

# MICHIGAN STATE PLANNING BODY

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## Co-Chairs:

**Hon. Judith E. Levy**  
*U.S. District Court  
Eastern District Of Michigan*  
**Angela S. Tripp**  
*Co-Executive Director  
Michigan Statewide  
Advocacy Services*

## Agenda Committee:

**Bob Gillett**  
*Attorney at Law*  
**Hon. Elizabeth Hines**  
*Attorney at Law*  
**Hon. Denise Page Hood**  
*U.S. District Court  
Eastern District of Michigan*  
**Ashley Lowe**  
*Lakeshore Legal Aid*  
**Jonathan Sacks**  
*State Appellate Defender  
Office*

December 28, 2023

Clerk, Michigan Supreme Court  
P.O. Box 30002  
Lansing, MI 48909  
<ADMcomment@court.mi.gov>

Re: ADM File No. 2020-08 – proposed rescission of AO 2020-17 and ensuring that implementation of local court rules accords with MCR 4.201

Dear Clerk:

We are writing as the Co-Chairs the Michigan State Planning Body (Ms. Tripp) and chair of the SPB Housing Committee. We are writing to express our support for the proposed rescission of AO 2020-17 and modification of local eviction court rules (“5-Day Rules”) so they are in accordance with MCR 4.201.

The Michigan State Planning Body (SPB) is a statewide association of leaders in the judiciary, the State Bar, and state and regional advocacy programs (including civil legal aid, indigent criminal defense, and hybrid programs). Our civil legal aid members are the primary providers of legal assistance to low-income tenants. Through this work, they have seen the negative impacts of 5-Day Rule practices and the disparate effects that local court rules can have on the outcome of evictions from one jurisdiction to the next.

SPB supports the proposed changes to MCR 4.201(C)(1). These changes shore up the important amendments made to MCR 4.201, including allowing tenants to appear and receive the statement of rights and information to tenants found in 4.201(K) without the hurdle of filing a written answer.

The proposed amendment clarifies that courts may not require a written answer and that all litigants must be allowed to appear and answer orally as allowed in MCR 4.201(G)(1)(b). This clarification is also consistent with this Court’s previous amendments to MCR 4.201 that allow for better and more complete access to the Court for all parties in summary proceedings in Michigan.

It has been our experience that the harmful impacts of the local court rules in 5-Day Rule jurisdictions is cumulative. The local rules create procedural hurdles that many tenants can’t navigate, and one violation is often fatal. Many tenants are unable to comply with the “written answer” requirement. But, in our experience, even tenants who successfully file a written answer often still lose their right to their day in court due to another aspect of the rule - e.g., their answer is reviewed and determined to be without merit. The net result of these rules is that a very high percentage of tenants lose their cases without ever having an opportunity to appear in court and state their case.

Even with the additional resources provided for representation of tenants, the majority of tenants appear without counsel. Self-represented litigants face unique barriers - including limitations in

education, literacy, and language that impede their ability to access the Court system. Many are intimidated by the Court process or have already had negative interactions with the Court. Often locally implemented Court Rules make an already challenging process for tenants totally inaccessible. The 5-Day Rules create inequities in the eviction process based on where a tenant lives.

There was a time when some courts valued efficiency (to landlords or the court itself) over fairness to tenants. We hope - with the leadership of the Justice For All Commission - we are entering an era where access to the courts by all Michigan residents and consistent, accessible processes across all courts are values informing our systems. We believe that this final amendment completes the Court's review of summary proceeds in a way that is consistent with the lessons learned throughout the pandemic and the values of the JFA process. We urge the Court to adopt it.

Respectfully submitted,



Angela Tripp  
Co-Chair, State Planning Body

  
R F Gillett (Dec 28, 2023 15:50 EST)

Robert F. Gillett  
Chair, State Planning Body Housing Committee

# SPB Comment on 4.201 5-day rule

Final Audit Report

2023-12-28

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