: _____

Supervisor/Contact Person: _____

Position Held: _____ List Main Duties: _____

If no longer employed, reason for leaving? _____

25. Give the name, address and telephone numbers of three references and explain your relationship with each individual. If possible, each reference should be from courts or law firms for which you have served process or worked as a court officer.

1. _____

2. _____

3. _____

26. Give the name and address of any individual or entity who regularly performs Court Officer-related services for you.

1. _____

2. _____

3. _____

27. For each item listed below. Provide the name and address of the individual or entity you use or will use most often on orders for the seizure of property or evictions issued out of this court.

Towing: _____

Storage: _____

Locksmith: _____

28. If currently under appointment with another Court(s), may we contact the Court(s) with which you are under appointment? Yes [] No []

29. Name of relative(s) employed with this court, if applicable: _____

**PLEASE READ BEFORE SIGNING THE CERTIFICATION AND AGREEMENT.
IF YOU HAVE ANY QUESTIONS,
CONSULT THE COURT OR YOUR ATTORNEY.**

APPLICANT'S CERTIFICATION AND AGREEMENT

I hereby authorize an investigation of my past employment/contract activities and statements contained in this application and specifically authorize the Court to consult with all third parties with whom or which I have been associated concerning my qualifications, or with any third parties who may have information bearing thereon and to receive and utilize any information which may be material to my qualifications; and I hereby release all third parties who provide information to the Court with or without notice to me, from any and all liability for the transmittal of any information bearing on my qualifications, in connection with any such request. I further authorize the Court to secure a copy of any criminal, driving, court or credit record about me at any time before or during any appointment as a Court Officer and to conduct whatever investigation the Court deems appropriate.

I further authorize and release the Court from all liability for forwarding to any other entity to which I may apply for employment, any information concerning me or my qualifications as the Court has at the time of my application for appointment or hereafter acquires. I further release from all liability any and all third parties for any statements made or any action taken in connection with this application or any other applications made simultaneously herewith, or in connection with any other form of review of my qualifications. I hereby waive on behalf of the Court and any and all third parties any and all notice(s) to which I would otherwise be entitled.

I certify that all information submitted by me in this application is true and correct and understand if any such information is found to be false or otherwise incorrect or incomplete, it may result in termination of the independent contractor relationship I wish to establish with the Court, at the sole discretion of the Court.

I certify and agree that if I am chosen to provide Court Officer services for the Court, I will not be an employee of the Court, but will be an independent contractor.

I hereby acknowledge that I have read the above state and understand same.

Date

Signed

**COURT OFFICER
TELEPHONE REFERENCE CHECK**

Name of Applicant: _____

Name of Employer/Client: _____ Phone #: _____

Contact Person (Name and Title): _____

1. What was the title and general description of the position that the applicant occupied?

2. The applicant indicates having worked for you from: _____ to: _____ .
Is that correct?

3. How would you characterize the professional/technical skills of the applicant?

4. Describe the applicant's interpersonal communication skills.

5. Would you rehire the individual?

6. In your opinion, is there any reason we should not consider this applicant for employment/appointment with the court?

7. Are there other comments you would care to add?

Name of person conducting reference check

Date

CREDIT REPORT AUTHORIZATION - INDEPENDENT CONTRACTOR

I acknowledge that the Court may, in considering my request for appointment as Court Officer or at any time during the existence of my appointment with the Court, if any, request, obtain, review and consider a copy of my credit report. I hereby authorize the Court to, from this date until the termination of my appointment as a Court Officer, if any, request, obtain, review and consider my credit report.

Date

Signed

CERTIFICATION TO CONSUMER REPORTING AGENCY

Re: Certification to Consumer Reporting Agency

Dear Consumer Reporting Agency:

_____ is requesting a consumer report regarding _____.

Pursuant to Section 604(b) of the Fair Credit Reporting Act, as amended, _____ hereby certifies the following:

1. _____ has provided _____ with a clear and conspicuous written disclosure, in a document that consists solely of the disclosure, that a consumer report is being obtained for appointment purposes;

2. _____ has authorized in writing the procurement of a consumer report by _____; a copy of same is attached;

3. Before taking any adverse action based in whole or in part on the consumer report, _____ shall provide to _____, a copy of the consumer report and a summary description in writing of the rights of the consumer.

4. _____ will not use the information from the consumer report on _____ in violation of any Federal or State equal employment opportunity law or regulation.

