

# Improving Eviction Proceedings in Michigan

Report & Recommendations

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## NOTICE OF DISCLAIMER:

The Michigan Supreme Court established the Justice for All Commission by Administrative Order 2021-1 to develop recommendations and projects to expand access to and enhance the quality of the civil justice system in Michigan. The opinions and recommendations contained in this document are those of the Justice for All Commission and do not necessarily represent the official position or policies of the Michigan Supreme Court or State Court Administrative Office.

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# Key Findings

- 1. Case Filing Rates:** During the past decade, summary proceedings cases have constituted the highest percentage of civil cases filed in Michigan's district courts. Prior to the pandemic, Michigan had a higher case filing rate (16.1%) than other Great Lakes states. The number of summary proceedings cases filed in Michigan dropped by over half with the onset of the pandemic, and case filings have stayed at or below their historic monthly averages through May 2023.
- 2. Representations Rates:** Ninety-eight percent of tenants and 14% of landlords are not represented by counsel during their summary proceedings case. With the availability of additional resources during the pandemic, legal aid was able to provide extensive representation in 12% of eviction cases, resulting in 97% of those tenants avoiding eviction.
- 3. Racial Disparities in Case Filing Rates:** Prior to the pandemic, case filing rates were 68% higher for renting households in Black-majority communities than for renting households in White-majority communities. This disparity disappeared during the pandemic, and case filing rates for renting households in Black-majority communities has remained roughly the same as those in White-majority communities.
- 4. Time to Reach a Disposition:** Prior to the pandemic, cases filed in courts requiring a written answer took on average longer to reach a disposition than other courts. During the pandemic, cases in courts across Michigan took longer to reach a disposition and have continued to take longer through May 2023.
- 5. Case Dispositions:** Prior to the pandemic, 35% of summary proceedings cases resulted in a default judgment. The default judgment rate decreased to 20% during the pandemic, and this rate has remained around 20% through May 2023. Dismissal rates increased during the pandemic and have remained higher than pre-pandemic levels through May 2023. The rate of cases going to trial has doubled from 5% (2017-2022) to 11% (first half of 2023).
- 6. Writ of Eviction Rates:** The rate of courts issuing writs of eviction fell by almost half during the pandemic, from 20% in 2018 to 11% in 2021. The rate of courts issuing writs of eviction climbed in 2022 and 2023 toward historic levels at a rate of 17% in 2023 for cases filed in 2021.
- 7. Racial Disparities in Writ of Eviction Rates:** Based on data from 2017-2019, courts issued writs of eviction against tenants living in Black-majority communities in 28% of cases and issued writs of eviction against tenants living in White-majority communities in 16% of cases, meaning that renting households in Black-majority neighborhoods were more likely to be involuntarily removed from the premises than those in White-majority neighborhoods.

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# Key Recommendations

## 1. Improve Case Management Practices Across the State.

Summary proceedings cases are high-volume cases involving a large number of self-represented litigants and litigants who may need access to other community resources. The workgroup makes a number of recommendations to strengthen and add state-wide consistency to case management practices across the state to remove barriers for litigants participating in their cases and to remove barriers for legal and community organizations to provide resources and information to litigants.

## 2. Strengthen Community Partnerships.

Michigan has been a leader in creating Eviction Diversion Programs (EDPs), which bring legal and community resources to litigants involved in summary proceedings cases. These community partnerships grew and strengthened during the pandemic. The workgroup recommends strengthening its community partnerships and creating new avenues for courts to learn from and support other community organizations and stakeholders.

## 3. Improving Court Data and Access to Court Records.

This report would not be possible without access to court data. To better understand summary proceedings cases and the impact of policy changes in the future, the workgroup recommends creating a statewide court records search, improving data collection and reporting across courts, standardizing information in case data (e.g., plaintiff's name, key event data, and writ of eviction orders, and improving data collection and data sharing).

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# Workgroup Members

The Michigan Justice for All Commission Executive Team selected a diverse, knowledgeable, and passionate group of individuals to join the Summary Proceedings Workgroup. It was important to ensure a wide range of important stakeholders were represented. Participants range from court staff, representatives from social services agencies, and practitioners. The Commission greatly appreciates their dedication and contributions to this essential work.

- **Honorable Cynthia M. Ward, Co-Chair**  
JFA Commissioner  
54-A District Court
- **Karen Tjapkes, Co-Chair**  
Director of Litigation, Legal Aid of Western Michigan
- **James Gibbs**  
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Regional Director, Substance Abuse and Mental Health Services Administration

\* Individuals were involved with the development of the findings and recommendations in this report but are no longer active workgroup members.

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# Introduction

The Justice for All Commission (JFAC) was created to address the civil justice gap with the goal of achieving 100% access to civil justice for all Michiganders. As then-Chief Justice Bridget McCormack and Justice Brian Zahra noted in the Justice for All Task Force Strategic Plan:

*Courts [have been] falling short in meeting their mission to provide access to justice for all, and particularly so when it comes to addressing the needs of low-income and minority communities. This failure is glaringly clear when it comes to our civil justice system and critical concerns that burden families, including the risk of eviction, access to public benefits, barriers to employment, family law issues like parenting time or custody disputes, and elder abuse, among many others.<sup>1</sup>*

The right to counsel that applies in criminal cases does not extend to civil cases. Despite the efforts from legal aid, the bar, and online legal resources such as Michigan Legal Help, “nearly nine in ten low-income individuals with a civil legal problem receive little or no legal help,”<sup>2</sup> and in 75% of civil cases, at least one side cannot afford to be represented by a lawyer, forcing them to navigate the court system and advocate for themselves.<sup>3</sup>

Summary proceedings cases—more commonly known as eviction cases—are one type of case in which at least one side is commonly not represented by counsel, despite the high stakes at issue for both the landlord and the tenant. Typically, eviction cases are brought by the landlord alleging that a tenant has fallen behind on rent. Without that steady rental income, many landlords, particularly individual or small-scale landlords, risk missing mortgage and tax payments or struggle to pay other bills.

On the other side, with the lack of affordable housing availability, tenants often struggle to balance paying rent along with their other expenses. Affordable housing is typically defined as a renter spending no more than 30% of their gross income on housing costs. In 2018, however, most low-income renters spent at least half of their household income on rent, and a quarter of low-income renters spent more than 70% of their household income on rent.<sup>4</sup> Too often, tenants are one unexpected expense or a change in employment away from falling behind on rent.<sup>5</sup>

While federal programs, including subsidized housing and Section 8 vouchers, were designed to assist low-income families in affording housing, “only one in four eligible renters received [this] federal financial assistance.”<sup>6</sup>

Eviction has profound impacts on households and is a leading cause of poverty.<sup>7</sup> Families facing eviction risk not only losing their home—they face a cascade of consequences that follow housing displacement and instability, including parents struggling to maintain employment, children struggling in school, and people of all ages more likely to suffer from poor mental and physical health outcomes.<sup>8</sup>



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A single eviction is not a short-term problem but can lead families into a cycle of housing instability. Involvement in an eviction case—even if the case is ultimately dismissed—can greatly diminish a family’s ability to secure housing in a decent neighborhood and secure housing assistance, which can lead to homelessness and prolonged housing instability.<sup>9</sup>

The COVID-19 pandemic put even more strain on the system. It caused a dramatic halt to many businesses and to their employees’ paychecks, placing many tenants at risk of not being able to afford their monthly rent and being evicted from their homes in the midst of a public health crisis.

Without the steady flow of rent, many landlords were put at risk of not being able to make monthly mortgage payments and other expenses. Nationally, mom-and-pop landlords own almost half of the rental units in the housing market; however, 58% of these small-scale landlords do not have access to any line of credit, putting them in financially tenuous situations if tenants are unable to pay rent.<sup>10</sup> Indeed, “while a month or two of nonpayment of rent on a single unit may represent only a minor decrease in profits to an owner of a high number of rental units, the same loss of income to an owner of only two or three units may mean the difference between solvency and foreclosure.”<sup>11</sup>

The economic impact of the pandemic not only threatened tenants’ and landlords’ individual financial stability, but threatened to further exacerbate the affordable housing crisis the country was already facing.<sup>12</sup> The economic impact of the pandemic also put renters—particularly the 47.5% of rental households who are cost-burdened by paying more than 30% of their income on housing costs—at risk for eviction, as they struggled to pay rent.<sup>13</sup>

To avert inflaming the housing crisis amid a global pandemic, state and federal governments implemented innovative temporary policies, including eviction moratoria, rental and mortgage assistance that reached a broad range of renters and landlords, eviction diversion programs (EDPs),<sup>14</sup> and judicial procedures designed to allow renters to apply for rental assistance before determining whether an eviction is warranted.

In Michigan, the state put in place eviction moratoria and received millions of dollars of federal funding through the COVID-19 Emergency Rental Assistance (CERA) to help renters financially struggling from the impact of COVID-19.<sup>15</sup> Michigan also created and expanded its EDPs in courts across the state with funding that enabled both legal aid and local Housing Assessment and Resource Agencies (HARAs) to hire more staff to provide legal and rental assistance.<sup>16</sup>

The instability caused by the COVID-19 pandemic also led the Michigan Supreme Court to issue Administrative Order 2020-17 (which was amended several times) that temporarily modified summary proceedings processes, including requiring courts to hold an initial hearing to inform the parties of their rights and potential resources that may be available to them, and requiring that cases be stayed or postponed while tenants’ CERA applications were pending.<sup>17</sup>

The Michigan JFAC Summary Proceedings Workgroup was established to simplify and streamline court processes to help both landlords and tenants more easily navigate, understand, and use courts to address their legal problems.

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With this assistance of data analysts, January Advisors, this Report examines court data to understand the nature of summary proceedings cases in Michigan and to identify common barriers to parties as they try to address their issues through the court system, along with the impact of policy changes implemented during the COVID-19 pandemic. In addition to studying this data, the Workgroup interviewed both self-represented landlords and tenants, mapped and analyzed court processes, conducted research, and engaged in intense policy discussions. The Workgroup examined the problems faced by courts, tenants, and landlords in the summary proceedings process, with the goal of identifying the most effective solutions to address these problems.

These discussions took place while the Michigan Supreme Court was actively considering permanently implementing procedural changes to the summary proceedings process enacted during the COVID-19 pandemic. On September 8, 2023, the Court issued amendments to Administrative Order 2020-17 and Michigan Court Rule 4.201, which governs eviction proceedings. The staff comment stated the amendments were the result of more than a decade of learned experience and continued innovation accelerated by unforeseen circumstances. They reflect what the Michigan judiciary has learned from the pandemic as well as what the judiciary has learned over the last 15 years from localized eviction diversion programs and over the last three years when scaling the concept of eviction diversion programs statewide through Administrative Order 2020-17.<sup>18</sup> At that same time, the court published for comment the rescission of all remaining components of AO 2020-17 and further amendments to MCR 4.201(C) that would ensure courts with a local court rule under MCL 600.5735(4) implement their local court rule in accordance with the other provisions of MCR 4.201. The proposed rescission and amendments received public comment and were adopted as published on March 20, 2024.

The Workgroup directed its efforts on addressing other issues within the summary proceedings process. The Workgroup focused on improvements that can be made to case management to provide for more consistent practices across courts to help eliminate the confusion that both landlords and tenants face when trying to navigate summary proceedings cases. In addition, the Workgroup focused on developing strategies to provide relevant and accessible information and resources for tenants and landlords so they may make more informed decisions on how to proceed with their cases, develop effective and collaborative community partnerships, and improve court data and access to information.<sup>19</sup>

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# Summary Proceedings 101

Summary proceedings cases arise when a landlord sues for rent or eviction from the premises alleging the tenant has failed to pay rent or committed some other alleged lease violation. If the parties are unable to work out these differences informally on their own, the landlord may notify the tenant that they need to meet certain demands or vacate the premises by serving the tenant with a Notice to Quit (Notice)<sup>20</sup> or Demand for Possession (Demand).<sup>21</sup> The Demand is most commonly used when a tenant who is subject to a lease has failed to pay rent, but it is also used when the tenant holds over after termination of the lease, is responsible for a health hazard, or engages in certain activities involving controlled substances.<sup>22</sup> The Notice is used when the tenancy has already ended and the tenant fails to vacate or to terminate the tenancy when there has been a lease violation.<sup>23</sup> While a case has not been formally filed at this point, the Notice and Demand are official state court forms and provide the tenant with information on how to seek legal help.

