

Name: Dan Hofman

Date: 11/01/2022

ADM File Number: 2020-08

Comment:

I am writing in support of the proposed rule changes. I am a non-profit attorney who represents low-income individuals in Michigan trial courts, including landlord-tenant dockets, and was previously an eviction-defense attorney in Washington, DC.

In sum, I view the proposed rule changes as simply providing some additional procedural rights to tenants to increase the likelihood that cases are decided on the merits and with assurance that tenants are notified of the proceedings. The new requirement of personal service before a default judgment can be issued at an initial hearing is illustrative. This will merely provide some certainty that a tenant is willfully ignoring the summons by not appearing in court, whereas there is little to no certainty in the current system. There are many reasons why individuals may not receive a mailed court notice or posted notice from the landlord, and if they never appear in court as a result, there is no way to push back against the landlord's assertion that proper notice was provided. While every eviction is a tragedy, those that result from tenants never even knowing about the proceedings are particularly so. The proposed Supreme Court rule is merely trying to limit these tragedies with little cost to the landlord (they can personally serve or get a default at a second hearing). Such limited, common sense reform should not be railroaded by unfounded claims of system collapse and economic ruin.

It should be noted that the balance of power in landlord-tenant court is heavily weighed against tenants as landlords almost always have lawyers and tenants almost never do. This fundamental imbalance does not change by giving tenants a few more procedural rights. I know this from working in Washington, DC where procedural protections for tenants in landlord-tenant court are even stronger than the proposed rules for tenants provide for. When tenants have a bit more leverage, they have more opportunity to work with their landlord on an amicable solution, as I found that nearly every single one of my clients opted for settlement prior to trial in DC. For example, tenants who simply cannot afford rent and live in a habitable unit understand that they will need to move out, and will negotiate a move-out date that avoids an eviction on their record, a stain that will leave them unable to rent in the future. With landlords able to get a judgment in mere weeks in Michigan, there are fewer incentives for engaging in these kinds of productive resolutions.

These proposed rule changes are an important start to creating a more just landlord-tenant court, but should be part of a continuing effort. In fact, these changes are already necessary to support the work that is happening in places like Detroit, whose elected leaders voted to provide right to counsel in eviction proceedings. I hope that preventing eviction continues to be on the minds of the Court and other government institutions as we get further away from the epicenter of the pandemic, and I look forward to your continued collaboration.