

Order

Michigan Supreme Court
Lansing, Michigan

June 1, 2022

Bridget M. McCormack,
Chief Justice

ADM File No. 2021-31

Amendment of Rule
8.110 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, notice of the proposed changes and an opportunity for comment in writing and at a public hearing having been provided, and consideration having been given to the comments received, the following amendments of Rule 8.110 of the Michigan Court Rules is adopted, effective immediately.

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

Rule 8.110 Chief Judge Rule

(A)-(C) [Unchanged.]

(D) Court Hours; Court Holidays; Judicial Absences.

(1) [Unchanged.]

(2) Court Holidays; Local Modification.

(a) The following holidays are to be observed by all state courts, except those courts which have adopted modifying administrative orders pursuant to MCR 8.112(B):

New Year's Day, January 1;
Martin Luther King, Jr., Day, the third Monday in January in
conjunction with the federal holiday;
Presidents' Day, the third Monday in February;
Memorial Day, the last Monday in May;
Juneteenth, June 19;
Independence Day, July 4;
Labor Day, the first Monday in September;
Veterans' Day, November 11;
Thanksgiving Day, the fourth Thursday in November;
Friday after Thanksgiving;
Christmas Eve, December 24;

Christmas Day, December 25;
New Year's Eve, December 31;

- (b) When New Year's Day, Juneteenth, Independence Day, Veterans' Day, or Christmas Day falls on Saturday, the preceding Friday shall be a holiday. When New Year's Day, Juneteenth, Independence Day, Veterans' Day, or Christmas Day falls on Sunday, the following Monday shall be a holiday. When Christmas Eve or New Year's Eve falls on Friday, the preceding Thursday shall be a holiday. When Christmas Eve or New Year's Eve falls on Saturday or Sunday, the preceding Friday shall be a holiday.

(c)-(e) [Unchanged.]

(3)-(6) [Unchanged.]

Staff Comment: In light of the federal Act making Juneteenth a federal holiday ([PL 117-17](#)), this amendment similarly requires that courts observe Juneteenth as a holiday.

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.

ZAHRA, J. (*dissenting*). The Michigan court system currently observes 12 paid holidays. This is far more than observed by the private sector. I believe as servants of the people we owe it to them to work diligently and regularly to provide good public service. Accordingly, I would not add an additional day off at the taxpayers' expense. Juneteenth has been a ceremonial holiday in Michigan to be celebrated on the third Saturday of June each year. I would continue to follow this observance. But since it is the will of the Court to make it a paid holiday, I would cease to recognize one of the other holidays typically not observed by the private sector, such as the Friday after Thanksgiving. For these reasons, I dissent.

VIVIANO, J. (*dissenting*). I dissent from the Court's decision to adopt a proposed amendment adding Juneteenth to the long list of weekday holidays that generally must be observed by all state courts under MCR 8.110. As I indicated in my previous statement when this amendment was proposed for comment, Juneteenth commemorates a historically significant date that, pursuant to statute, our state recognizes and celebrates by encouraging individuals and organizations to pause and reflect. MCL 435.361(1); Proposed Amendment of MCR 8.110, 508 Mich 1206, 1208 (2021) (VIVIANO, J., *dissenting*). The Legislature gave this matter thoughtful consideration less than two decades ago, passing the Juneteenth National Freedom Day legislation unanimously and with broad bipartisan

support. I would defer to its judgment rather than trying to upstage the Legislature by creating a new holiday of our own.

The Court’s decision to add another holiday comes at a particularly bad time for our courts. As I noted last fall, “[m]any of our trial courts—including some of our largest courts—are confronting a significant backlog of criminal and civil cases resulting from their inability to conduct in-person court proceedings for long stretches of time during the COVID-19 pandemic.” Administrative Order No. 2021-7, 508 Mich xli, lvi (2021) (VIVIANO, J., concurring in part and dissenting in part). The backlog will only be exacerbated by today’s rule change. And, as if to emphasize that trial court operations are not our primary concern, the Court has decided to give the current amendment immediate effect, meaning it will take effect this June rather than next. The lower courts have undoubtedly already scheduled proceedings for June 20, 2022. See, e.g., MCR 2.501 (requiring 28 days’ notice for trial assignments). Any court that wishes to proceed with an already scheduled trial or other judicial matters on this new holiday as permitted under MCR 8.110(D)(2)(d) will need to show that holding the proceeding on that day is “necessary” and obtain the chief judge’s approval. Thus, the Court has increased the burden on trial courts at a time when many are already having difficulty catching up on jury trials and disposing of cases.

Our courts handle matters that intimately affect the lives of Michigan’s residents. It is therefore imperative that the courts expeditiously process and resolve the cases before them. The rule adopted today adds further delay to an already backlogged system. Because the Court is not acting as a responsible steward of our court system, I respectfully dissent.



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.

June 1, 2022

Clerk