After service of a Demand based on non-payment of rent, tenants have seven days to pay back-rent and accompanying late fees before the landlord can file a summary proceedings action against them in district court.<sup>24</sup> After service of a Notice based on failure to pay rent for a tenancy at will, the tenant has seven days to vacate the premises before the landlord can file a summary proceedings case against them in district court. In other circumstances, such as the tenant continuing to live on the premises and pay rent after the lease has expired, the tenant has one rental period—typically 30 days—to move out or resolve the issue.<sup>25</sup>

Once the time-period has elapsed, if the tenant has not vacated the premises or otherwise resolved the issues set forth in the Notice or Demand, the landlord may file a summary proceedings complaint against the tenant in district court. The landlord is required to serve the tenant with the complaint and summons, which contains information about the proceedings. Most courts assign a hearing date when the landlord files the complaint. Historically, a small subset of seven courts, however, adopted local rules and implemented local processes that required tenants to file a written answer to the complaint within five days of service of the complaint before the court would issue a court date. These courts include Westland (D18), Monroe County (D01), Jackson County (D12), Lenawee County (D02A), Ogemaw/Roscommon counties (D82), Alcona/Arenac/Iosco/Oscoda counties (D81), and Dickinson/Iron counties (D95B).

If the tenant does not appear for the court date—or, prior to the pandemic, in the courts with local rules requiring it, did not file a written answer within 5 days—then the court may issue a default against the tenant and, if requested by the landlord and if the court is satisfied that the allegations in the complaint are correct, issue a default judgment awarding the landlord possession of the premises.<sup>26</sup> If the tenant does appear, the court will usually ask the parties to attempt to resolve their issues prior to holding a hearing. If the parties reach an agreement, then the case may be dismissed, conditionally dismissed, or a consent judgment may be entered. If the parties fail to reach an agreement, then the court will hold a hearing and enter a judgment. If the court enters a judgment granting the landlord possession of the premises, then the tenant typically has 10 days to vacate or otherwise resolve the issue before the landlord can obtain a writ of eviction to remove the tenant from the premises.

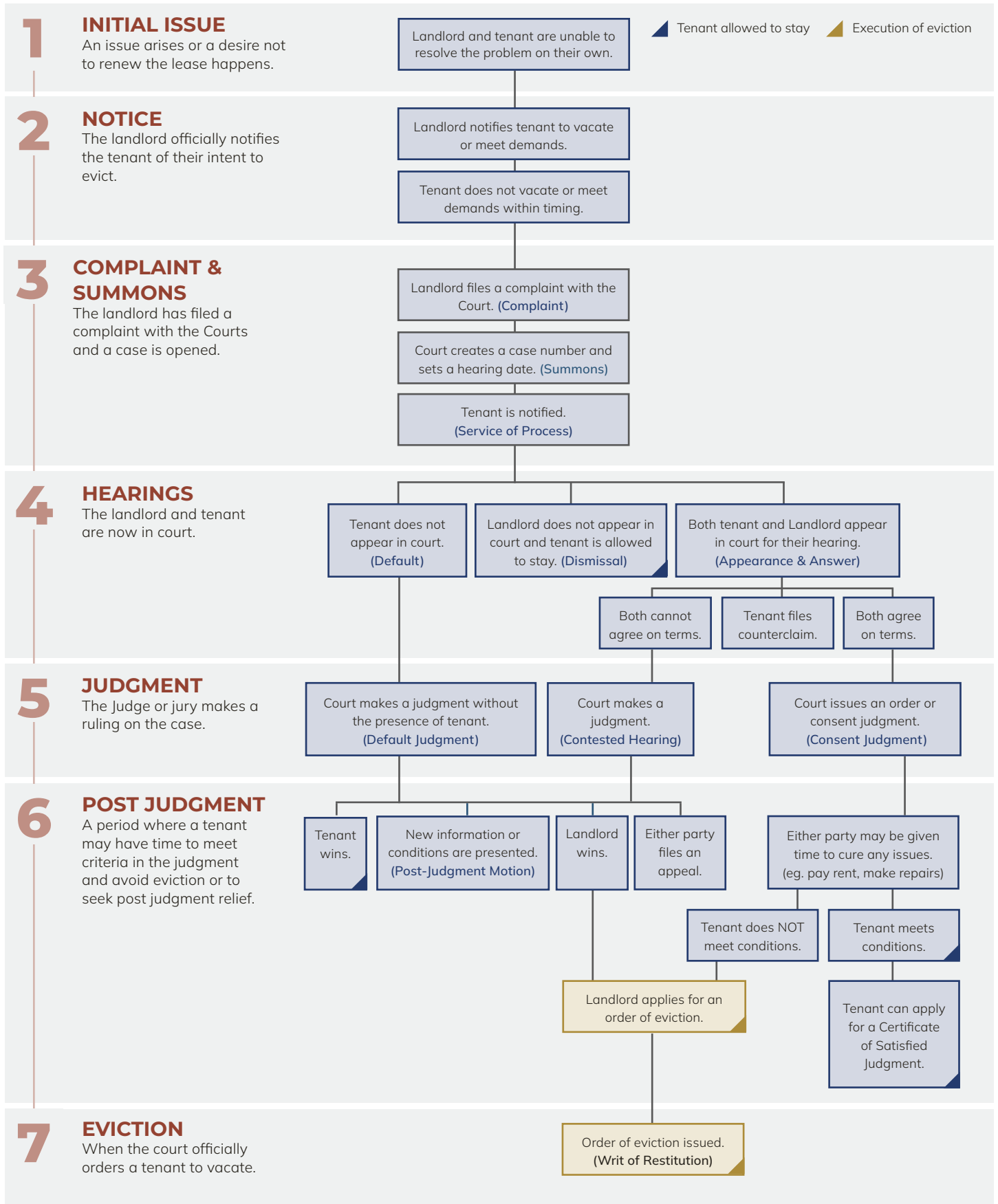
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## Eviction Process: September 2023 and March 2024 Amendments<sup>27</sup>

The MCR 4.201 amendments adopted in September 2023 permanently changed certain summary proceedings eviction case process points, including scheduling timelines, service and default requirements, and set aside procedures. The notice requirements and summary framework remain the same. If the tenant does not appear for the court date, the court may issue a default against the tenant if the landlord has affected certain service requirements (personal service or electing to have the court mail the documents in a court envelope) and if the court is satisfied that the allegations in the complaint are correct, issue a default judgment. If the tenant does appear, the court verbally provides the advice of rights an information and the case proceeds or is automatically adjourned depending on the case type and pleadings. If the case is adjourned, it must be rescheduled not less than 7 and not more than 14 days. For residential non-payment of rent cases a stay is also automatically triggered to run concurrently with the adjournment. The tenant must provide written proof of financial assistance application within five days of verbally receiving the rights and information and must provide written proof that the application is pending or approved within 14 days to extend the stay another 14 days for a total of 28 days from the date the rights and information were provided. If the parties reach an agreement before trial, then the case may be dismissed, conditionally dismissed, or a consent judgment may be entered. If the parties fail to reach an agreement, then the court will hold a hearing and enter a judgment. If the court enters a judgment granting the landlord possession of the premises, then the tenant typically has 10 days to vacate or otherwise resolve the issue before the landlord can obtain a writ of eviction to remove the tenant from the premises.

The seven courts that previously improperly required defendants to file written answers within 5 days before the court would issue a trial date no longer follow such local procedures. The amendments adopted on March 20, 2024, make clear if a court adopts a local court rule under MCL 600.5735(4), the defendant must be allowed to appear and orally answer the complaint on the date and time indicated by the summons regardless of whether or not a written answer is filed.<sup>28</sup>

# Michigan Eviction Process <sup>29</sup>



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# Methodology

Data for this analysis come primarily from Michigan's Judicial Data Warehouse (JDW), which includes district court data for covers covering 95% of the population. Six courts, including District 61 (Grand Rapids), had either no or low representation in the JDW data.

Courts are not currently required to report all information typically found in cases' register of actions, including information on writs of eviction. To gain information on key data points not included in the JDW data, the analysis relied on data from the Judicial Information Services (JIS), which includes data from the roughly 75% of district courts that use the JIS court management software.

The data used in this report cover January 2010 through May 2023. The report uses the benchmark years of 2017-2019 to provide the most recent snapshot of summary proceedings cases that are not affected by the unprecedented changes to court operations and case filings that occurred during the pandemic or after.

For more information about the methodology used in this report, including methodologies used to classify types of landlords and defining neighborhoods by race-ethnicity, see Appendix A.

# Findings: Case Filing & Representation Rates

## AT A GLANCE

1. Summary Proceedings cases are historically the highest volume of civil cases filed in Michigan's District Courts.
2. Case filing rates dropped as eviction moratoria were in place.
3. Most tenants and a sizeable number of landlords are not represented by counsel in Summary Proceedings cases.
4. Corporate landlords have a higher eviction filing rate than small-scale landlords.
5. Case filing rates are disproportionately high for renters in urban metro areas.
6. Filings rates for high-volume courts rebounded at different rates during pandemic.
7. Renters in low-income communities and Black-majority communities bear the brunt of eviction filings.
8. Racial disparities in case filing rates closed during the pandemic.

## 1 Summary Proceedings Cases Are Historically the Highest Volume of Civil Cases Filed in Michigan's District Courts

Over the past decade, summary proceedings cases have been the highest volume of civil cases filed in Michigan's district courts, with 2.29 million cases filed between January 2010 and May 2023. Prior to March 2020, a steady stream of 170,000-190,000 eviction cases were filed each year in Michigan. As discussed in more detail in Finding 5, beginning with the onset of the pandemic in March 2020 and the

resulting eviction moratoria, the number of eviction cases filed dropped sharply.

The case filing rate is the number of eviction cases filed for every 100 renting households. In 2018, the overall case filing rate in Michigan was 16.1%, which amounts to about one eviction case filed for every six renting households.<sup>30</sup> This is over double the national average case filing rate of 7.8%.<sup>31</sup> Michigan's eviction case filing rate is markedly higher than other Great Lake states.

### Michigan's Eviction Case Filing Rate is Markedly Higher than Other Great Lake States

State	Rate
1. Michigan	16.1%
2. Indiana	8.9%
3. Ohio	6.2%
4. Wisconsin	3.6%
5. Illinois	2.9%

Source: Michigan State Court Administrative Office Judicial Data Warehouse, 2018 (Michigan) and Eviction Lab Data, 2018 (other states).

## 2 Case Filing Rates Dropped as Eviction Moratoria Were in Place

The COVID-19 pandemic brought sweeping policy changes to the housing market, including eviction moratoria and funding for financial assistance to renters facing housing instability and negative financial consequences due to COVID-19.

In February 2020, prior to any pandemic-related policies, nearly 14,000 eviction cases were filed in Michigan district courts, which was typical of that time of year. In March 2020, however, the number of cases filed fell by half, down to 6,100. During that month, on March 20, 2020, Governor Gretchen Whitmer signed an Executive Order temporarily suspending evictions for non-payment of rent, only allowing evictions to commence when a tenant posed “a substantial risk to another person or an imminent and severe risk to property.”<sup>32</sup> On March 27, 2020,

the federal government passed the Coronavirus Aid, Relief, and Economic Security (CARES) Act, which included a 120-day moratorium on evictions for qualifying rental properties with federal assistance or federally related financing, such as properties that participate in federal assistance programs or that have federally backed mortgage loans.<sup>33</sup>

The rate of eviction filings greatly declined while the eviction moratoria were in place. In April, May, and June of 2020, 300-700 cases were filed each month, roughly 2-4% of the historical case filings in those months.

On September 4, 2020, the Centers for Disease Control and Prevention (CDC) issued a separate nation-wide eviction moratorium based on non-payment of rent, which applied to all tenants who meet certain income and eligibility requirements. This moratorium was initially set to expire on December 31, 2020, but was subsequently extended through July 2021.<sup>34</sup> The CDC then imposed a similar moratorium three days later, applying to counties in the United States experiencing substantial or high COVID-19 transmission levels.<sup>35</sup> On August 26, 2021, the United States Supreme Court held that the eviction moratorium was unlawful and enforced the lower court's decision to vacate the moratorium.<sup>36</sup> With no eviction moratorium in place, Michigan Administrative Order 2020-17 provided for an additional ten days for tenants to pay rent owed or move before landlords could initiate eviction actions.<sup>37</sup>

In 2020, the case filing rate decreased by over 50% with nearly 100,000 fewer eviction cases were filed in Michigan than the year before.<sup>38</sup>

Once the eviction moratoria were lifted, the number of case filings climbed closer to pre-pandemic levels, though the monthly filing rates stayed at or below historic averages through May 2023.

