

**MOTION FEES MCR 2.119(G)**

Motion fees are required on all civil cases, including small claims, landlord tenant, and other summary proceedings, except civil infractions. *MCL 600.880b(1), 600.2529(e), 600.8371(10)*

<b>Application of Motion Fee</b>		
<b>Type of Filing</b>	<b>Fee Required</b>	<b>Comments</b>
Any motion made on the record during a hearing where no paper or document requesting the relief sought is accepted for filing by the court, either before the motion is made orally or at the time of entry of the order	NO	“A motion fee must be paid on the <i>filing</i> of any request for an order in a pending action, whether the request is entitled “motion,” “petition,” “application,” or otherwise. <i>MCR 2.119(G)(1)</i> Black’s Law Dictionary defines filing/file as: “...To deliver <i>an instrument or other paper</i> to the proper officer or official for the purpose of commencing an action or other proceeding, or business . . . .”
Ex Parte Motion	YES	This is a motion that is filed with the court asking the court to perform or direct an act in favor of the applicant. <i>MCR 2.119(G)(1)</i> Although the actual filing of the motion may take place at the same time as entry of the order, it is still considered a “filing,” and a motion fee applies.
Motion for Substitution of Attorney	MAYBE	If the motion is accompanied by a stipulated order, then NO. A motion fee may not be charged for entry of an uncontested order. <i>MCR 2.119(D); MCR 2.119(G)(3)(e)</i> If a motion is filed and it is contested, then YES. This is a motion that is filed with the court asking the court to perform or direct an act in favor of the applicant. <i>MCR 2.119(G)(1)</i>
Motion for Entry of Judgment under MCR 2.602(B)(4)	MAYBE	If a motion is made orally, on the record, then NO. If a motion/notice for settlement is filed with the court, then YES. This is a motion that is filed with the court asking the court to perform or direct an act in favor of the applicant. <i>MCR 2.119(G)(1)</i>
Motion for Alternate Service	YES	This is a motion that is filed with the court asking the court to perform or direct an act in favor of the applicant. <i>MCR 2.119(G)(1)</i>
Motion for Appointment of Process Server for Seizure or Eviction under special circumstances	YES	This is a motion that is filed with the court asking the court to perform or direct an act in favor of the applicant. <i>MCR 2.119(G)(1)</i>
Motion to Amend Complaint	YES	Although an actual order may not be signed, it is a motion that is filed with the court which asks that the court or judge rule in favor of an action that is being requested by the applicant. <i>MCR 2.119(G)(1)</i>
Motion for Second Summons	YES	This is a motion that is filed with the court asking the court to perform or direct an act in favor of the applicant. <i>MCR 2.119(G)(1)</i>

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Demand for Removal	NO	This is a right that a party is entitled to seek rather than a request for relief.
Motion to Renew Judgment	YES	This is a motion that is filed with the court asking the court to perform or direct an act in favor of the applicant. <i>MCR 2.119(G)(1)</i>
Motion and Order to Show Cause	MAYBE	If a motion is made orally, on the record, then NO. If a petition is filed with the court, then YES. This is a motion requesting a hearing to require compliance with a previously filed order. The applicant is asking that an act be performed and directed in his/her favor. <i>MCR 2.119(G)(1)</i>
Motion for Entry of Default Judgment (Not Sum Certain)	YES	If a Motion for Entry of Default Judgment is filed where there is no sum certain and a hearing must be held, then a motion fee is required. <i>MCR 2.603(B)(3), 2.119(G)(1)</i>
Default Judgment (Sum Certain)	NO	If a default judgment is being entered as a clerical or administrative function, there is no motion fee. <i>MCR 2.603(2)</i>
Petition for Installment Payments	MAYBE	If a motion is made orally, on the record, then NO. If a petition is filed with the court, then YES. <i>MCR 2.119(G)(1)</i>
Installment Payment Order within a Judgment	NO	This is not a motion.
Objections to Installment Payments	NO	The motion fee has already been paid, and this is merely an objection to entry of the proposed order. <i>MCR 2.119(G)(3)(b)</i>
Petition to Set Aside Installment Payments	YES	This is a motion that is filed with the court asking for the court to perform or direct an act in favor of the applicant. <i>MCR 2.119(G)(1)</i>
Motion for Release from Garnishment	YES	This is a motion by defendant asking for an order to release defendant from garnishment. This is similar to a Motion to Set Aside. <i>MCR 2.119(G)(1)</i>
Garnishment Release	NO	There is no motion filed. A plaintiff is merely releasing a defendant from further liability. This is similar to a voluntary dismissal. <i>MCR 2.119(G)(1)</i>
Objections to Garnishment	NO	The motion fee has already been paid, and this is merely an objection to entry of the proposed order. <i>MCR 2.119(G)(3)(b)</i>
Motion for Dismissal	YES	This is a motion filed with the court asking that an act be performed and directed in favor of the applicant. <i>MCR 2.119(G)(1)</i>
Voluntary Dismissal	NO	The plaintiff is voluntarily dismissing the case of his or her own accord. No act need be performed by the court or judge in favor of the applicant.
Motion to Set Aside	YES	This is a motion that is filed with the court asking the court to perform or direct an act in favor of the applicant. <i>MCR 2.119(G)(1)</i>