In light of the above certification, please process a consumer report regarding _____ concerning _____. Should you have any questions regarding the above certification or the enclosed authorization form, please contact the undersigned.

Sincerely,

INDEPENDENT CONTRACTOR AGREEMENT FOR COURT OFFICER

This Independent Contractor Agreement for Court Officers (hereinafter “AGREEMENT”)

is made between

_____ (full name)
_____ (d/b/a)
_____ (business address)
_____ (city/state/zip)
_____ (business telephone number)
_____ (cell telephone number)
_____ (pager number)
_____ (business fax number)
_____ (home address)
_____ (city/state/zip)
_____ (home telephone number)
_____ (home fax number)
_____ (tax identification number)

(hereinafter “INDEPENDENT CONTRACTOR”) and _____ (hereinafter “COURT”).

RECITALS

WHEREAS, the COURT is organized under the Michigan Constitution of 1963, the Michigan Public Acts and/or the Michigan Rules of Court for the performance of judicial/governmental functions;

WHEREAS, a series of Michigan statutes and court rules, including but not limited to MCL600.1908, MCL600.8321 and MCR 3.106, have authorized the COURT to appoint Court

Officers to perform certain services for the COURT, including but not limited to execution on writs of garnishment pursuant to MCR 4.201, and execution on judgments pursuant to MCL600.6001, et al.;

WHEREAS, INDEPENDENT CONTRACTOR wishes to conduct business by performing or employing suitable individuals to perform services for the COURT on an as-needed basis and in conformity with the Michigan Constitution, all applicable Michigan statutes and court rules and any rules or guidelines promulgated or set forth by the COURT, as same may be modified from time to time;

WHEREAS, the parties hereto wish to enter into an agreement for INDEPENDENT CONTRACTOR to provide the COURT services as a Court Officer, as set forth, explained, defined and established by the Michigan Compiled Laws and the Michigan Court Rules, as well as any other additional rules or procedural requirements promulgated or set forth by the COURT, which rules, statutes and court rules may be amended from time to time, and;

WHEREAS, the parties hereto deem it essential, as well as mutually beneficial to their respective interests to establish and maintain an independent contractor relationship;

NOW, THEREFORE, it is agreed as follows:

1. TERM OF AGREEMENT

1.1 This Agreement shall commence at 12:01 a.m. on _____, 20__ and shall end at 12:00 midnight on _____, 20__.

1.2 This Agreement will not automatically be renewed upon completion of the term of this Agreement. The COURT shall, in its sole and complete discretion, have the option to offer INDEPENDENT CONTRACTOR a chance to renew this Agreement for a period of time up to two years.

2. INDEPENDENT CONTRACTOR

2.1 INDEPENDENT CONTRACTOR is an independent contractor, not an employee of the COURT. The COURT is interested only in the results obtained by INDEPENDENT CONTRACTOR; provided INDEPENDENT CONTRACTOR operates within the requirements and constraints of Michigan and federal law, including by way of example and not by limitation MCR 3.105 and MCR 3.106. INDEPENDENT CONTRACTOR shall have sole control of the manner and means of performance under this Agreement. Unless the COURT terminates the relationship altogether by exercising its right to terminate this Agreement, the COURT shall not have the right to require INDEPENDENT CONTRACTOR or INDEPENDENT CONTRACTOR'S employees, agents or subcontractors to do anything that would jeopardize the relationship or status of INDEPENDENT CONTRACTOR.

2.2 INDEPENDENT CONTRACTOR and its employees, agents or subcontractors are prohibited from representing him/her or itself as an employee of the COURT.

2.3 The COURT does not accept responsibility for and shall not be liable for the acts of either INDEPENDENT CONTRACTOR or INDEPENDENT CONTRACTOR'S officers, agents, employees or subcontractors. INDEPENDENT CONTRACTOR agrees to hold the COURT harmless for all acts of INDEPENDENT CONTRACTOR and its officers, agents, employees and subcontractors.

2.4 INDEPENDENT CONTRACTOR does not have, nor shall INDEPENDENT CONTRACTOR hold itself out as having, any right, power or authority to create any contract or obligation, expressed or implied, on behalf of, in the nature of, or binding upon the COURT unless the COURT shall specifically consent thereto in writing. However, INDEPENDENT

CONTRACTOR is authorized under this Agreement to perform the services of a Court Officer for the COURT on an as-needed basis.