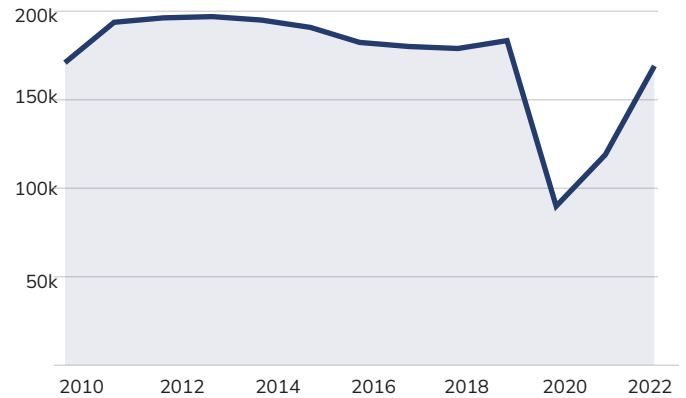
Other states experienced similar reductions in eviction filings during this time. State-level data from the



Eviction Lab during this period shows that Michigan was in line with many other states in terms of the timing and size of the decrease in monthly eviction filings during the pandemic.

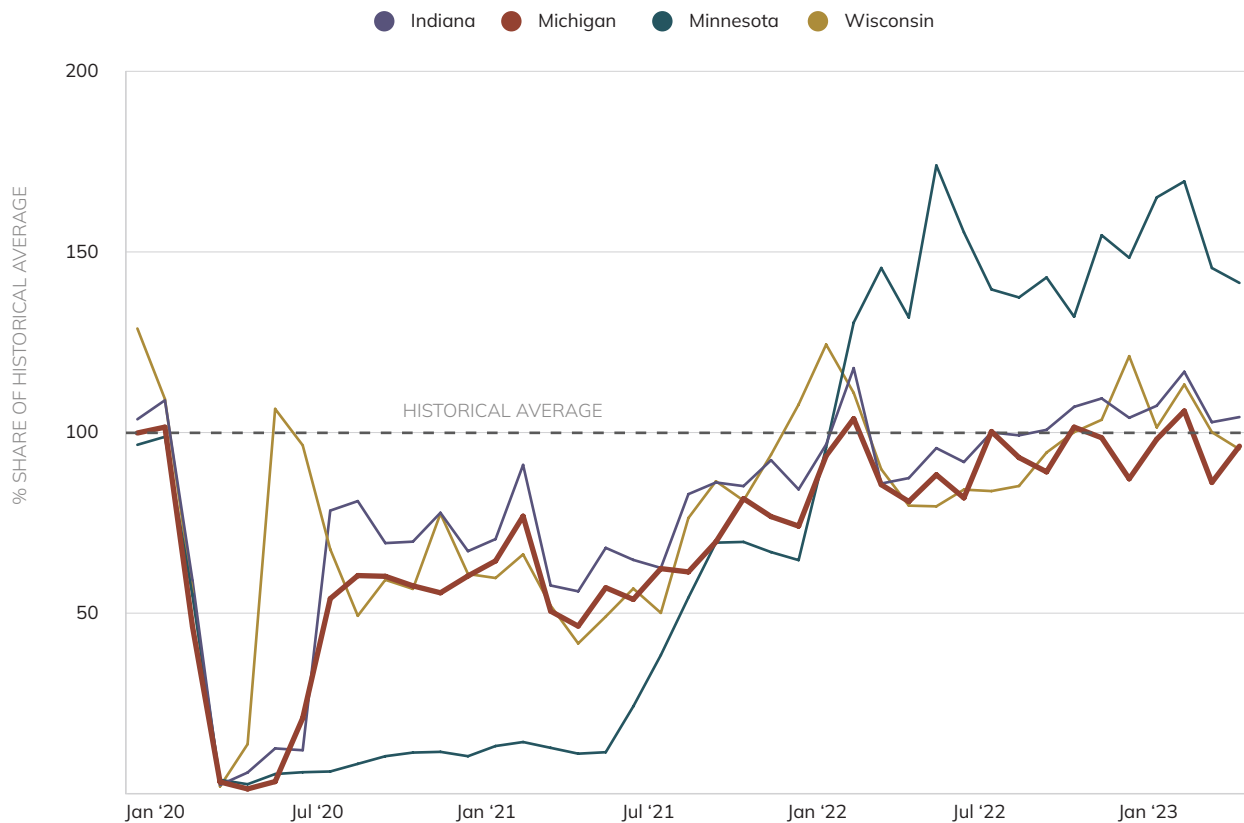
In Minnesota, the drop in filings lasted much longer than in Michigan due to Minnesota’s more comprehensive eviction moratorium, which lasted longer than the CDC’s moratorium.<sup>39</sup> However, by 2022 and throughout 2023, the number of eviction cases filed in Minnesota was far above historical averages (125%-175%), while the number of cases filed in Michigan have remained at or below their historic monthly averages through May 2023.

Number of Eviction Cases Filed in Michigan by Year



Source: Michigan State Court Administrative Office Judicial Data Warehouse, 2010-2022.

Michigan Eviction Filings Remained Below Historical Averages Through 2021; Filing Remained At or Below Historical Averages Through May 2023



Monthly eviction filings relative to average by state.

Source: Michigan State Court Administrative Office Judicial Data Warehouse, Jan. 2020-May 2023 (Michigan) and Eviction Lab Data, Jan. 2020-May 2023 (other states).

### 3 Most Tenants and a Sizeable Number of Landlords Are Not Represented by Counsel in Summary Proceedings Cases

Summary proceedings cases are high-volume cases that many litigants attempt to navigate without the assistance of counsel. Despite the resources that legal aid and the bar invest in providing representation to tenants, they still only have capacity to help a small fraction of tenants, and 98% of tenants are not represented by counsel in their eviction proceedings.

While incorporated landlords are required to be represented by counsel in Michigan,<sup>40</sup> individual landlords may represent themselves. Indeed, in 14% of the cases, landlords bring summary proceedings actions without being represented by counsel.

The high rate of self-represented litigants highlights the need to simplify court processes and provide resources to make the court system accessible to both parties.

Due to additional resources provided through EDPs during the pandemic, legal aid was able to represent more tenants. Based on research conducted by the University of Michigan Poverty Solutions, from July 2020 to December 2020, EDP legal aid staff assisted with almost a third of all eviction cases filed. Legal aid was able to provide extensive representation in 12% of eviction cases, resulting in 97% of those tenants avoiding eviction.<sup>41</sup>

This is important because, based on other research conducted by the University of Michigan Poverty Solutions, tenants fare better in court when they have legal representation. Research focused on cases filed in Washtenaw County found that, when tenants

were represented by counsel, 56% of the cases were dismissed, and 11% of cases resulted in the tenant receiving a judgment in their favor. When tenants were not represented by counsel, however, only 45% of cases were dismissed and zero cases resulted in a judgment in favor of the tenant.<sup>42</sup>

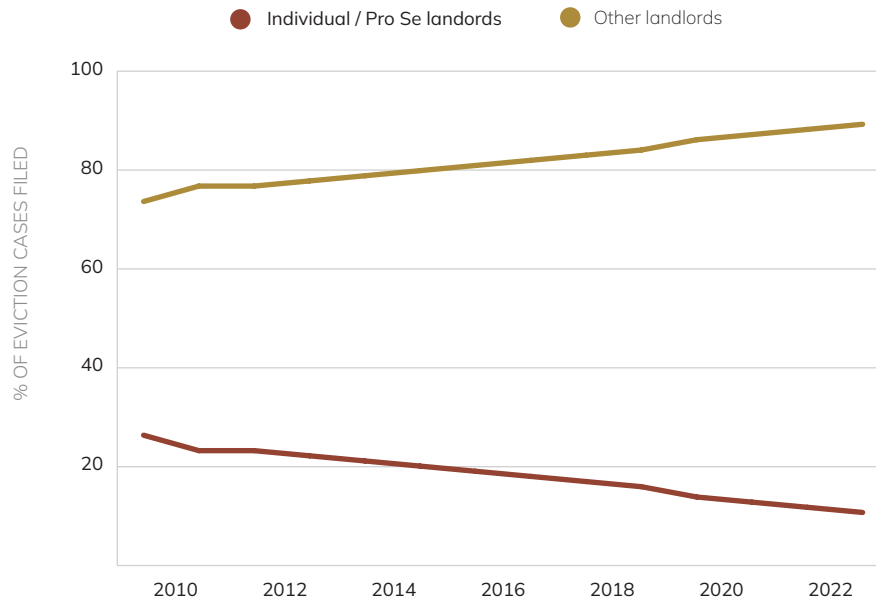
### 4 Corporate Landlords Have a Higher Eviction Filing Rate than Small-Scale Landlords

Nationally, approximately 42% of rental units are owned by individual landlords.<sup>43</sup> Individual landlords in Michigan, however, file only 17% of eviction proceedings.<sup>44</sup> By contrast, rental units owned by legal entities (including corporations, non-profits, and trusts) own 58% of rental units nationally yet file approximately 83% of eviction cases in Michigan.<sup>45</sup> The filing rate for individual landlords has declined by half over the last decade. In 2010, individual landlords accounted for 26% of the case filing, and, for the first half of 2023, individual landlords accounted for only 11% of case filings.

The reduction in individual landlord filings coincides with a general reduction nationally in individual landlord ownership of rental units. For example, from 2015 to 2021, the number of cases filed by individual landlords dropped from 20% to 13%. At this same time, nationally, the number of units individual landlords owned declined from 51% in 2015 to 42% in 2021.<sup>46</sup>

Apartment management companies file the most eviction cases in Michigan district courts. These entities typically manage several—if not dozens or even hundreds—of rental units. From 2017-2019, apartment management companies alone filed just under half of all summary proceeding cases in 2017-2019 (48.6%), while individual landlords filed 13.7% of cases.

### Share of Eviction Cases Filed by Individual Landlords Compared to Other Types of Filers

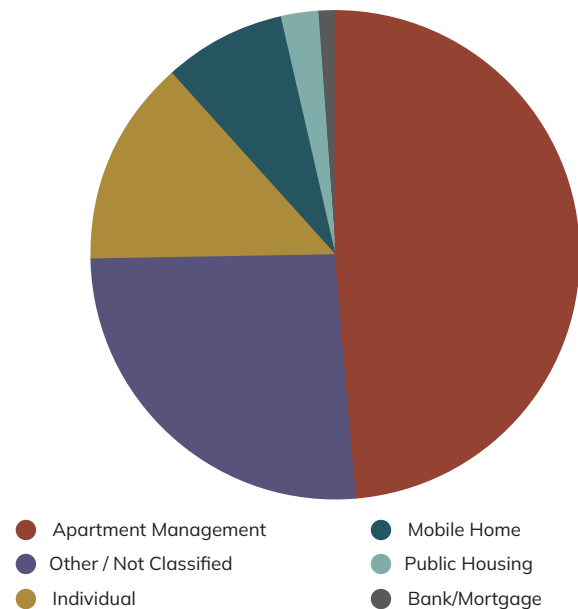


Source: Michigan State Court Administrative Office Judicial Data Warehouse, 2010-May 2023.

The filing rate for different plaintiff types has changed over time. In 2010, in the wake of the foreclosure crisis, banks filed 7% of eviction cases. In 2019, however, banks only filed 1% of eviction cases. Apartment management company filings has increased over time. In 2010, apartment management companies filed 40% of all eviction cases. Their share of eviction filings increased throughout the decade, and by mid-2023, apartment management companies' share of eviction filings increased to 50%.

While apartment management companies file the most eviction cases, no single entity files a high volume of cases. The top ten highest volume landlords filed only 2.6% of eviction cases in 2017-2019. By contrast, the top ten highest volume debt collectors filed 71% of consumer debt collection cases.<sup>47</sup> Further study is needed to understand the impact of high-volume filers in evictions. Research has indicated that a small number of repeat filers can greatly impact the overall eviction rate in cities.

