

Order

Michigan Supreme Court
Lansing, Michigan

October 13, 2009

Marilyn Kelly,
Chief Justice

ADM File No. 2005-32

Michael F. Cavanagh
Elizabeth A. Weaver
Maura D. Corrigan
Robert P. Young, Jr.
Stephen J. Markman
Diane M. Hathaway,
Justices

Administrative Order No. 2009-7

Adoption of a Pilot Project in the
46th District Court to Study the
Effects of Proposed Rule 8.119
of the Michigan Court Rules

On August 11, 2009, the 46th District Court submitted a letter to the Court in which the 46th District Court proposed revision of MCR 8.119 to implement a process that would allow a court clerk to return to a litigant a document that the clerk has identified as nonconforming with the Michigan Court Rules, requirements contained in the Michigan statutes, or the Michigan Supreme Court records standards. Upon receipt of the returned document, the litigant would have several options: the litigant could correct the nonconformity identified by the clerk, submit documentation in support of the document, request the clerk to submit the paper as it was initially submitted for immediate review by the court, or withdraw the document. On order of the Court, the 46th District Court is authorized to implement a pilot project in its court to study the effects of proposed Rule 8.119, limited to cases that involve garnishments and consumer debt collections.

The purpose of the pilot project is to determine whether the proposed language represents a feasible and practical procedure for courts to follow in screening documents that are submitted for filing in cases that involve garnishments and consumer debt collections. The Court is interested in learning whether this procedure will increase efficiency within the court (including assessing its effect on the clerk and the judges of the court), and determining what effect the procedure will have on litigants. The 46th District Court will operate under the following rule for the period of the pilot project, which will begin on the date this order enters and continue for one year or as otherwise ordered by the Court. The 46th District Court will provide a report to the Court within three months of the conclusion of the pilot project regarding the court's assessment of the feasibility of the procedure described below. In addition, litigants will have an opportunity to provide feedback on the pilot project through a survey to be included when documents are returned by clerks, and through polls conducted of those who participate

in the judicial review procedure. The 46th District Court shall keep a list of litigants who request that the submitted document be reviewed by a judge.

Rule 8.119 Court Records and Reports; Duties of Clerks

(A)-(B)[Unchanged.]

(C) Filing of Papers. The clerk of the court shall endorse on the first page of every document the date on which it is filed. Papers filed with the clerk of the court must comply with the Michigan Court Rules, requirements contained in the Michigan statutes, and the Michigan Supreme Court records standards. The clerk of the court may reject papers which do not conform to MCR 2.113(C)(1) and MCR 5.113(A)(1) return nonconforming papers related to a garnishment or consumer debt collection case in accordance with (D) below.

(D) Return of Nonconforming Papers Related to Garnishment or Consumer Debt Collection Case. If the clerk of the court returns a paper related to a garnishment or consumer debt collection case as nonconforming, the clerk must notify the litigant in writing of the reason for the return. The notice shall provide the name and phone number of the deputy clerk returning the papers. The litigant may, with no additional filing or motion fee, (a) submit supporting documentation; (b) submit an amended version of the paper; (c) request the clerk to submit the paper as initially submitted to the court for immediate review; or (d) withdraw the paper. If no judge is assigned to the case, the chief judge or the chief judge's designee shall perform the review. Upon review, the judge shall either allow the filing or issue a written order disallowing the filing. If disallowed, the reason shall be stated in the order. If the litigant withdraws the paper, the court shall not charge a filing fee and any filing fee previously paid shall be returned to the filer.

If a complaint is returned by a clerk as nonconforming, the litigant may file a motion for judicial review. Upon review, if the judge decides that the complaint was conforming as originally filed and should have been accepted, the complaint shall be considered filed on the original filing date.

(D)-(G)[Relettered (E)-(H), but otherwise unchanged.]

Staff Comment: Under this pilot project, the 46th District Court shall test its proposal to allow court clerks to return certain nonconforming papers submitted to the court in garnishment or consumer debt collections actions. If the clerk returns a paper as nonconforming, the litigant may respond by submitting supporting documentation, submitting an amended document, asking that the document be submitted to the court for immediate review, or withdrawing the paper. If, upon review, the judge disallows filing

of the document, an order would enter disallowing the filing and would state the reason in the order.

The staff comment is not an authoritative construction by the Court.



I, Corbin R. Davis, 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.

October 13, 2009

Corbin R. Davis

Clerk