



Michigan Supreme Court

State Court Administrative Office
Michigan Hall of Justice
P.O. Box 30048
Lansing, Michigan 48909

Amendments to Administrative Order No. 2020-17, MCR 2.408, and MCR 4.201 Frequently Asked Questions (Summary Proceedings)

Q: Was AO 2020-17 rescinded?

A: No, but some of the procedures outlined in AO 2020-17 were moved into the court rules. The amended AO 2020-17, MCR 2.408, and MCR 4.201 become effective November 6, 2023, or if a court has requested and been approved for an extension, December 6, 2023. See the MSC order [here](#).

Q: Will there be a SCAO landlord-tenant “Advice of Rights” form?

A: Yes. A new form is being created called the *Advice of Rights and Information (Landlord-Tenant)* form (DC 538), which will be available from SCAO.

Q: When will the forms be available?

A: The updated and new forms will be available before the November 6, 2023, effective date and will be posted to the [Forms](#) page on the One Court of Justice website. An Explanation of Changes with links to all impacted forms will be available on the [Recently Revised Court Forms](#) page.

Q: How can a court request an extension of the effective date of the court rules?

A: As indicated in the September 7, 2023, SCAO [memo](#), a request for an extension to delay the effective date of the Order amending AO 2020-17, MCR 2.408, and MCR 4.201 must be made according to SCAO guidance, which was provided in the [memo](#) of October 9, 2023.

Q: What authority do district court magistrates have under the amended rules? Is there movement to seek legislative amendments to MCL 600.8501 *et seq.* to authorize district court magistrates to preside over landlord-tenant cases?

A: Effective November 6, 2023, or December 6, 2023, if the court has been approved for an implementation extension, a district court magistrate is no longer authorized to preside

over landlord-tenant cases, including the advice of rights and information. Statutory amendments have been introduced that the Michigan District Judges Association (MDJA) and SCAO support.

Q: What impact do the court rule amendments have on pending landlord-tenant cases? More specifically, what if the complaint for a pending case does not contain the now-required language about “compliance with applicable state and local health and safety laws” or the defendant was not personally served or sent the second mailing pursuant to MCR 4.201(D)?

A: Judicial discretion will determine how cases are handled that are filed prior to the effective date but heard after the effective date. [MCL 554.139](#) already requires the landlord to comply with the applicable health and safety laws of the state and of the local unit of government where the premises are located. The amendment to MCR 4.201(B)(c)(3) simply requires the landlord to also allege it in the complaint and allows the plaintiff the opportunity to explain any defects in the allegation. Residential defendants not personally served or sent the second mailing by the court cannot be defaulted at the initial time and date set for trial, once the amendments become effective. MCR 4.201(D).

Q: MCR 4.201(F) states courts must allow the use of videoconferencing technology in accordance with MCR 2.407 and MCR 2.408. Since MCR 2.407 and MCR 2.408 allow discretion to find that a matter should not proceed remotely, are courts permitted to conduct landlord-tenant cases in person if they make the record required under MCR 2.407?

A: MCR 4.201(F) states the use of videoconferencing technology is presumed when providing the advice of rights and information required by subrule MCR 4.201(K)(2)(a). However, [MCR 2.407\(B\)\(5\)](#) provides that “[n]othing in this rule shall prevent the court from determining that a case is not suited for videoconferencing, and may require any hearing, even a proceeding categorized as presumptively subject to videoconferencing technology, to be conducted in person.”

Q: How does the change in service of process effect MiFILE courts? If a court mailing is requested, are MiFILE courts required to print out and serve by mail the summons and all attachments that have been filed electronically?

A: MCR 4.201(D) provides that “[a] plaintiff may also request the court mail a second copy of the summons and complaint and all attachments to the defendant **in a court envelope** – the same envelope as used for other court business which is clearly identified as coming from the court.” (Emphasis added.) If requested, MiFILE courts must print the summons, complaint, and other filings and attachments and mail them in a court envelope to each individual defendant. MiFILE has been enhanced to help facilitate the printing process.