### Share of Eviction Cases Filed by Landlord Type

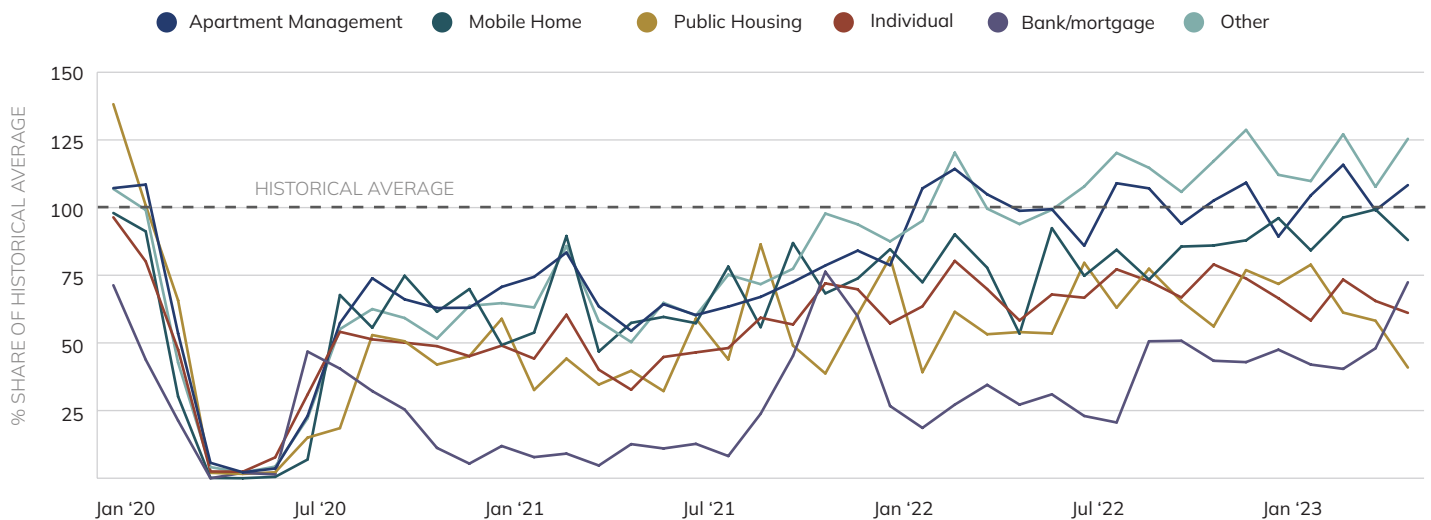


Source: Michigan State Court Administrative Office Judicial Data Warehouse, 2017-2019.

In Cleveland, Ohio, landlords controlling 116 rental buildings were responsible for 20% of the evictions year after year. Similarly, in Fayetteville, North Carolina, landlords owning 100 buildings were responsible for 40% of the evictions. In Tucson, Arizona, repeat filers were responsible for almost 70% of the evictions.<sup>48</sup> Understanding the impact of high-volume filers could allow for Michigan to concentrate outreach and resources in these areas to help renters understand their options when facing an eviction proceeding.<sup>49</sup>

All types of landlords reduced the number of eviction cases they filed during the pandemic. Apartment management companies and mobile home landlords, however, remained higher than other types of landlords relative to historical averages. Between March 2020 and September 2021, apartment management companies and mobile home landlords filed 55%-58% of the number of cases they had filed in recent years. By contrast, public housing authorities and individual landlords filed 44%-45% of their historical averages. Banks and mortgage companies reduced their eviction filings the most (19% of historical averages).

Monthly Eviction Filings During the Pandemic Relative to Historical Average by Plaintiff Type, Jan. 2020-May 2023

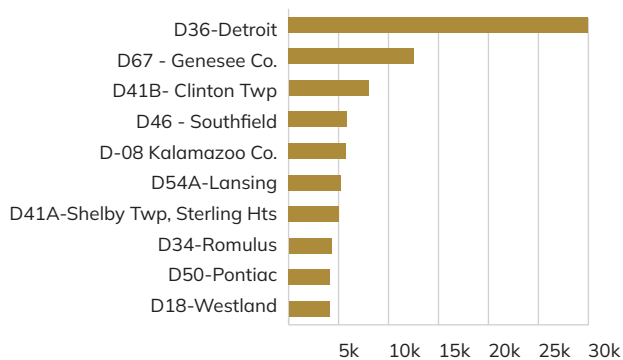


Source: Michigan State Court Administrative Office Judicial Data Warehouse, Jan. 2020-May 2023.

## 5 Case Filing Rates Are Disproportionately High for Renters in Urban Metro Areas

The vast majority of eviction cases are filed in district courts covering urban and suburban areas, including Detroit, Grand Rapids, Kalamazoo, and Lansing. Indeed, the 36th District Court, which covers Detroit, averaged approximately 30,000 summary proceedings cases annually between 2017-2019, which represents 17% of all eviction cases filed in Michigan during those years.

### Annual Average Number of Eviction Cases Filed, 2017-2019

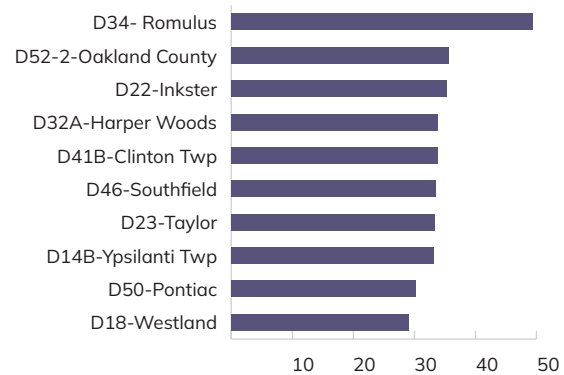


Source: Michigan State Court Administrative Office Judicial Data Warehouse, 2017 - 2019.

The renting population in each district court’s jurisdiction impacts case filing numbers. To control for differences in populations, summary proceedings cases can be measured by the case filing rate. The overall case filing rate in Michigan was 16 cases filed per 100 rental households in the state from 2017 to 2019. The 36th District Court, the most populous jurisdiction in Michigan, had a filing rate of 21.6%, which is the 17th highest filing rate in jurisdictions

across Michigan. Several jurisdictions just outside of Detroit had significantly higher filing rates. Romulus had the highest filing rate of 49.4%, and several other jurisdictions near Detroit have case filing rates above 33%, including Oakland County Division 2 (35.7%), Inskter (35.3%), Harper Woods (33.9%), Clinton Township (33.9%), Southfield (33.5%), and Taylor (33.4%).

### Annual Average Filing Rate, 2017-2019



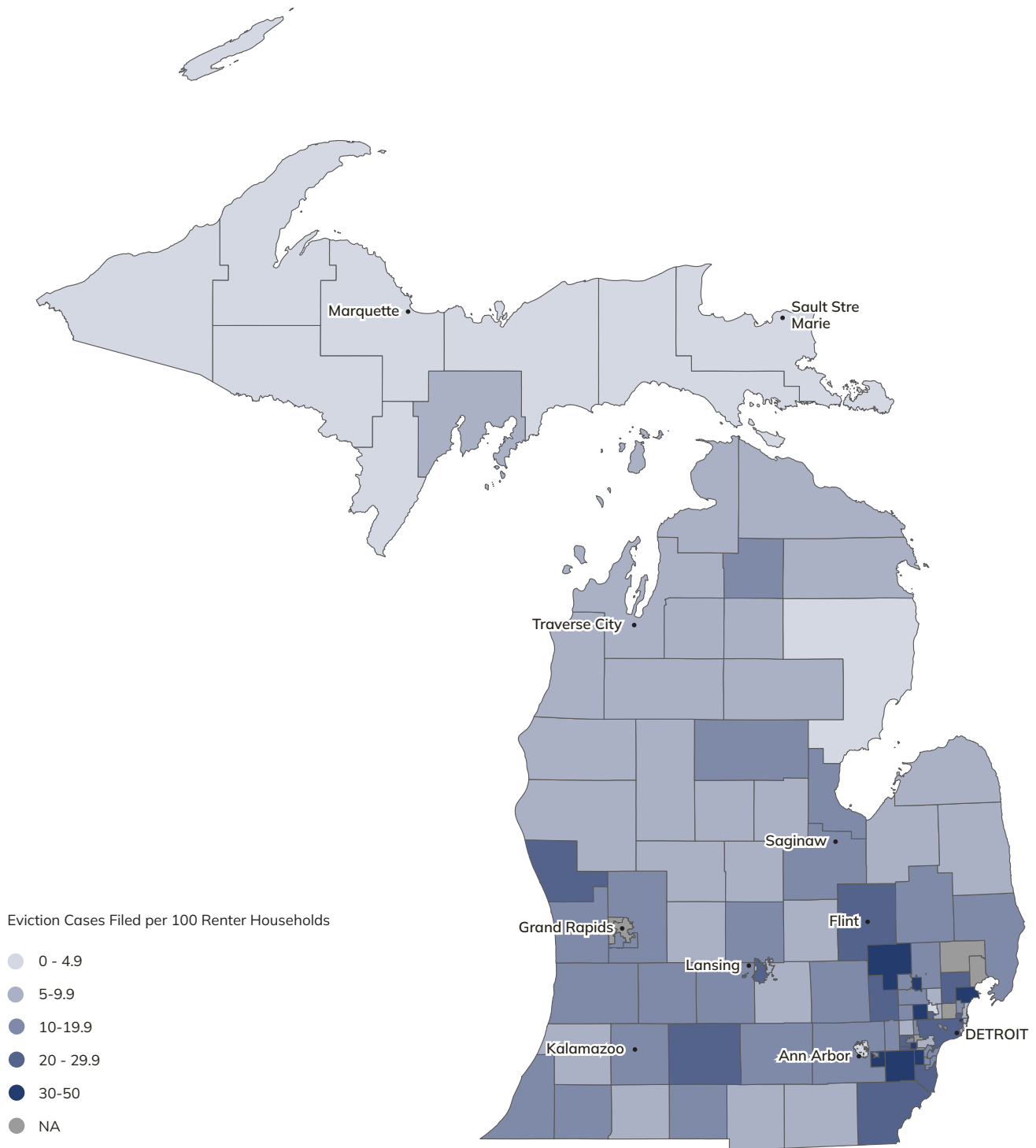
Annual average number of eviction cases filed per 100 renter households, 2017-2019.

Source: Michigan State Court Administrative Office Judicial Data Warehouse, 2017 - 2019.

Except for Ypsilanti Township (which is adjacent to the Detroit metro area), the highest filing rates are found in jurisdictions located in the Detroit metro area. Indeed, nearly three-quarters (72%) of all summary proceedings cases filed in Michigan from 2017-2019 were filed in Detroit and its surrounding suburbs.

Other urban centers also are home to district courts with above average filing rates of eviction cases. For instance, district courts that cover Lansing (D54A), Flint (D67-5), and Muskegon County (D60) have filing rates above the statewide average.

### Eviction Case Filing Rates in District Courts Across Michigan, 2017-2019

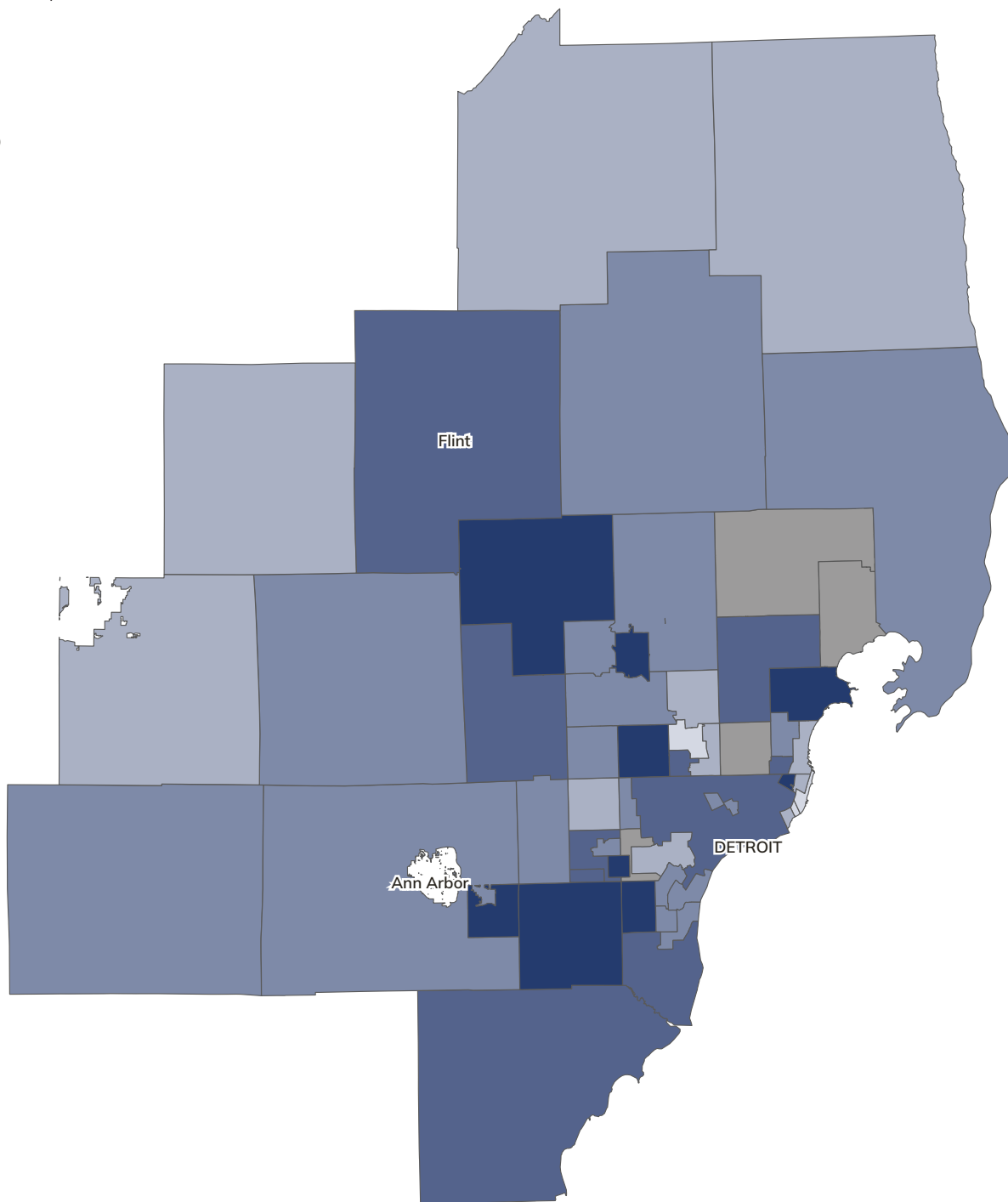


Source: Michigan State Court Administrative Office Judicial Data Warehouse, 2017-2019.

