

Appointment of Interim Administrator Checklist¹

Subchapter 9.300 of the Michigan Court Rules imposes obligations on private practice attorneys² and the State Bar of Michigan with regard to identifying, designating, and serving as Interim Administrators³ when an attorney becomes unable to practice. This may require the court to rule on an ex parte petition for the appointment of an Interim Administrator.⁴ See [MCR 9.305](#).

COMMENCEMENT OF PROCEEDING. A proceeding for the appointment of an Interim Administrator commences when the Interim Administrator files an ex parte petition⁵ “in the circuit court for the county in which the Affected Attorney^[6] lives, last lived, or maintains or last maintained an office for the practice of law.” [MCR 9.305\(A\)](#).

PETITION REQUIREMENTS. The ex parte petition must set forth facts proving that:

¹See the Michigan Judicial Institute’s *Civil Proceedings Benchbook*, Chapter 9, for additional information regarding the appointment of an interim administrator.

²“Private practice attorney” means “an attorney who is an active Michigan attorney in good standing and who is subject to Rule 21 of the [Rules Concerning the State Bar of Michigan](#), Mandatory Interim Administrator Planning.” [MCR 9.301\(G\)](#).

³“Interim administrator” is “a general term for an active Michigan attorney in good standing who serves on behalf of a Private Practice Attorney who becomes an Affected Attorney. It also means a law firm with at least one other active Michigan attorney that is designated to serve on behalf of a Private Practice Attorney who becomes an Affected Attorney.” [MCR 9.301\(E\)](#).

⁴“Appointed interim administrator” means “an Interim Administrator who is appointed by the circuit court pursuant to [MCR 9.305](#) to serve on behalf of the Affected Attorney.” [MCR 9.301\(C\)](#).

⁵See [SCAO Form CC 529](#), *Ex Parte Petition for Appointment of Interim Administrator*.

⁶“Affected attorney” means “an attorney who is either temporarily or permanently unable to practice law because the attorney has: (1) resigned; (2) been disbarred or suspended; (3) disappeared; (4) been imprisoned; (5) abandoned the practice of law; (6) become temporarily or permanently disabled or incapacitated; (7) been transferred to disability inactive status pursuant to [MCR 9.121](#); or (8) died.” [MCR 9.301\(A\)](#).

- the attorney is an Affected Attorney;
 - the appointment of an Interim Administrator is necessary to protect the interests of the Affected Attorney's Clients or the interests of the Affected Attorney; and
 - the attorney proposed to be appointed as Interim Administrator is qualified under [MCR 9.305](#).⁷ [MCR 9.305\(A\)\(1\)\(a\)-\(c\)](#).
 - If [SCAO Form CC 529](#) is not used, or the verification on the form is unsigned, the petition must be accompanied by an affidavit/declaration of a person with personal knowledge of the facts. [MCR 9.305\(A\)\(2\)](#).
- SERVICE OF PROCESS.** The petition and any supporting documents must be served on:
- the Affected Attorney, if their whereabouts are known;
 - the Affected Attorney's estate, if deceased;
 - the fiduciary for the Affected Attorney, if one has been appointed⁸; and
 - the State Bar of Michigan, if the petition is filed by the Designated Interim Administrator.⁹ [MCR 9.305\(A\)\(3\)](#).
- ORDER OF APPOINTMENT.**¹⁰ Appoint one or more Interim Administrators if petitioner has proven by a preponderance of the evidence that the attorney is an Affected Attorney and the appointment of an Interim Administrator is necessary to protect the interests of the Affected Attorney's Clients^[11] or the interests of the Affected Attorney, as follows:

⁷See [MCR 9.315](#) and Rule 21(D) of the [Rules Concerning the State Bar of Michigan](#) for additional information regarding qualification. Specifically, an Interim Administrator must "obtain and retain professional liability insurance that covers conduct performed as an Interim Administrator[.]" [MCR 9.315](#).

⁸See [MCR 2.103](#) – [MCR 2.108](#).

⁹"Designated interim administrator" means "an Interim Administrator that a Private Practice Attorney has designated to serve and who has accepted the designation in the event the Private Practice Attorney should become an Affected Attorney." [MCR 9.301\(D\)](#). See also [MCR 1.109\(G\)\(6\)](#) and [MCR 2.107\(C\)\(4\)](#) regarding manner of service on the State Bar of Michigan.

¹⁰See [SCAO Form CC 530](#), *Order Appointing Interim Administrator*.

¹¹"Affected attorney's clients" "are clients to whom the Affected Attorney is the attorney of record, regardless of whether the retainer agreement is with the Affected Attorney or the Affected Attorney's Law Firm." [MCR 9.301\(B\)](#).