Q: I am a court utilizing MiFILE. Do I need to make changes to MiFILE or my case management system (CMS)?

A: The JIS MiFILE and CMS teams have developed new functionality for courts, which will be released by the effective date of this rule change. These enhancements allow the court to accept payment for the cost of requested court mailings, create new TrueFiling types that are automatically mapped to new OnBase document catalog entries (no clerk indexing required), and enhance workflow routing for MiFILE DMS courts to assist with the printing process. One important action courts must take before the rule takes effect has been highlighted in both CMS and MiFILE release notes and communications - a new cash code must be added by the court to their own CMS. All other changes will be pushed to courts automatically by JIS. This marks the initial phase of the feature enhancement, and the team is actively working to further refine it by the first quarter of 2024. For details on required actions by the court, please consult the MiFILE communication that has been sent or email MiFILECourtHelp@courts.mi.gov for additional assistance.

Q: Is the first appearance for trial under MCR 4.201 similar to what a “pretrial hearing” was under AO 2020-17?

A: The summons includes the date and time set for trial; however, MCR 4.201(K)(2)(d) adjourns the trial unless the case is resolved or proceeds in accordance with subrule (K)(2)(e).

Q. Does the stay of proceedings in MCR 4.201(I)(3) apply to all cases?

A. The stay of proceedings applies to residential non-payment of rent cases. MCR 4.201(I)(3)(a) states, “[i]n cases filed pursuant to MCL 600.5714(1)(a) for nonpayment of rent due under a residential lease or agreement, **the court must stay further proceedings** after advising the defendant of the rights and information listed in subrule (K)(2)(a) and adjourn the trial under subrule (K).” (Emphasis added).

Q: Does the automatic adjournment apply to all cases?

A: The adjournment identified in MCR 4.201(K)(1)(a) and ordered in accordance with subrule (K)(2)(d), is automatic for all cases that are not resolved or able to proceed in accordance with subrule (K)(2)(e).

Q: What is the fee for the court mailing of the second copy of the summons, complaint, and attachments under MCR 4.201(D)?

A: SCAO has determined the fee to be a flat fee of \$13.00 for the second mailing and this will be reflected on the updated [District Fee Chart](#).

Q: MCR 4.201(C)(3)(f) requires the advice of rights and written information regarding the local availability of rental and other housing assistance to be attached to the summons. Where does the information regarding local availability of rental and other housing assistance come from?

A: The *Advice of Rights and Information (Landlord-Tenant)* (DC 538) provides that the court must attach to the summons its own written information regarding local rental and other housing assistance that is available within the court's jurisdiction. Courts are responsible for providing this local rental and housing assistance and should coordinate with the local Housing Assessment and Resource Agency (HARA) to gather relevant information. If a court is unaware who the local HARA is, please see the HARA link below or contact your SCAO regional office. This information should also be made accessible/downloadable to print from the court's website, copies made available at the court, or links included on the message board of a MiFILE court. For example, the following links may be included, along with local information:

- Michigan Department of Health and Human Services (MDHHS)
<https://www.michigan.gov/mdhhs/assistance-programs/housing-and-homeless-services>
- Michigan State Housing Development Authority (MSHDA)
<https://www.michigan.gov/mshda/rental/welcomerenters>
- Housing Assessment and Resource Agency (HARA)
<https://www.michigan.gov/mshda/-/media/Project/Websites/mshda/homeless/contact-lists/MSHDA-HARA-Contact-List-PDF.pdf>
- Veterans Administration Supportive Housing (HUD VASH)
<https://www.michigan.gov/mshda/rental/housing-choice-voucher/hud-vash-veterans-administration-supportive-housing-vouchers>

Q: Are courts still allowed to find there is no triable issue, and at what point in the proceedings can that be done?

A: After adjournment, pursuant to MCR 4.201(K)(2)(d), subrule (K)(1)(b) still requires the court to decide remaining motions and to determine if there is a triable issue.