### Eviction Case Filing Rates in Detroit Metro Area, 2017-2019

Eviction Cases Filed per 100 Renter Households

- 0 - 4.9
- 5-9.9
- 10-19.9
- 20 - 29.9
- 30-50
- NA



Source: Michigan State Court Administrative Office Judicial Data Warehouse, 2017-2019.

## 6 Filings Rates for High-Volume Courts Rebounded at Different Rates During Pandemic

As discussed in Finding 2, Michigan courts, as a whole, experienced a significant reduction in summary proceedings filings in 2020 and 2021, with filing rates averaging 54% of the historic filing rate prior to the pandemic. Even by 2022, the majority of Michigan’s highest volume courts – including the three highest volume counties, Wayne, Oakland, and

Kalamazoo—did not reach their historic levels of summary proceedings case filings.

Not all courts, however, experienced as sharp of a decrease. For example, in 2020, while most district courts’ summary proceedings case filing rates dropped by about 50%, the case filing rate in Genesee County was 83% of its historic average. Four of the top ten highest volume district courts— Genesee (D67), Romulus (D34), Westland (D18) and Shelby Township/Sterling Heights (D41A)— recovered the fastest; by the first half of 2023, all four courts had higher case filing rates than their historic averages.

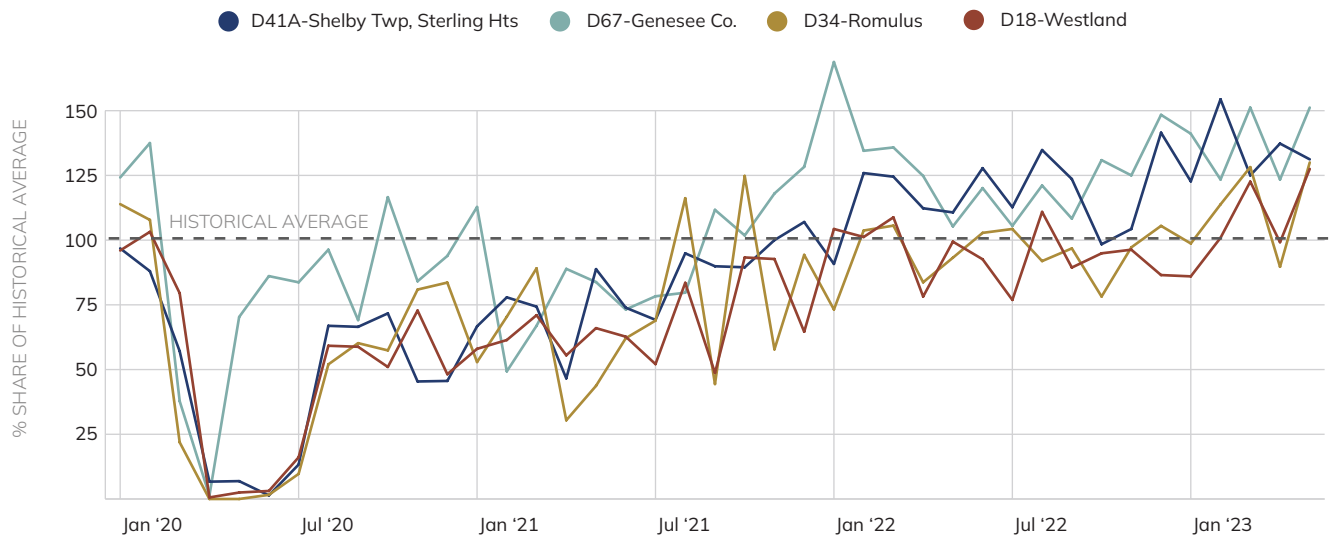
Annual Eviction Case Filing Rate as a Percentage of Pre-Pandemic Averages, 2020-2023

Court Name	2020	2021	2022	2023
Michigan	49	63	86	88
D67-Genesee Co	83	85	123	137
D34-Romolus	59	72	94	111
D46-Southfield	53	66	96	90
D54A-Lansing	53	49	81	80
D18-Westland	49	68	95	106
D41A-Shelby Twp, Sterling Hts	49	81	117	133
D41B-Clinton Twp	48	62	92	85
D08-Kalamazoo Co.	47	62	92	85
D50-Pontiac	47	51	63	68
D36-Detroit	37	55	71	67

Source: Michigan State Court Administrative Office Judicial Data Warehouse, 2017-May 2023 (pre-pandemic case filings rates were calculated using 2017-2019 data).



### Monthly Eviction Case Filings During the Pandemic Relative to Pre-Pandemic Averages for District Courts that Rebounded Quickly



Source: Michigan State Court Administrative Office Judicial Data Warehouse, 2017-May 2023 (pre-pandemic case filings rates were calculated using 2017-2019 data).

## 7 Renters in Low-Income Communities and Black-Majority Communities Bear the Brunt of Eviction Filings

All types of Michigan renters face eviction. Still, some communities experience disproportionately higher filing rates than others.

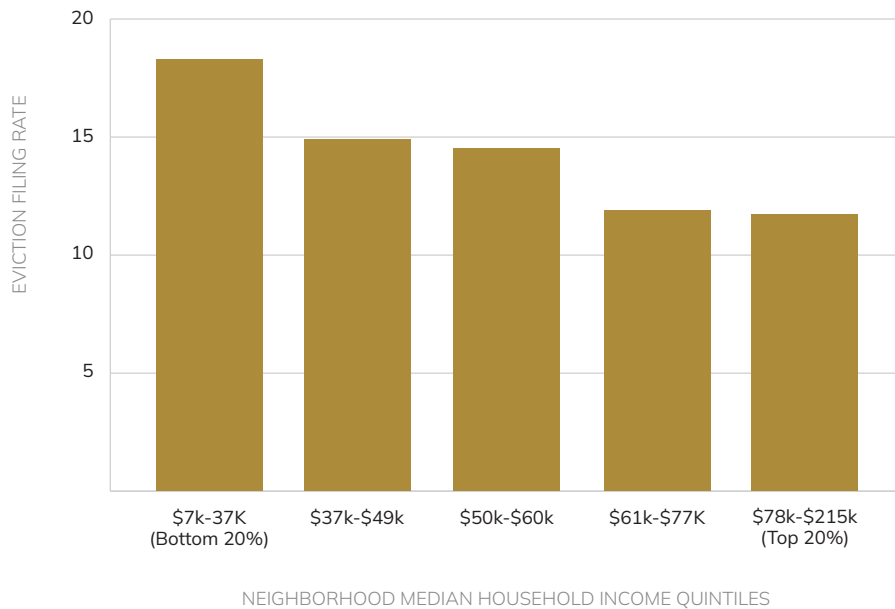
For instance, urban areas are not only home to more renters but also have higher eviction filing rates than non-urban areas. As later analysis shows, this urban versus non-urban divide also is reflected in racial disparities regarding who is being brought to court. In Michigan, neighborhoods (census tracts) in urban areas have an average eviction filing rate of 18 filings per 100 renters in 2017-2019. That’s more than double the rate for neighborhoods outside urban areas (18 vs. 7.3 per 100 renters).

Income also is important. Renters in low-income neighborhoods are at much greater risk of eviction than those living in middle- and high-income neighborhoods.

These urban-rural and income differences, however, are reflected in higher eviction filing rates in Black-majority neighborhoods. Consistent with previous studies on racial disparities in evictions,<sup>50</sup> eviction filings are disproportionately concentrated in Black-majority neighborhoods in Michigan. These neighborhoods are almost exclusively in urban areas and are home to lower income households.

Statewide, the eviction filing rate in Black-majority neighborhoods is 68% percent higher than in White-majority neighborhoods. In urban areas, the racial gap still exists but is narrowed with the Black-majority neighborhood filing rate 37% percent higher than the White-majority neighborhood rate. This disparity remains even when controlling for neighborhood median household income.<sup>51</sup>

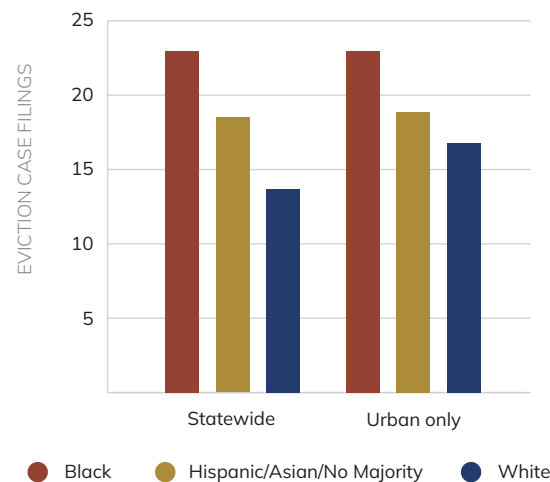
### Eviction Cases Are Filed Against Renters in Low-Income Neighborhoods at Higher Rates than Middle- and High-Income Neighborhoods



Source: Michigan State Court Administrative Office Judicial Data Warehouse, 2010-2019; American Community Survey, 2015-2019.

The racial disparities in case filing rates align with research conducted in other jurisdictions that found that the eviction filing rate was “on average, significantly higher for Black renters than for white renters.”<sup>52</sup> The factors that contribute to these racial disparities are complex.<sup>53</sup> For example, economic factors stemming from racial inequities may explain some of these disparities, including that “Black households are more rent burdened and higher levels of income volatility, compared with white households” and are “less likely to have access to resources that would help them weather unexpected events.”<sup>54</sup> In addition, landlords may give Black renters less leeway when they fall behind on rent compared to white renters.<sup>55</sup>

### Eviction Case Filing Rate by Race-Ethnic Majority of Neighborhood, 2017-2019



Source: Michigan State Court Administrative Office Judicial Data Warehouse, 2010-2019; American Community Survey, 2015-2019.

## 8 Racial Disparities in Case Filing Rates Closed During the Pandemic

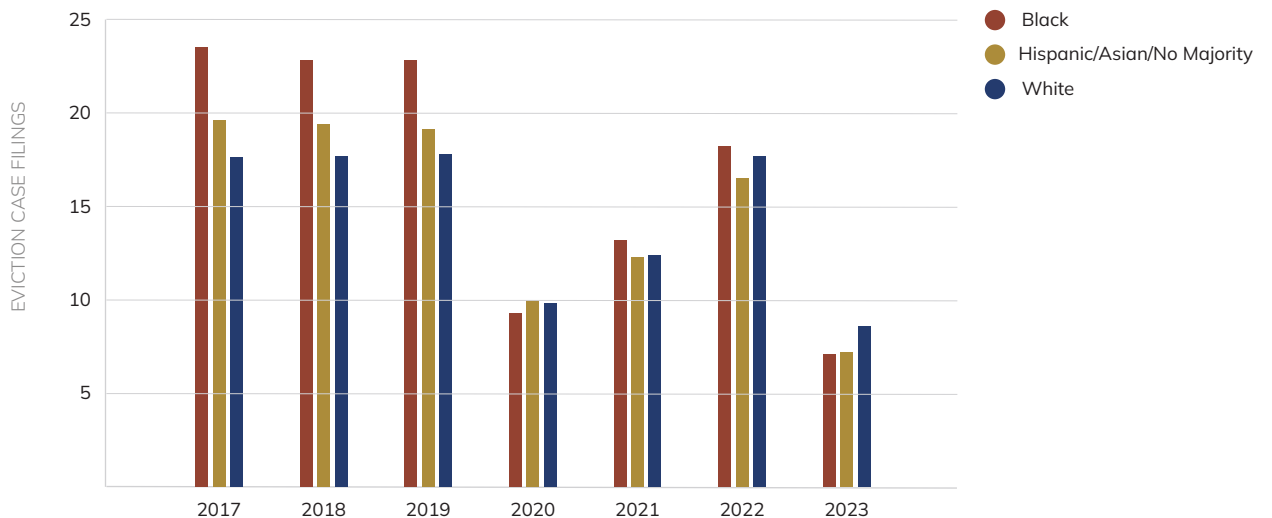
As the number of cases filed declined during the pandemic, the racial disparities in filing rates closed, resulting in case filing rates for Black-majority communities becoming roughly the same as filings for White-majority communities. The historic racial disparities in case filings in urban areas did not reemerge after the pandemic, and case filing rates in Black-majority communities remained roughly the same as White-majority communities through mid-2023.