- Appoint the Designated Interim Administrator or the Interim Administrator proposed by the State Bar under [MCR 9.305\(A\)](#), unless good cause exists to appoint a different Interim Administrator. [MCR 9.305\(B\)\(1\)](#).
- Appoint additional Interim Administrators upon a finding of good cause. [MCR 9.305\(B\)\(2\)](#).
- Authorize the Interim Administrator to:
 - Take custody of and act as signatory on any bank or investment accounts, safe deposit boxes, and other depositories maintained by the Affected Attorney in connection with the Law Firm¹², including all lawyer trust accounts, escrow accounts, payroll accounts, operating accounts, and special accounts;
 - Disburse funds to clients of the Affected Attorney or others entitled thereto; and
 - Take all appropriate actions with respect to the accounts. [MCR 9.305\(B\)\(3\)\(a\)-\(c\)](#).
- If appropriate, make orders necessary to protect the interests of the clients of the Affected Attorney, and to the extent possible and not inconsistent, the interests of the Affected Attorney, regarding the delivery, storage, or destruction of client files. [MCR 9.311](#).
- The order may require the Interim Administrator to submit interim and final accountings and reports and may allow or direct portions of any accounting relating to the funds and confidential information of the clients of the Affected Attorney to be filed under seal.¹³ [MCR 9.305\(B\)\(5\)](#).
- The order appointing an Interim Administrator is effective immediately upon entry unless the court orders otherwise. [MCR 9.305\(B\)\(4\)](#).
- The State Bar of Michigan may petition the court for an interim accounting upon belief the Affected Attorney's affairs are being mismanaged. [MCR 9.307\(C\)\(4\)](#).
- SERVICE OF NOTICE OF APPOINTMENT.**¹⁴ Upon receipt, the petitioner must serve the order, including the name and

¹²“Law firm” means “the entity in which the Affected Attorney carries out the profession of being a lawyer.” [MCR 9.301\(F\)](#).

¹³The Interim Administrator must file an inventory of the Affected Attorney's interest-bearing trust accounts for deposit of client and third-party funds with the court within 35 days of entry of the order of appointment unless an inventory has already been filed with the court. [MCR 9.307\(C\)\(1\)](#). See [SCAO Form CC 533](#), *Inventory of Interim Administrator*.

address of the Affected Attorney, and the name, business address, business telephone number, business email address, and P number of the Interim Administrator on:

- the Affected Attorney;
- the Affected Attorney's estate, if deceased;
- the Affected Attorney's fiduciary;
- the State Bar of Michigan, if the petitioner is the Designated Interim Administrator; and
- the Interim Administrator, if the petitioner is the State Bar of Michigan.
- The State Bar of Michigan must publish the notice in the Michigan Bar Journal and on the State Bar of Michigan website. [MCR 9.305\(C\)](#).
- OBJECTIONS TO NOTICE OF APPOINTMENT.**¹⁵
 - Objections may be filed by:
 - any interested person;
 - within 14 days after service of the Notice of Appointment; and
 - must specify the grounds upon which the objection is based. [MCR 9.305\(D\)](#).
 - The filing of one or more objections does not automatically stay the order, but the court may order a stay pending resolution of the objection(s). [MCR 9.305\(D\)](#).
- COMPENSATION.** Following entry of an order of appointment, the Interim Administrator may file a motion seeking compensation and reimbursement.¹⁶ [MCR 9.313\(B\)\(1\)](#).
 - An Interim Administrator is entitled to reasonable compensation and reimbursement for actual and reasonable costs incurred in connection with the performance of their duties, except as otherwise provided for by an agreement with the Affected Attorney. [MCR 9.313\(A\)](#). Reimbursable expenses include, but are not limited to:

¹⁴See [SCAO Form CC 531](#), *Notice of Appointment of Interim Administrator*.

¹⁵See [SCAO Form CC 532](#), *Objection to the Appointment of an Interim Administrator*.

¹⁶See [SCAO Form CC 534](#), *Motion for Compensation/Reimbursement of Interim Administrator*.

- the costs incurred in connection with maintaining the staff, offices, and operation of the Law Firm; and
- the employment of attorneys, accountants, and others retained by the Interim Administrator in connection with carrying out the Interim Administrator's duties. [MCR 9.313\(A\)](#).
- The court may enter a judgment awarding compensation and expenses to the Interim Administrator against the Law Firm, the Affected Attorney, or any other available sources. [MCR 9.313\(C\)](#).¹⁷ See [MCR 9.313](#) for additional information.

¹⁷See [SCAO Form CC 535](#), *Judgment Regarding Compensation/Reimbursement of Interim Administrator*.