2.5 INDEPENDENT CONTRACTOR covenants that he/she/it desires to be an INDEPENDENT CONTRACTOR and specifically waives any and all statutory and common law rights that he/she/it would be provided if he/she/it were considered an employee or prospective employee under local, state or federal law.

2.6 Nothing in this Agreement shall be construed as preventing INDEPENDENT CONTRACTOR from working for, providing services to or entering into service contracts with other entities, courts, litigants, lawyers, businesses, sheriff's offices, state or local governments, corporations or the general public. The COURT shall not be a party to, and expressly disclaims any interest in any contract made by INDEPENDENT CONTRACTOR to which the COURT is not a signatory.

3. SERVICES PROVIDED

3.1 INDEPENDENT CONTRACTOR, for the period of this Agreement, shall have the opportunity to provide the COURT, on an as-needed basis, the services of a Court Officer as such services are set forth and defined by Michigan statutes and court rules.

4. COMPENSATION

4.1 INDEPENDENT CONTRACTOR shall receive no salary or wage from the COURT. Compensation for the services provided by INDEPENDENT CONTRACTOR will be paid pursuant to MCL 552.23; MCL 600.2555; MCL 600.2559; as same may be amended from time to time. In order to receive statutory fees, INDEPENDENT CONTRACTOR must, upon request, produce a particularized accounting of all the fees claimed, specifying for what they respectfully accrued. INDEPENDENT CONTRACTOR shall further provide receipts for all expenses claimed.

INDEPENDENT CONTRACTOR, and not the COURT, is responsible for all expenses not referred to in the above mentioned statutes.

4.2 Provided such contracts are consistent with Michigan law, INDEPENDENT CONTRACTOR may make individual contracts with litigants, attorneys, businesses, corporations or members of the general public. The COURT shall not be made a party to, and shall have no interest in, any contract INDEPENDENT CONTRACTOR may make with any other individual or entity.

4.3 To the extent the COURT pays INDEPENDENT CONTRACTOR statutory or other fees for any services INDEPENDENT CONTRACTOR may perform under this Agreement, the COURT shall not withhold any federal, state or local income taxes, social security taxes, or other deductions required by either local, state or federal governments from the statutory fees remitted to INDEPENDENT CONTRACTOR. INDEPENDENT CONTRACTOR bears the sole responsibility for reporting and sending to the appropriate entity any required federal, state or local income tax. The COURT shall provide INDEPENDENT CONTRACTOR with an Internal Revenue Service Form 1099, MISC at the end of each calendar year. In light of INDEPENDENT CONTRACTOR'S status as an independent contractor, the COURT cannot and does not provide workers' compensation or unemployment insurance for INDEPENDENT CONTRACTOR or its employees, agents or subcontractors. INDEPENDENT CONTRACTOR shall bear sole responsibility to provide workers' compensation and unemployment insurance for its employees and agents.

5. POWERS AND DUTIES OF THE COURT

5.1 Provided that INDEPENDENT CONTRACTOR shall comply with all applicable laws and court rules, including by way of illustration, and not by limitation, MCR 3.105, MCR 3.106; MCL 600.1422; MCL 600.1910; MCL 600.2525, MCL 600.6002 and MCL 600.6010,

as same may be amended from time to time, the COURT does not retain the right to control or direct INDEPENDENT CONTRACTOR'S activities or the performance of any service undertaken for the COURT by INDEPENDENT CONTRACTOR.

5.2 The COURT is not responsible for training INDEPENDENT CONTRACTOR or any employee of INDEPENDENT CONTRACTOR.

5.3 The COURT shall not provide INDEPENDENT CONTRACTOR with the tools, vehicles or equipment INDEPENDENT CONTRACTOR may need to perform the services of a Court Officer. INDEPENDENT CONTRACTOR shall bear sole responsibility for providing any and all tools, vehicles or equipment needed to perform the services of a Court Officer. The COURT shall, however, provide INDEPENDENT CONTRACTOR with a badge or card certifying that INDEPENDENT CONTRACTOR is vested with authority to serve process or seize property pursuant to MCL 600.8321.

5.4 The COURT shall not have authority to require INDEPENDENT CONTRACTOR and INDEPENDENT CONTRACTOR is not obliged to devote his/her/its efforts to the Court on a full-time basis.

5.5 The COURT shall not provide INDEPENDENT CONTRACTOR with an office or with work space.

5.6 Provided that INDEPENDENT CONTRACTOR shall comply with applicable law, including by way of illustration and not by limitation MCR 3.105 and MCR 3.106, the COURT shall not have authority to order INDEPENDENT CONTRACTOR to perform his/her/its services in any particular order or sequence.