The decrease in racial disparities in eviction filing rates can be attributed to an overall drop in filing rates in urban courts. For example, the 36th District Court in Detroit has one of the largest African American populations in the state. This court experienced one of the most significant reductions

in the overall number of eviction filings during the pandemic, with eviction case filings at only 44% of their historic average, compared to the average statewide reduction of 53%. The overall filing reduction in the 36th District Court had a sizeable impact when calculating the overall filing rates for Black-majority urban neighborhoods throughout the state.

Within the 36th District Court, racial disparities continued. Black-majority neighborhoods continued to experience a higher eviction filing rate compared to White-majority neighborhoods. Although the overall filing rates between racial groups may have converged to some extent, disparities persist at a more local level within individual district courts.

Racial Disparities in Eviction Case Filing Rates Closed During the Pandemic as the Number of Cases Filed Across Urban Neighborhoods Declined



Source: Michigan State Court Administrative Office Judicial Data Warehouse, 2017-May 2023; American Community Survey, 2015-2019.

# Findings: Time to Disposition

## AT A GLANCE

1. The time to disposition increased during the pandemic and remained above historic averages through May 2023.
2. Racial disparities in the time to disposition may be due to speed of urban courts.

## 1 The Time to Disposition Increased During the Pandemic and Remained Above Historic Averages through May 2023

Summary proceedings cases are designed to move much more swiftly through the courts than general civil cases. Prior to the pandemic, it took an average of about two weeks to reach a resolution in a summary proceedings case, compared to a median of 107 days for a consumer debt collection case, another high-volume case type heard by Michigan district courts.<sup>56</sup>

Courts with local rules which implemented processes requiring written answers—which include Westland (D18), Monroe County (D01), Jackson County (D12), Lenawee County (D02A), Ogemaw/Roscommon counties (D82), Alcona/Arenac/Iosco/Oscoda counties (D81), and Dickinson/Iron counties (D95B)—are designed to resolve cases even quicker. In these courts, the local process requires a tenant to file a written answer within five days of being served the complaint. If a tenant fails to file a timely answer, no hearing is scheduled, and the court may enter a default judgment against the tenant. If a tenant files a written answer but fails to appear at the hearing, then the court also may enter a default judgment

against the tenant. While in normal Michigan summary proceedings court, the tenant only needs to appear at the hearing to avoid a default judgment, in courts with these local rules, the tenant must both file a written answer within five days and appear at the hearing to avoid a default judgment.

Cases in these courts, however, actually took longer to reach a disposition; in 2017 and 2018, the median case length for a summary proceeding action filed in a court requiring a written answer was 24 days compared to 14 days in other courts.

### Courts Requiring Written Answers Take Longer to Resolve Cases

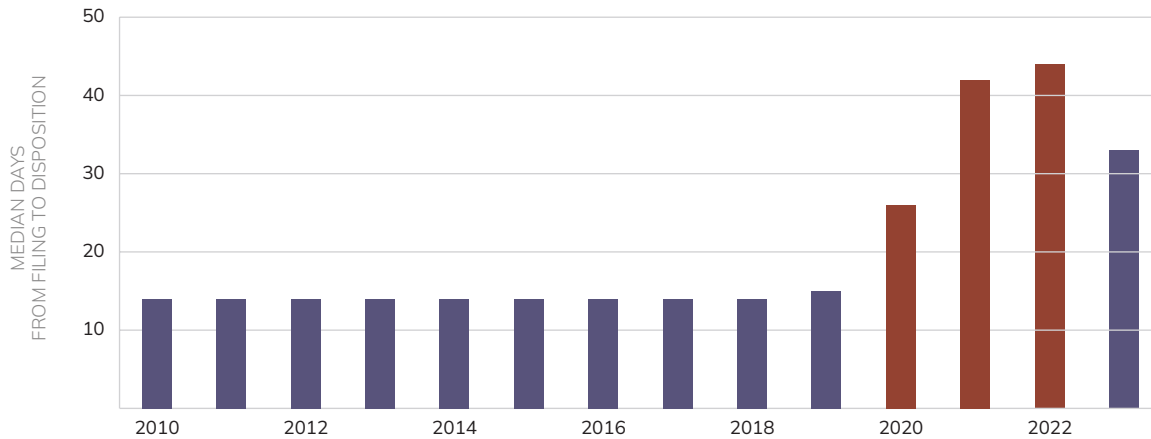


Average case time per court type.

The time to disposition increased during the COVID-19 pandemic. The median case length nearly doubled from 15 days in 2019 to 26 days in 2020 and to 42 days in 2021. Median case length remained high for cases filed in 2022 and 2023.

This increase in time to disposition during the pandemic was likely in part due to the procedural changes the Michigan Supreme Court implemented to summary proceedings cases provided parties with

### Length of Eviction Cases Doubled During Pandemic



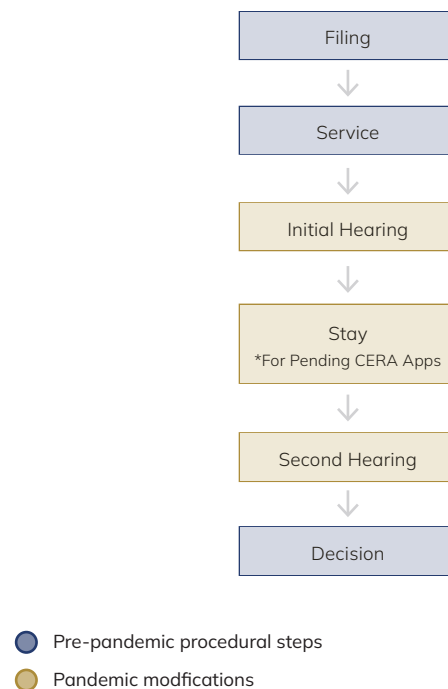
Source: Michigan State Court Administrative Office Judicial Data Warehouse, 2010-May 2023.

time to access financial and legal resources during the pandemic, including applying for CERA funds that could cover rent owed.

On June 9, 2020, the Michigan Supreme Court issued an Administrative Order temporarily modifying summary proceedings processes in Michigan in the following ways:

1. Suspending local rules that implemented local processes requiring a written answer within five days of service of complaint.
2. Requiring a two-step hearing process. The initial hearing is a pretrial hearing to inform the parties about their rights and the availability of resources to them. The second hearing, which must be scheduled at least 7 days after the first hearing, is when the court hears the substantive case. However, if the tenant was personally served and failed to appear at the first hearing, the court could issue a default judgment at the first hearing and would not need to hold a second hearing.
3. Requiring that non-payment of rent cases be stayed or postponed while the tenant's application is pending for CERA.

### Procedural Modifications to Eviction Cases Implemented During the Pandemic



This Administrative Order was amended several times and remained in place through 2023. On September 7, 2023, the Michigan Supreme Court amended the Administrative Order to continue to suspend the local processes that required a written answer, and the Court amended the court rules to continue requiring courts to verbally provide the advice of rights and information before proceeding to trial or adjourning the case and stay proceedings in a residential non-payment case while a tenant's application for financial assistance is pending for up to 28 days.<sup>57</sup>

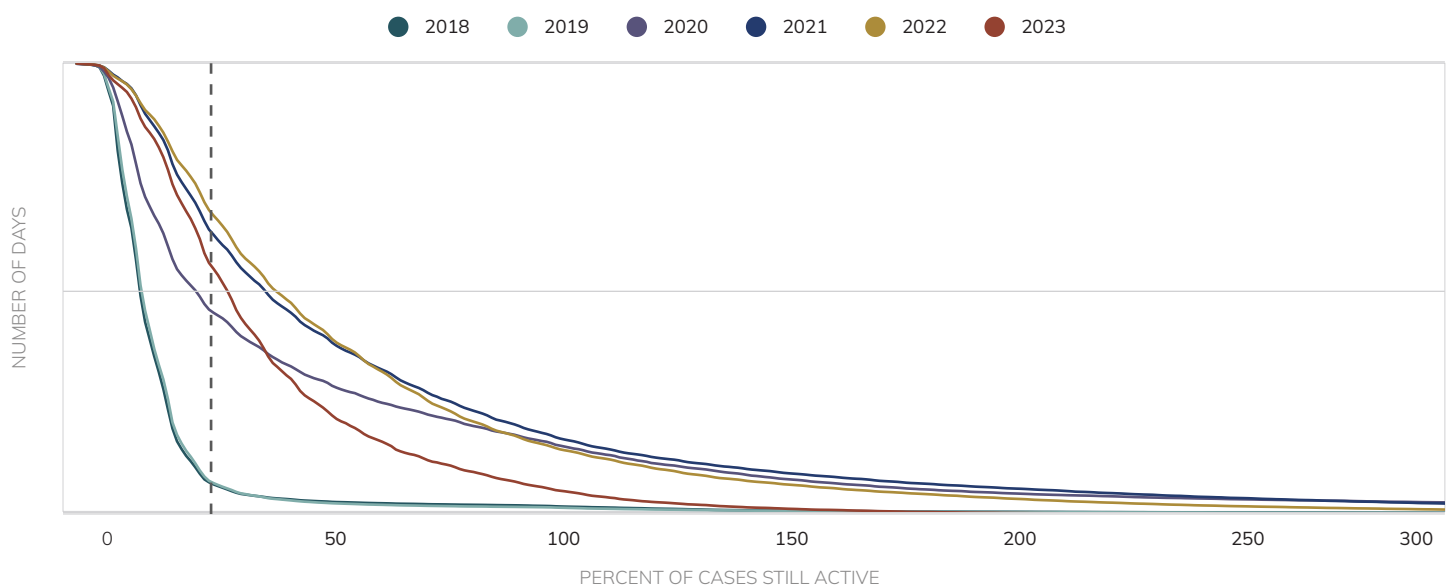
The time for summary proceedings cases to reach an eviction increased in 2020 and continued to be longer than historic averages through mid-2023. Prior to the pandemic, from 2018-2019, very few evictions cases (~6%, on average) were still active after 30 days. In 2020, however, almost half of cases (45%) were still active after 30 days. In 2021, almost two-thirds of cases (63%) were still active after 30 days. The percentage of cases still active after 30 days

continued to be high through mid-2023, with 66% of cases still active after 30 days in 2022 and 54% of cases still active after 30 days in the first half of 2023.

This increase was likely due in part to the new procedures put in place by the Supreme Court but also was likely influenced by a number of other pandemic-related factors. For example, Michigan courts, like other courts across the country, faced unprecedented backlogs and delays due to court closures, staff shortages, and the shift to virtual court. These factors impacted the largest and busiest courts the most.

The procedural safeguards put in place by the Supreme Court were designed to benefit both the landlord and tenant by giving the tenant sufficient time to apply for and receive CERA funding to pay rent to the landlord. The process for receiving CERA funding, however, could be confusing and take longer than both parties would like.<sup>58</sup>

Share of Eviction Cases Still Active After 30 Days Increased During Pandemic



Source: Michigan State Court Administrative Office Judicial Data Warehouse, 2018-May 2023.

While the implementation of pandemic-related safeguards increased the time to disposition for almost all courts, many courts had a median case disposition time of under a month, meaning that 50% of their summary proceedings cases reached a disposition within a month. Indeed, several courts had median case dispositions of under three weeks, including Wyoming, Tuscola County, Genesee County, and Kentwood.

Other courts saw case lengths reach new heights during the pandemic. In Detroit’s 36th District, the median case length went from 10 days for cases filed between 2018-February 2020 to 120 days for cases filed March 2020-December 2021.

Prior to the pandemic, courts requiring written answers took longer than average to dispose of cases (24 days on average for these courts, compared to 14 days for other courts). During the pandemic, however, when the written answer requirement was removed, there was no consistent pattern among these courts in time to disposition, with three courts disposing of cases on the shorter end (26-28 days on average) compared to two other courts disposing of cases on the longer end (74 and 75 days on average).

