

Order

Michigan Supreme Court
Lansing, Michigan

December 6, 2021

Bridget M. McCormack,
Chief Justice

ADM File No. 2017-28

Amendment of Rule
1.109 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, the May 22, 2019 order amending Rule 1.109 of the Michigan Court Rules is amended as follows, effective April 1, 2022. Concurrently, individuals are invited to comment on the form or the merits of the amendments during the usual comment period. The Court welcomes the views of all. This matter will also be considered at a public hearing. The notices and agendas for public hearing are posted on the [Public Administrative Hearings](#) page.

Publication of this proposal does not mean that the Court will issue an order on the subject, nor does it imply probable adoption of the proposal in its present form.

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

Rule 1.109 Court Records Defined; Document Defined; Filing Standards; Signatures;
Electronic Filing and Service; Access

(A)-(C) [Unchanged.]

(D) Filing Standards.

(1)-(8) [Unchanged.]

(9) Personal Identifying Information.

(a) [Unchanged.]

(b) Filing, Accessing, and Serving Personal Identifying Information

(i)-(iv) [Unchanged.]

(v) Consent.

(A) A party may stipulate in writing to allow access to his or her protected personal identifying information to any

person, entity, or agency. Unless otherwise provided by this subrule, the stipulation must be presented to the court when trying to access the protected personal identifying information.

(B) The State Court Administrative Office will maintain a list of authorized individuals who may have access to a party's date of birth contained in a court record for purposes of verifying the identity of that particular person without the need to present a stipulation to the court. To be placed on this list, these individuals must conform to the following procedures:

(1) In a written document, identify the entity for which they work and provide assurance to the State Court Administrative Office that each time they seek verification of a party's date of birth, it will be in the course of their work and with that person's consent. The consent may be retained in the possession of the authorized individual, the entity for whom the individual works, the person or organization seeking the information about the person, or someone acting on behalf of that person or organization. Such assurance may be satisfied by a letter from the entity for which the individual works or other authorization. The assurance required under this provision shall be updated at least every six months, beginning from the date of the original submission. The update may be provided by the individual who seeks access to a person's date of birth or by the entity that authorizes the individual to operate on its behalf in accessing the information.

(2) Submit proof of their employer's or hiring entity's current professional liability insurance in effect during the period when an authorized individual will be seeking date of birth information from a court. Failure to do so will result in the individual being removed from the list or in the individual not being placed on the

list. The information provided in support of this provision shall be nonpublic. The proof of insurance required under this provision shall be updated annually.

- (3) Courts must verify the identity of anyone who claims to be an authorized individual by ensuring the name on the individual's state-issued identification matches the name in SCAO's authorized user list. A court may issue a register of actions or other document that includes a party's date of birth to an authorized individual.

(vi)-(vii) [Unchanged.]

(c)-(e) [Unchanged.]

(10) [Unchanged.]

(E)-(H) [Unchanged.]

Staff Comment: The amendment of MCR 1.109 establishes a process for individuals to be authorized to have access to a party's date of birth for purposes of verification of identity with that party's consent.

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.

A copy of this order will be given to the Secretary of the State Bar and to the State Court Administrator so that they can make the notifications specified in MCR 1.201. Comments on the proposal may be submitted by April 1, 2022 by clicking on the "Comment on this Proposal" link under this proposal on the [Court's Proposed & Adopted Orders on Administrative Matters](#) page. You may also submit a comment in writing at P.O. Box 30052, Lansing, MI 48909 or via email at ADMcomment@courts.mi.gov. When filing a comment, please refer to ADM File No. 2017-28. Your comments and the comments of others will be posted under the chapter affected by this proposal.



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.

December 6, 2021

Clerk