5.7 The COURT shall not require INDEPENDENT CONTRACTOR to prepare or submit reports to the COURT, provided, however, that INDEPENDENT CONTRACTOR shall

be required to comply with applicable laws and court rules, including by way of illustration and not by limitation MCL 3.106, MCL 600.6001; MCR 8.204, MCR 3.106, MCL 600.6001; MCR 8.204, MCR 2.104, MCL 600.1910 and MCL 600.2525. The COURT shall also have the right to require INDEPENDENT CONTRACTOR to comply with the sections of this Agreement requiring the submission of documentation concerning INDEPENDENT CONTRACTOR'S employees, subcontractors, surety, bank or depository accounts and the basis for his/her/its claimed fees.

5.8 The COURT shall have the right to audit the records INDEPENDENT CONTRACTOR must keep pursuant to Section 6.6 of this Agreement.

6. POWERS AND DUTIES OF INDEPENDENT CONTRACTOR

6.1 INDEPENDENT CONTRACTOR shall use his/her/its best efforts to perform any and all services for the COURT in an efficient, diligent and responsible manner that complies with all applicable statutes, court rules or constitutional provisions.

6.2 INDEPENDENT CONTRACTOR is not required to perform services under this Agreement personally. INDEPENDENT CONTRACTOR may hire employees, agents or subcontractors that INDEPENDENT CONTRACTOR deems necessary, provided (a) INDEPENDENT CONTRACTOR trains, supervises and pays his/her/its employees, agents and subcontractors; (b) all INDEPENDENT CONTRACTOR'S agents, subcontractors and employees meet the requirements set by the COURT, and (c) that INDEPENDENT CONTRACTOR provide the COURT with lists of each and every one of INDEPENDENT CONTRACTOR'S employees, agents and subcontractors and promptly notifies the COURT when he/she/it commences or terminates his/her/its working relationship with any employee, agent or subcontractor. INDEPENDENT CONTRACTOR warrants that all services under this Agreement will be performed by qualified personnel and in a manner consistent with good professional practices and up-to-date

skills. The COURT shall not be responsible for the training, supervision or payment of any of INDEPENDENT CONTRACTOR'S employees, agents or subcontractors.

6.3 INDEPENDENT CONTRACTOR and all of INDEPENDENT CONTRACTOR'S employees, agents and subcontractors is/are obligated under this Agreement to strictly adhere to and otherwise obey all local, state and federal laws, ordinances, codes, regulations, orders and other legal obligations.

6.4 INDEPENDENT CONTRACTOR must possess and be able to display and produce his/her/its COURT-authorized identification at all times while performing services as a Court Officer.

6.5 INDEPENDENT CONTRACTOR shall keep a written record of the date, amount and nature of each financial transaction conducted by either INDEPENDENT CONTRACTOR or his/her/its employees, agents or subcontractors in the course of any task performed under or pursuant to the authority obtained through this Agreement.

6.6 INDEPENDENT CONTRACTOR must provide the courts with the names and addresses of each and every financial institution in which INDEPENDENT CONTRACTOR or INDEPENDENT CONTRACTOR'S employees, agents or subcontractors deposits money or stores property collected while acting as a Court Officer. INDEPENDENT CONTRACTOR shall also provide the Court with a list identifying each and every account number, locker, deposit box or other account or storage unit that INDEPENDENT CONTRACTOR or INDEPENDENT CONTRACTOR'S employees, agents or subcontractors have or use in each said facility or financial institution.

7. INCOME TAX

7.1 INDEPENDENT CONTRACTOR acknowledges that he/she/it shall be responsible for all federal, state and local payroll taxes on all monies earned by INDEPENDENT CONTRACTOR as a result of this Agreement and shall pay any taxes due to any governmental authority, including but not limited to the Internal Revenue Service, the State of Michigan and local government, on account of any and all income earned in connection with or as a result of this Agreement.

7.2 INDEPENDENT CONTRACTOR acknowledges that any employee, agent, or subcontractor of INDEPENDENT CONTRACTOR that provides services in connection with this Agreement shall be responsible to pay taxes on any income earned in connection with this Agreement. INDEPENDENT CONTRACTOR further agrees to withhold taxes from any agent, employee or subcontractor of INDEPENDENT CONTRACTOR where appropriate or required by law.

