



Michigan Supreme Court

State Court Administrative Office

Trial Court Services Division

Michigan Hall of Justice

P.O. Box 30048

Lansing, Michigan 48909

Phone (517) 373-4835

MEMORANDUM

DATE: February 4, 2005

TO: Circuit, District and Municipal Court Judges
cc: Court Administrators, Clerks of Court

FROM: Sandi Hartnell, Management Analyst

RE: Renewal of Judgment

The following information is provided in response to inquiries received by the State Court Administrative Office regarding the appropriate procedure for handling an action to renew judgment pursuant to MCL 600.5809.

On November 20, 2003, the Court of Appeals issued an opinion in the case of *Van Reken v Darden, Neef & Heitsch*, 259 Mich App 454, 461 (2003). The court found that "...plaintiff's ex parte motion constituted an assertion of a right through a judicial proceeding and, thus, was sufficient to be considered 'an action' under MCL 600.5809(3). There was an ex parte motion and an order on that motion within the applicable time period provided to renew the judgment."

Therefore, it appears that plaintiffs have two methods by which they may seek a renewal of the judgment:

- by filing an ex parte motion and payment of the motion fee, or
- by filing a summons and complaint and payment of the applicable filing fee.

If the plaintiff files an ex parte motion, the court may not require any additional fee or portion of a fee other than the motion fee required under MCR 2.119(G).

Whether a party seeks to renew the judgment by filing a summons and complaint or by ex parte motion, the court should not create a new case file. The complaint is not the commencement of a new action, but a means to extend the life of the judgment. Filing the pleadings in the existing file will eliminate tracking and cross-referencing two files for the same action, eliminate the possibility of collection action on both judgments, and improve the accuracy of caseload statistics.

The opinion may be viewed at the Court of Appeals website, as follows:

http://courtofappeals.mijud.net/documents/OPINIONS/FINAL/COA/20031120_C240478_43_240478.OP.N.PDF

Procedural questions may be referred to Dawn Childress, childressd@courts.mi.gov, 517-373-3756, or Sandi Hartnell, hartnells@courts.mi.gov, 517-373-0122.