Order

Michigan Supreme Court
Lansing, Michigan

Megan K. Cavanagh,
Chief Justice

Brian K. Zahra
Richard H. Bernstein
Elizabeth M. Welch
Kyra H. Bolden
Kimberly A. Thomas
Noah P. Hood,
Justices

September 23, 2026

ADM File No. 2022-43

Proposed Amendment of
Rule 2.118 of the Michigan
Court Rules

On order of the Court, this is to advise that the Court is considering an amendment of Rule 2.118 of the Michigan Court Rules. Before determining whether the proposal should be adopted, changed before adoption, or rejected, this notice is given to afford interested persons the opportunity to comment on the form or the merits of the proposal or to suggest alternatives. The Court welcomes the views of all. This matter will also be considered at a public hearing. The notices and agendas for each 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 2.118 Amended and Supplemental Pleadings

(A)-(C) [Unchanged.]

(D) Relation Back of Amendments.

(1) An amendment that adds a claim or a defense relates back to the date of the original pleading if the claim or defense asserted in the amended pleading arose out of the conduct, transaction, or occurrence set forth, or attempted to be set forth, in the original pleading. In a medical malpractice action, an amendment of an affidavit of merit or affidavit of meritorious defense relates back to the date of the original filing of the affidavit.

(2) An amendment that substitutes a plaintiff relates back to the date of the original pleading if the substituted plaintiff shares an identity of interest with the original plaintiff, the substituted plaintiff's claim is the same as that alleged in the original complaint, and the ability to defend against the claim is not prejudiced by the substitution.

(3) An amendment that changes the party or the naming of the party against whom a claim is asserted relates back to the date of the original pleading only if

(a) the amendment asserts a claim or defense that arose out of the conduct, transaction, or occurrence set out, or attempted to be set out in the original pleading;

(b) within the time period provided by MCR 2.102(D) the party to be brought in by amendment received such notice of the action that it will not be prejudiced in defending on the merits; and

(c) the party to be brought in by amendment knew or should have known that the action would have been brought against it, but for a mistake concerning the proper party's identity.

(E) [Unchanged.]

Staff Comment (ADM File No. 2022-43): The proposed amendment of MCR 2.118 would clarify that the rule does not necessarily preclude relation-back of a pleading amendment to substitute a plaintiff or correct a misnomer.

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 provided 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. Written comments on this proposal may be submitted by **January 1, 2027**.

The Court asks commenters to submit written comments via the Court's website to the extent possible. **To submit a comment via the Court's website**, click on the "Comment on 2022-43" button under this proposal on the Court's Proposed & Adopted Orders on Administrative Matters webpage. The Court also accepts comments by email. **To submit a comment by email**, please attach a Microsoft Word document to your email and send to ADMcomment@courts.mi.gov and refer to ADM File No. 2022-43. If you are unable to submit a written comment online or by email, the Court will accept comments during the written comment period mailed to P.O. Box 30052, Lansing, MI 48909. For more information on submitting public comments regarding Michigan Supreme Court rule proposals, see the Public Comments on Court Rule Proposals webpage.

Written comments may be posted on the One Court of Justice website under the chapter(s) affected by this proposal.

I, Elizabeth Kingston-Miller, 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.

September 23, 2026

Clerk