7.3 INDEPENDENT CONTRACTOR shall and does hereby indemnify and hold the COURT and the State of Michigan harmless from any claim by any taxing authority on any income earned by INDEPENDENT CONTRACTOR or any agent or employee of INDEPENDENT CONTRACTOR.

7.4 INDEPENDENT CONTRACTOR agrees to provide the COURT, upon request, with proof that appropriate measures have been taken to notify appropriate local, state and federal authorities of any income earned by INDEPENDENT CONTRACTOR, or by any agent, employees or subcontractors of INDEPENDENT CONTRACTOR in accordance with this Agreement.

7.5 If INDEPENDENT CONTRACTOR is a corporation, INDEPENDENT CONTRACTOR agrees to file an assumed name certificate with the Michigan Corporation Securities and Loan Development Bureau, Corporation Division and with any other entity that requires such or a similar filing. INDEPENDENT CONTRACTOR, if a corporation, further agrees that it will secure a federal tax identification number from the Internal Revenue Service.

8. WORKERS' COMPENSATION INSURANCE

8.1 INDEPENDENT CONTRACTOR shall maintain, throughout the performance of his/her/its obligations under this Agreement, a policy or policies of unemployment compensation and workers' compensation insurance with such limits as shall be required by law.

8.2 Promptly upon written request of the Court, INDEPENDENT CONTRACTOR shall furnish the COURT with a written certificate or certificates from its insurers or their agents, addressed to the COURT, indicating the existence of INDEPENDENT CONTRACTOR'S coverage, the amount and nature of such coverage, and the expiration date or dates of each applicable policy. In the alternative, INDEPENDENT CONTRACTOR may be a self-insurer upon meeting those requirements of the applicable regulatory authorities for any or all of the areas set forth above for which INDEPENDENT CONTRACTOR customarily self insures.

9. INDEMNIFICATION

9.1 INDEPENDENT CONTRACTOR shall be liable for damages which result from his/her/its own negligent or intentional acts or omissions or the negligent or intentional acts or omissions of his/her/its employees, agents or subcontractors.

9.2 INDEPENDENT CONTRACTOR assumes full and complete responsibility for all injuries to, or death of, any person including his/her/its employees, agents or subcontractors and for damages to property, including property of the COURT, arising from or associated with

INDEPENDENT CONTRACTOR'S work or the work of INDEPENDENT CONTRACTOR'S employees or agents in connection with this Agreement, while acting as a Court Officer, under the auspices of acting as a Court Officer, or on the COURT'S premises.

9.3 INDEPENDENT CONTRACTOR shall indemnify, defend and hold the COURT harmless from all claims, losses and expenses, including reasonable attorneys' fees, for such injuries or damages, whether or not such claims are valid. Neither INDEPENDENT CONTRACTOR nor its employees, agents or subcontractors are liable for damages which may be caused by the sole negligence of the COURT.

10. SURETY

10.1 INDEPENDENT CONTRACTOR must file with the Chief Judge of the COURT a bond approved by the Chief Judge in a penal sum determined by the State Court Administrator, that INDEPENDENT CONTRACTOR will account for and pay over all money and property which may be received by INDEPENDENT CONTRACTOR to the person or persons lawfully entitled to the money or property. The bond shall protect against fraud and dishonesty and shall satisfy the requirements of MCR 8.204, as amended. If requested by the COURT, INDEPENDENT CONTRACTOR shall produce documentation proving the existence and sufficiency of said bond within ten days of request.

11. TERMINATION

11.1 This Agreement may be terminated by either party on 30 days written notice to the other party at the above listed addresses of the parties, with or without cause.

11.2 By way of illustration and not by limitation, the COURT may immediately terminate this Agreement if, in the COURT'S sole and complete discretion, INDEPENDENT CONTRACTOR:

- (a) fails to perform any obligations imposed on him/her/it by this Agreement;
- (b) fails to report or account for any money or property seized in connection with INDEPENDENT CONTRACTOR'S duties as a Court Officer;
- (c) embezzles or converts any of the money or property obtained or seized pursuant to INDEPENDENT CONTRACTOR'S authority under this Agreement;
- (d) fails to perform his/her/its duties as Court Officer in a manner consistent with Michigan or federal laws;
- (e) is convicted of any felony or misdemeanor;
- (f) creates for the COURT, as determined by the COURT in its sole and complete discretion, an unfavorable impression in the public mind;
- (g) owes any indebtedness owed to the COURT that is more than thirty (30) days past due; or
- (h) violates any court rules or statutes.