In 2022 through mid-2023, while the local procedures remained suspended, the time to disposition for courts requiring written answers decreased compared to pandemic levels but remained higher than pre-pandemic levels.

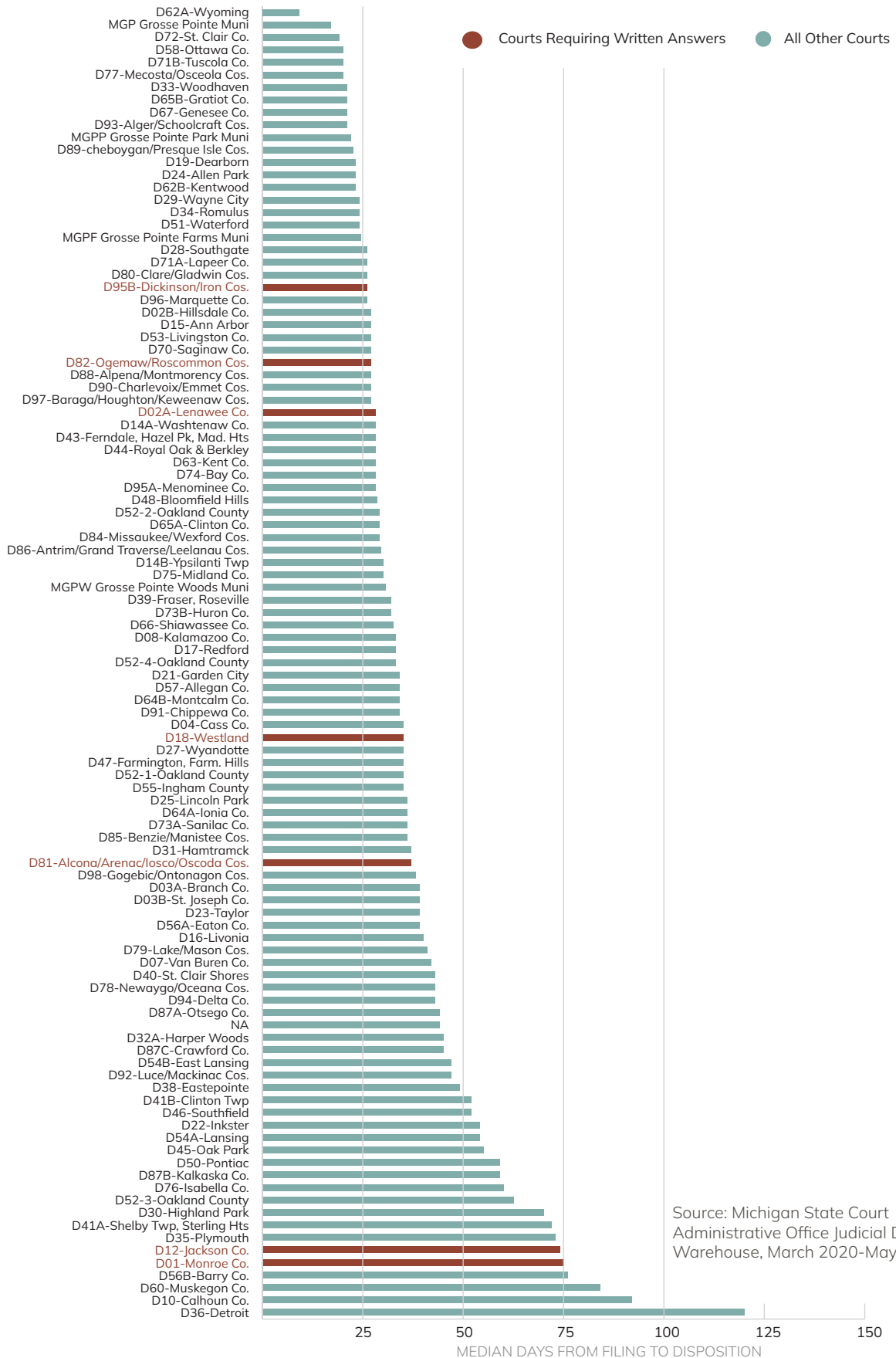
Median Days to Disposition for Courts Requiring Written Answers

Court	Jan 2018 - Feb 2020	Mar 2020 - Dec 2021	Jan 2022 -May 2023
Median of other MI Courts	14	42	41
DO1 - Monroe Co.	27	75	40
DO2A - Lenawee Co.	22	28	36
D12 - Jackson Co.	29	74	46
D18 - Westland	24	35	31
D81 - Alcona/Arenac/Iosco/Oscoda Cos.	30	37	38
D82 - Ogemaw/Roscommon Cos.	19	27	22.5
D95B - Dickinson/Iron Cos.	12	26	20

Source: Michigan State Court Administrative Office Judicial Data Warehouse, January 2018 - May 2023.

### Detroit's 36th District had the Longest Time to Disposition During the Pandemic

Median days from filing to disposition for cases filed March 2020-Dec 2021 and disposed by May 2023.



Source: Michigan State Court Administrative Office Judicial Data Warehouse, March 2020-May 2023.



## 2 Racial Disparities in the Time to Disposition May Be Due to Speed of Urban Courts

Differences in the speed in which cases reach dispositions may result in different outcomes for tenants living in different jurisdictions. A tenant in a slower-moving jurisdictions may have enough time to gather money and resources to catch up on rent, while a similarly situated tenant in a faster-moving jurisdiction may have already been evicted before being able to access resources that could have kept them housed.

The data shows that eviction cases filed in Black-majority neighborhoods tend to close more quickly than those filed in White-majority neighborhoods, paralleling differences between urban and non-urban courts. In 2017-2019, eviction cases filed in Black-majority neighborhoods reached a disposition in 11 days compared with 16 days for cases filed in White-majority neighborhoods.

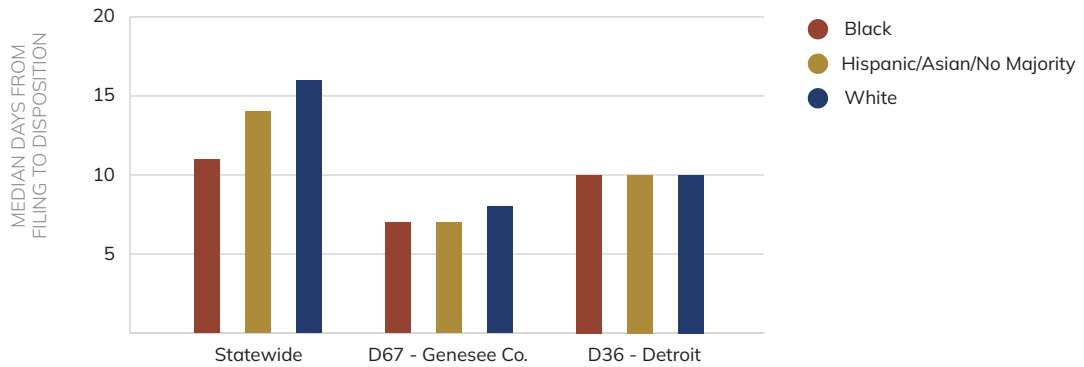
Eighteen percent of Michigan's overall population and 50% of Michigan's Black population resides in Wayne County, which encompasses Detroit.<sup>59</sup> Prior to the pandemic, large urban courts, such as the 36th District Court in Detroit and the 67th District Court in Genesee County/Flint, where Black renters tend to be concentrated in Michigan, reached dispositions in eviction cases much faster than the state average (10 days in Detroit and 7-8 days in Flint); however, the faster pace in these courts was the same across all neighborhoods, regardless of racial makeup.

The disparities in time to disposition were reversed during the pandemic. During the pandemic, tenants facing eviction in Black-majority neighborhoods saw the largest increase in time to disposition, from 11 days to 64 days. This was likely due to the overall drastic slow-down experienced by urban courts

during the pandemic, particularly Detroit's 36th District Court. The 36th District Court has many Black-majority neighborhoods within its jurisdiction. This court experienced the greatest increase in the time it took for cases to reach a disposition, with the median time to disposition increasing from 10 days (2017-2019) to 120 days during the pandemic (March 2020-December 2021). As a result, the racial gap in time to disposition was effectively reversed during the pandemic.

### Cases Filed in Black-Majority Neighborhoods Close More Quickly, but Race-Ethnic Differences Explained by Speed of Urban Courts

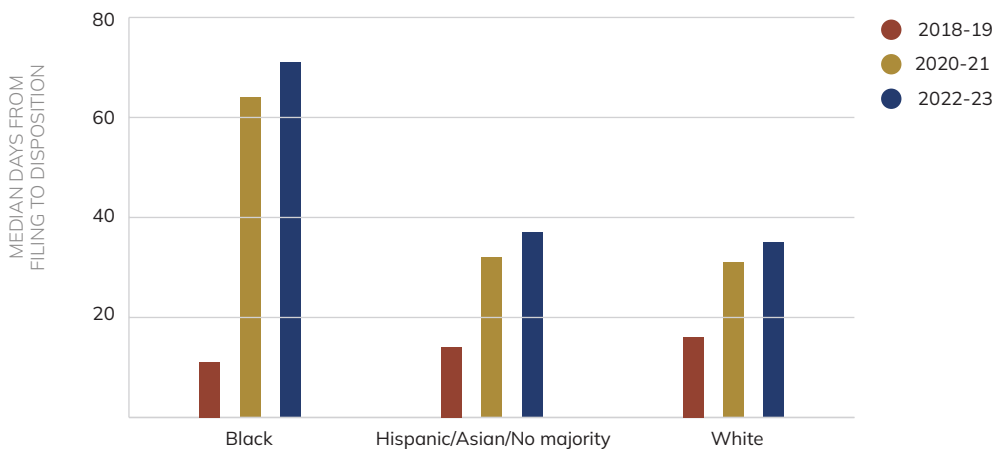
Median days from case filing to disposition by race-ethnic majority of tenants' census tracts for cases filed between 2017-2019 and disposed by Sept. 2021



Source: Michigan State Court Administrative Office Judicial Data Warehouse, 2017-2021; American Community Survey, 2015-2019.

### Black-Majority Neighborhoods Saw Largest Increase in Time to Disposition During Pandemic, Reversing Pre-Pandemic Racial Disparities

Median days from filing to disposition for cases filed between 2018-2023 and disposed by May 2023 by race-ethnic majority of tenants' census tract



Source: Michigan State Court Administrative Office Judicial Data Warehouse, 2018-May 2023; American Community Survey, 2015-2019.

# Findings: Case Outcomes

## AT A GLANCE

1. Case outcomes vary based on landlord type.
2. Default judgment and stipulation rates fell during the pandemic and dismissal rate soared.

## 1 Case Outcomes Vary Based on Landlord Type

Summary proceedings cases can resolve in several different ways. Landlords may voluntarily dismiss a case if a tenant moves out prior to trial or pays the unpaid rent, or if the parties reach some other agreement. A default judgment may be entered if the tenant fails to appear in court or, historically, for courts requiring written answers, did not file a timely written answer. Parties also can settle cases prior to trial. When this happens, the court may enter the settlement as a dismissal, conditional dismissal, or consent judgment. Finally, the court can decide the cases after a hearing, referred to here as “non-default judgments.”

Case outcomes vary by landlord type. For example, cases had an overall trial rate—or non-default judgment—of 5%; however, cases filed by individual landlords had a 14% trial rate, almost triple the overall rate. Cases filed by mobile home landlords had a higher-than-average dismissal rate of 50% compared to the overall 37% dismissal rate. Evictions filed by banks and mortgage companies also have much higher default judgment rates (54%) as compared to the average default judgment rate of summary proceedings cases in Michigan (35%); however, based on discussions with subject matter experts in the Workgroup, many of these cases are likely mortgage

foreclosure cases where the redemption period has elapsed, and the former homeowner has likely moved on.<sup>60</sup>

## 2 Default Judgment and Stipulation Rates Fell During the Pandemic and Dismissal Rate Soared

Default judgments are entered when a tenant fails to appear in court or, historically, in courts requiring a written answer, when a tenant fails to file a written answer. High default judgment rates are important to track because they may indicate that tenants face barriers to participating in court proceedings.

Prior to the pandemic, the overall default judgment rate for summary proceedings cases in Michigan was 35%, meaning that over a third of tenants against whom cases are filed fail to appear in court.<sup>61</sup>

During the pandemic, the default judgment rate decreased by 38% (from 34% in 2019 to 21% in 2021), and the stipulation rate decreased by 41% (from 34% in 2019 to 20% in 2021), while the dismissal rate soared 46% (from 39% in 2019 to 57% in 2021).