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Objections to Entry of Order under MCR 2.602(B)	NO	The motion fee has already been paid, and this is merely an objection to entry of the proposed order. <i>MCR 2.119(G)(3)(b)</i>
Objections to Entry of an Order or a request for de novo review of a referee hearing under MCR 3.215(E)	NO	There is no fee, since the objecting party is not making a new request for an order beyond what the original filing fee covered.
Satisfaction of Judgment	NO	This is not a motion or request for an order of the court.
Motion for Suspension or Waiver of Fees for Indigency	NO	No motion fee may be collected for a request for an order waiving fees under MCR 2.002, MCL 600.2529(4,) or MCL 600.8371(6). <i>MCR 2.119(G)(3)(c)</i>
Abstract of Unsatisfied Judgment for Secretary of State	NO	This is not an order of the court.
Application for Certification	NO	Although there is a request for the court to perform an action, it is merely the court's certifying that the record is true and accurate. It does not result in an action directed in favor of the applicant.
Stipulation and Order	NO	A motion fee may not be charged for entry of an uncontested order. <i>MCR 2.119(D); MCR 2.119(G)(3)(e)</i>
Consent Judgment	NO	A fee may not be collected on an uncontested order. <i>MCR 2.119(D) and (G)(3)(e)</i>
Petition and Bench Warrant	NO	These are either criminal or quasi-criminal in nature. This applies to petitions and bench warrants in both criminal and civil cases. <i>MCR 2.119(G)(3)(a)</i>
Writ of Restitution, Garnishment, Execution	NO	Fee established by statute. No additional motion fee allowed. <i>MCR 2.119(G)(3)(d)</i>
Judgment Debtor Discovery Subpoena	NO	Fee established by statute. No additional motion fee allowed. <i>MCR 2.119(G)(3)(d)</i>
Request for Use of Communication Equipment under MCR 2.402	NO	The request must only be in writing to the court and served on the other parties in the case 7 days before the day on which such equipment is sought to be used. This request does not seek relief in the form of an order in the case and , therefore, is not a motion pursuant to MCR 2.119(A)

## **DEFINITIONS**

***Pending Action*** – Any case that has one or more unresolved issues, including if they are raised after judgment is entered, that requires any action by the court or judge and is in the process of settlement or adjustment of those issues. The only actions that are not considered pending are closed cases with no post judgment activity, and those that contain an order granting a stay on the entire case (e.g., bankruptcy).

***Motion*** – Any application by any name (e.g., motion, petition, application, request, etc.) that is made to the court or judge for the purpose of obtaining a ruling, order, or act to be directed in favor of the applicant. *MCR 2.119(G)(1)*

***Taxable as Costs*** – Motion fees may be taxable as costs to a party.

SCAO

July 28, 2011