11.3 The right of termination under this Agreement pursuant to this section is absolute and the COURT shall not incur any liability by reason thereof. INDEPENDENT CONTRACTOR releases the COURT from any claim of any nature (including, but not limited to damages sustained on account of loss of prospective profits or investments, contracts, leases, or other commitments) resulting from or arising out of such termination, provided, however, that nothing in this section shall be construed as a release of any obligation that shall have accrued prior to the effective date of such termination.

11.4 At the time of termination, INDEPENDENT CONTRACTOR must immediately return any and all property of the COURT which INDEPENDENT CONTRACTOR possesses or controls, including, but not limited to, any and all identification cards and badges issued by the COURT.

12. MISCELLANEOUS GENERAL PROVISIONS

12.1 The COURT, in its sole and complete discretion, shall have sole, complete and absolute authority to determine whether INDEPENDENT CONTRACTOR satisfied, has fulfilled or is in compliance with any term, condition or section of this Agreement.

12.2 If any part of this Agreement is held by a court or administrative agency of competent jurisdiction to be invalid, void or unenforceable, the remainder of the provisions in this Agreement shall remain in full force and effect and shall in no way be affected, impaired or invalidated.

12.3 INDEPENDENT CONTRACTOR agrees and deems that none of the provisions or covenants contained herein shall render this Agreement or any of its provisions invalid or unenforceable for lack of mutuality of obligation or remedy and INDEPENDENT CONTRACTOR further agrees and deems that the consideration exchanged for various covenants, agreements, and provisions herein is sufficient, apportionable and proportionate.

12.4 INDEPENDENT CONTRACTOR has considered, understands and agrees to each and every provision of this Agreement. INDEPENDENT CONTRACTOR enters into this Agreement knowingly and voluntarily, and has not received, nor is he/she/it relying on any representations by the COURT, its employees, their agents or attorneys. INDEPENDENT CONTRACTOR agrees that he/she/it was provided the opportunity to have this Agreement reviewed by an attorney prior to signing this Agreement.

12.5 This Agreement constitutes the sole and entire agreement between INDEPENDENT CONTRACTOR and the COURT.

12.6 This Agreement shall enure to the benefit of and be binding upon, heirs and assigns, and shall be interpreted according to the laws of the State of Michigan.

12.7 This Agreement supersedes all prior and contemporaneous statements, promises, understandings or agreements. This Agreement cannot be modified by verbal promises or agreements. Any modification of this Agreement or additional obligations assumed by either party in connection with this Agreement shall be binding only if evidenced in a writing signed by INDEPENDENT CONTRACTOR and the then acting Chief Judge of the COURT.

12.8 The failure of either party to this Agreement to insist upon performance of any of the terms and conditions of this Agreement, or the waiver of any breach of any of the terms and conditions of this Agreement, shall not be construed as a future waiver of any such terms and conditions, but same shall constitute and remain in full force and effect as if no such forbearance or waiver occurred.

12.9 The titles of the sections or paragraphs of this Agreement are solely for the convenience of the parties and shall not be used to explain, modify, simplify or aid in their interpretation.

INDEPENDENT CONTRACTOR COURT

WITNESS

Subscribed and sworn to before me this
____ day of _____, 2000.

Notary Public,
_____ County, Michigan
My Commission Expires:

ORDER OF APPOINTMENT – INDEPENDENT CONTRACTOR

Order (year) - (number)

IT IS HEREBY ORDERED:

That [full name of Court Officer] is hereby appointed to be a Court Officer for [name of the Court] in conformity with MCR 3.106. Consistent with the [title of the governing court officer contract], the terms and conditions of which are incorporated herein, [name of Court Officer] is and will remain an independent contractor, having the option of performing services for the Court on an as needed basis for a fee.

This appointment is for a period commencing [month/day/year]; and not to exceed two (2) years pursuant to MCR 3.106.

This appointment means that the Court Officer may be requested, on an as needed basis, to perform the following duties:

- Orders of Eviction
- Orders for the Seizure or Attachment of Property
- Orders requiring Arrest authority pursuant to MCR 2.103(D)
- Other services the Court may require

Chief Judge

Date

ARREST AUTHORIZATION

The (_____ Judicial District Court/ _____ Judicial Circuit Court/ _____
County Probate Court)

Does

Does not

Authorize _____ to serve process that requires
making arrests pursuant to MCR 2.103 (D).

Court

Court Officer

Date

Date