

Order

Michigan Supreme Court
Lansing, Michigan

April 13, 2022

Bridget M. McCormack,
Chief Justice

ADM File No. 2021-17

Proposed Rescission of
Administrative Order No.
1998-1 and Proposed
Amendment of Rule 2.227
of the Michigan Court
Rules

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

On order of the Court, this is to advise that the Court is considering a rescission of Administrative Order No. 1998-1 and amendment of Rule 2.227 of the Michigan Court Rules. Before determining whether the proposal should be adopted, changed before adoption, or rejected, this notice is given to afford interested persons the opportunity to comment on the form or the merits of the proposal or to suggest alternatives. The Court welcomes the views of all. This matter will also be considered at a public hearing. The notices and agendas for each public hearing are posted on the [Public Administrative Hearings](#) page.

Publication of this proposal does not mean that the Court will issue an order on the subject, nor does it imply probable adoption of the proposal in its present form.

[Additions to the text are indicated in underlining and
deleted text is shown by strikeover.]

~~Administrative Order No. 1998-1 Reassignment of Circuit Court Actions to District Judges~~

~~In 1996 PA 374 the Legislature repealed former MCL 600.641; MSA 27A.641, which authorized the removal of actions from circuit court to district court on the ground that the amount of damages sustained may be less than the jurisdictional limitation as to the amount in controversy applicable to the district court. In accordance with that legislation, we repealed former MCR 4.003, the court rule implementing that procedure. It appearing that some courts have been improperly using transfers of actions under MCR 2.227 as a substitute for the former removal procedure, and that some procedure for utilizing district judges to try actions filed in circuit court would promote the efficient administration of justice, we adopt this administrative order, effective immediately, to apply to actions filed after January 1, 1997.~~

~~A circuit court may not transfer an action to district court under MCR 2.227 based on the amount in controversy unless: (1) The parties stipulate to the transfer and to an appropriate amendment of the complaint, see MCR 2.111(B)(2); or (2) From the allegations of the complaint, it appears to a legal certainty that the amount in controversy is not greater than the applicable jurisdictional limit of the district court.~~

~~Circuit courts and the district courts within their geographic jurisdictions are strongly urged to enter into agreements, to be implemented by joint local administrative orders, to provide that certain actions pending in circuit court will be reassigned to district judges for further proceedings. An action designated for such reassignment shall remain pending as a circuit court action, and the circuit court shall request the State Court Administrator assign the district judge to the circuit court for the purpose of conducting proceedings. Such administrative orders may specify the categories of cases that are appropriate or inappropriate for such reassignment, and shall include a procedure for resolution of disputes between circuit and district courts as to whether a case was properly reassigned to a district judge.~~

~~Because this order was entered without having been considered at a public hearing under Administrative Order No. 1997-11, the question whether to retain or amend the order will be placed on the agenda for the next administrative public hearing, currently scheduled for September 24, 1998.~~

Rule 2.227 Transfer of Actions on Finding of Lack of Jurisdiction

- (A) Transfer to Court Which Has Jurisdiction. ~~Except as otherwise provided in this rule, w~~When the court in which a civil action is pending determines that it lacks jurisdiction of the subject matter of the action, but that some other Michigan court would have jurisdiction of the action, the court may order the action transferred to the other court in a place where venue would be proper. If the question of jurisdiction is raised by the court on its own initiative, the action may not be transferred until the parties are given notice and an opportunity to be heard on the jurisdictional issue.
- (B) Transfers From Circuit Court to District Court.
- (1) A circuit court may not transfer an action to district court under this rule based on the amount in controversy unless:
- (a) the parties stipulate in good faith to the transfer and to an amount in controversy not greater than the applicable jurisdictional limit of the district court; or

- (b) from the allegations of the complaint, it appears to a legal certainty that the amount in controversy is not greater than the applicable jurisdictional limit of the district court.

(B)-(C) [Relettered (C)-(D) but otherwise unchanged.]

(~~E~~) Procedure After Transfer.

- (1) The action proceeds in the receiving court as if it had been originally filed there. If further pleadings are required or allowed, the time for filing them runs from the date the filing fee is paid under subrule (~~D~~)(1). The receiving court may order the filing of new or amended pleadings. If part of the action remains pending in the transferring court, certified copies of the papers filed may be forwarded, with the cost to be paid by the plaintiff.
- (2) [Unchanged.]
- (3) A waiver of jury trial in the court in which the action was originally filed is ineffective after transfer. A party who had waived trial by jury may demand a jury trial after transfer by filing a demand and paying the applicable jury fee within 28 days after the filing fee is paid under subrule (~~D~~)(1). A demand for a jury trial in the court in which the action was originally filed is preserved after transfer.

(E) [Relettered (F) but otherwise unchanged.]

Staff Comment: The proposed rescission of Administrative Order No. 1998-1 and proposed amendment of MCR 2.227 would move the relevant portion of the administrative order into court rule format and make the rule consistent with the holding in *Krolczyk v Hyundai Motor America*, 507 Mich 966 (2021).

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.

A copy of this order will be given to the Secretary of the State Bar and to the State Court Administrator so that they can make the notifications specified in MCR 1.201. Comments on the proposal may be submitted by August 1, 2022 by clicking on the “Comment on this Proposal” link under this proposal on the [Court’s Proposed & Adopted](#)

[Orders on Administrative Matters](#) page. You may also submit a comment in writing at P.O. Box 30052, Lansing, MI 48909 or via email at ADMcomment@courts.mi.gov. When filing a comment, please refer to ADM File No. 2021-17. Your comments and the comments of others will be posted under the chapter affected by this proposal.



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.

April 13, 2022

A handwritten signature in black ink, appearing to read "Larry S. Royster", is written over a horizontal line.

Clerk