Q: MCR 4.201(G)(4) allows the defendant to make a jury demand and pay at a later date (5 days after getting notice, 4.210(K)(2)(a)). Does this also allow the plaintiff to request a jury trial later?

A: MCR 4.201(B)(2) requires the **plaintiff** to demand a jury trial at the time of filing the complaint. This has not changed. MCR 4.201(G)(4) requires the **defendant** to demand a jury trial orally at the first appearance or in writing within five days of being advised of the rights and information, and to pay the jury trial fee within 5 days of being advised of the rights and information, unless payment of the fee is waived.

Q: When receiving a request to mail a second copy of the summons and complaint and all attachments to the defendant in a court envelope pursuant to MCR 4.201(D), does the court need to physically deliver the mailing to the US Post Office or can the court use an outgoing mailbox that is picked up by the United States Postal Service (USPS)?

A: A court mailing requested by plaintiff pursuant to MCR 4.201(D) “must be delivered to the US Post Office at least 7 days before the date of trial, and a record must be kept.” A new form, *Request for Court Mailing and Record of Mailing by Court* (DC 536), will serve to keep a record. The subrule does not provide a way for the court to comply by placing it in the court’s internal/interdepartmental outgoing mail.

Q: How can the court ensure that a defendant is present the entire time while presenting the advice of rights if the person uses videoconferencing without using video, or if there are multiple defendants receiving the rights together?

A: MCR 4.201(K)(2)(b) provides that the court “must, on the record, ensure that the defendant received a full advice of rights, understood the advice of rights, and ask if defendant has any questions about the advice of rights.” The rule specifically allows for the advice of rights to be provided to a group of defendants via video, computer presentation, or other technological means. The judge must determine how both can be accomplished.

Q: Will the SCAO time guidelines be updated to reflect the extra time the Michigan Supreme Court provided tenants in this rule change?

A: The time guidelines for landlord-tenant cases are as follows: 95 percent of landlord-tenant cases should be adjudicated within 126 days from the date of case filing where there is no jury demand. Sixty-five percent of all landlord-tenant cases should be adjudicated within 154 days from the date of case filing where a jury is demanded. See AO 2013-12. Therefore, the time guidelines for landlord-tenant cases are not impacted by the rule change. The Trial Court Performance Measures (TCPM) Committee met on October 20, 2023, and specifically discussed this and will revisit the issue when comparative data is available.

Q: When scheduling, does the timeline for the adjournment and stay run concurrently?

A: For cases that meet the requirements for the adjournment pursuant to MCR

4.201(K)(2)(d) and the stay pursuant to subrule (I)(3), both timelines are triggered by providing the advice of rights and information pursuant to subrule (K)(2)(a).

Q: If the court does not believe there are grounds for relief under MCR 2.612(C), must it nonetheless stay a postjudgment motion that challenges the judgment for possession if one month's rent is deposited in escrow?

A: MCR 4.201(N)(1) states the court shall grant a stay if a postjudgment motion challenges a judgment for possession if (a) the motion is accompanied by an escrow deposit of 1 month's rent, or (b) the court is satisfied that there are grounds for relief under MCR 2.612(C) and issues an order that waives payment of the escrow; such an order may be ex parte. If a stay is granted, a hearing shall be held within 14 days after it is issued.

Q: If there are multiple defendants and the case is initially stayed for 14 days for one defendant, can the case be stayed again for a second defendant?

A: In cases where there are multiple defendants, each defendant's case must be processed in accordance with MCR 4.201 and may include different timelines. There is no difference in the current court rule requirements for processing cases with multiple defendants.

Q: The stay of proceedings in MCR 4.201(I)(3)(a) does not require the defendant to serve notice to the plaintiff, so how will the plaintiff know if the proceedings are stayed?

A: The proceedings are stayed for residential non-payment cases after the information pursuant to MCR 4.201(K)(2)(a) is provided. The court should schedule accordingly. If necessary, the plaintiff can check the docket to find out if the defendant has provided the new form, *Rental Assistance, Proof of Application/Status Update* (DC 539) to the court pursuant to subrule (I)(3).