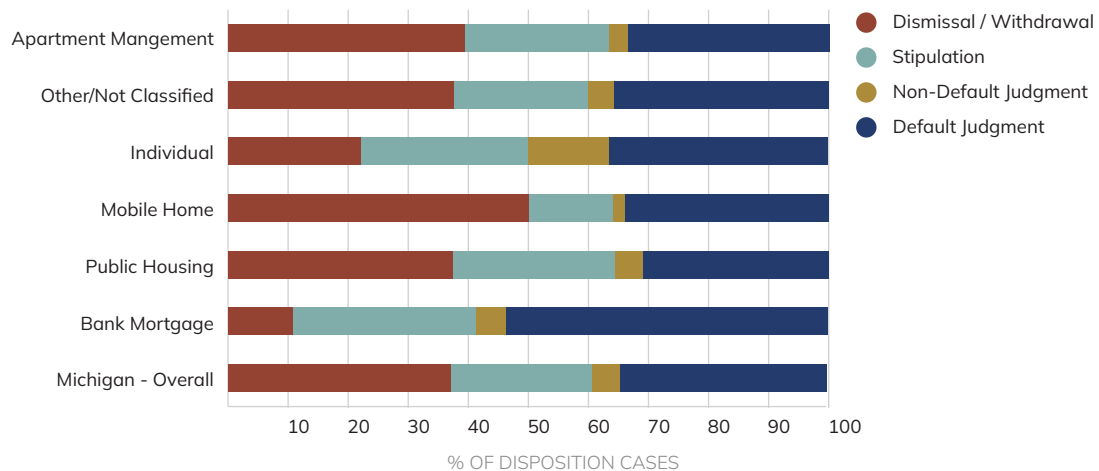
### Michigan Summary Proceedings Case Outcomes, 2017-2019

Outcome	Percentage of Cases	When this Typically Occurs
Dismissal or Withdrawal	37%	A case may be dismissed or withdrawn because the tenant has voluntarily left the premises, paid the unpaid rent, or reached an out-of-court settlement with the landlord.
Default Judgment	35%	Tenant did not appear in court for the hearing and the court automatically enters a judgment in favor of the landlord. For courts requiring written answers, default judgments are also entered if the tenant failed to submit a written answer within five days of being served the complaint.
Stipulation	24%	The parties negotiate a settlement, which can occur when the parties appear in court. Michigan courts usually record cases as "settled," but this category also includes cases in which the court entered a conditional dismissal.
Judgment (Non-Default Judgment)	5%	The judge decides the case in favor of one party after hearing evidence from both parties.

Total adds up to over 100% due to rounding.

Source: Michigan State Court Administrative Office Judicial Data Warehouse, 2017-2019.

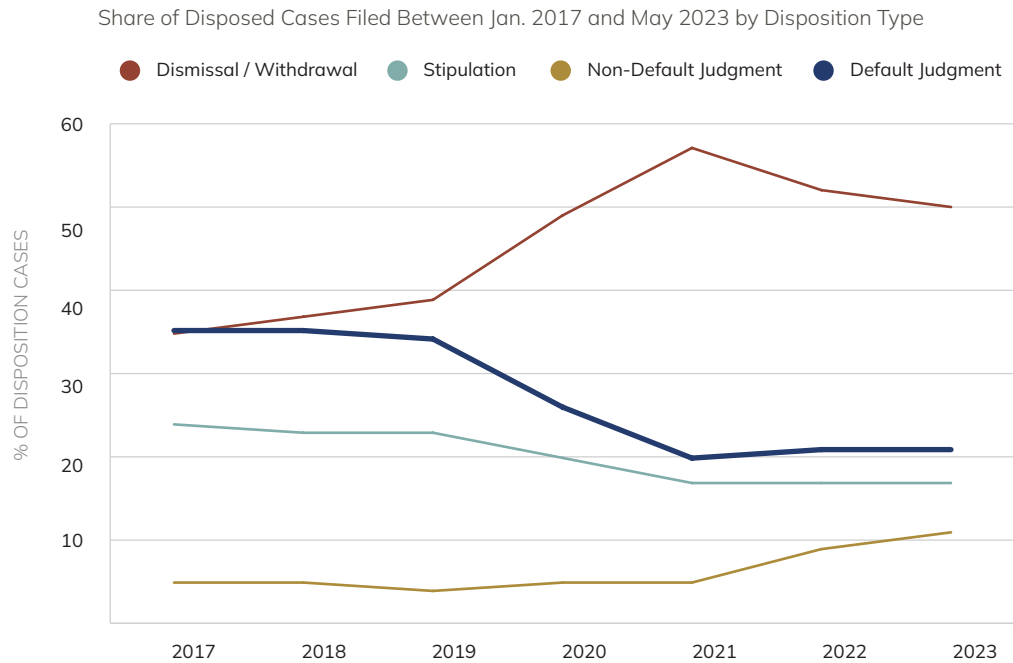
### Share of Disposed Cases by Disposition and Plaintiff Types, 2017-2019



Does not include 0.1% of cases dismissed for non-service.

Source: Michigan State Court Administrative Office Judicial Data Warehouse, 2017 - 2019.

### Default Judgment Rates Dropped for Eviction Cases During the Pandemic



Source: Michigan State Court Administrative Office Judicial Data Warehouse, Jan. 2017-May 2023.

This change was likely due to a combination of factors, including the widespread use of remote hearings, the availability of resources, information, and court procedures that provided the parties with a new avenue to resolve unpaid rent issues, which may have motivated more tenants to engage with their cases.

#### A. The Default Judgment Rate Declined with the Widespread Use of Remote Proceedings

Prior to the pandemic, many courts held in-person hearings for summary proceedings cases, requiring litigants to take significant time off work, find childcare, travel to the courthouse, navigate their way through the courthouse corridors, and sit in the courtroom—sometimes for hours—waiting for their case to be called.

This changed during the pandemic. Administrative Order 2020-17 directed courts to use remote

proceedings “to the greatest extent possible.”<sup>62</sup>

This change removed these barriers to litigants participating in court proceedings, enabling litigants to attend their hearings more conveniently by following a Zoom link. In interviews, many tenants and landlords expressed a preference for remote hearings.

However, for some, including those without reliable access to an electronic device or the internet, however, the use of remote proceedings presents an insurmountable barrier to access to justice. In Michigan, nearly 900,000 people do not have access to the internet.<sup>63</sup> Indeed, some interviewees discussed the barriers they faced in participating in remote hearings.

On September 7, 2023, the Court amended Rule 4.201(F) to require courts to “allow the use of videoconferencing technology in accordance with MCR 2.407 and MCR 2.408,” which are the general civil rules addressing remote proceedings. In addition,

Rule 4.201(F) stated that videoconferencing is presumed appropriate “when providing the advice of rights and information required” at the initial court hearing.<sup>64</sup>

As courts more heavily utilized remote hearings for summary proceedings cases, the default judgment rate decreased from 35% in 2017 to 20% in 2021. After the pandemic, many courts continued to hold remote proceedings, and the default judgment rate has remained relatively consistent with 2021 levels (21% in 2022 and 21% for the first half of 2023).

In addition, after the pandemic, the trial rate (non-default judgment rate) where courts entered a judgment after hearing the merits of the case doubled, from 5% in 2021 to 11% by mid-2023. Detroit’s trial rate increased almost six-fold, from 3% in 2021 to 17% by mid-2023. Notably, in May 2022, Detroit adopted a law providing expanded access to representation for tenants in summary proceedings cases.<sup>65</sup> From August 1, 2022, to July 31, 2023, the United Community Housing Coalition reported that the legal aid programs participating provided representation in 3,510 eviction cases.<sup>66</sup>

**B. Disparities in Default Judgment Rates for Urban Tenants Living Farther from Courthouses Disappeared with the Use of Remote Proceedings**

With the use of in-person hearings, cases filed against urban tenants living more than 15 minutes from their courthouse have higher default judgments rates compared to urban tenants living closer to the courthouse. In 2017-2019, the overall default judgment rate for cases filed in Michigan was 35%; however, the default judgment rate for tenants living in urban areas that were more than a 15-minute drive away from the courthouse was 41%, and the default judgment rate for urban tenants living closer to their assigned courthouse was 33%.

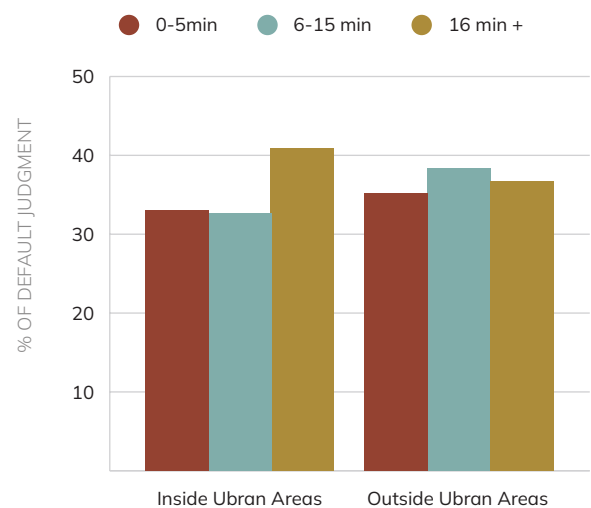
This finding is consistent with research conducted outside of Michigan, which found that distance to the courthouse is an important factor in how likely it is that tenants will show up for court.<sup>67</sup>

During the pandemic, as courts began to rely more heavily on remote proceedings, the gap in default rates between tenants living near and far from the courthouse in urban areas disappeared. In 2020 and 2021, the default rates among tenants living within 15 minutes from the courthouse and those living farther away were nearly identical in urban areas.

Indeed, through mid-2023, as many courts continued to hold remote proceedings, the default judgment rate remained nearly identical for urban tenants living within 15 minutes from the courthouse and for those living farther away.

For non-urban areas, however, the distance a tenant needed to travel to a courthouse did not meaningfully impact the default judgment rate both before and during the pandemic.

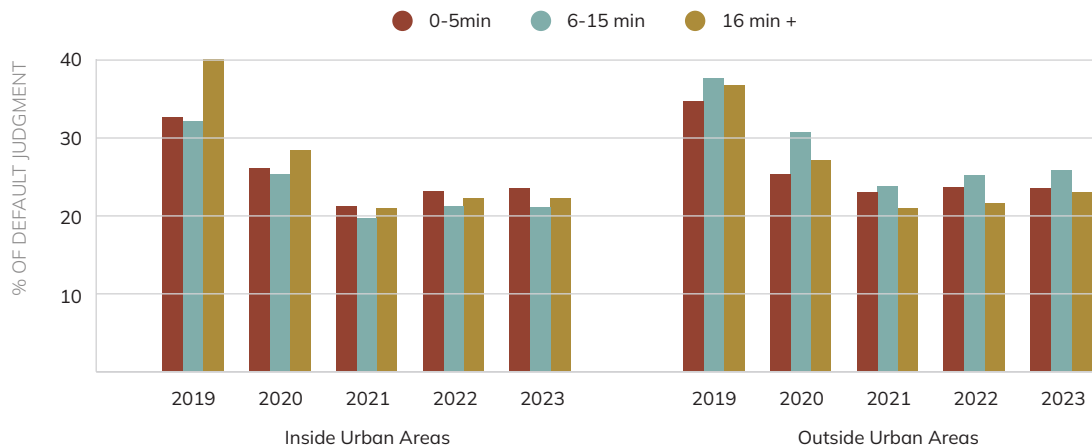
**Default Judgment Rate by Urbanicity and Driving Distance to Courthouse from Tenant’s Address, 2017-2019**



Source: Michigan State Court Administrative Office Judicial Data Warehouse, 2017 - 2019.

### Disparities in Default Judgment Rate Based on Driving Distance to Courthouse Closed During the Pandemic, 2019-2023

Default Judgment Rate by Urbanicity and Driving Distance to Courthouse from Tenant's Address, 2019-2023



Source: Michigan State Court Administrative Office Judicial Data Warehouse, 2010 - 2023.

For tenants living outside of urban areas, the default judgment rate decrease aligns with the overall decrease in default judgment rates. This may be due to tenants living in suburban and rural areas that have more access to cars and parking, reducing the barriers to suburban and rural tenants appearing in court.

#### C. Coordinated Resources and Court Processes Opened New Avenues for Parties to Resolve Disputes During the Pandemic

During the pandemic, the government provided unprecedented emergency rental assistance. Tenants making up to 80% of Area Median Income (AMI) (with adjustments for family size) could qualify for rental assistance for up to 18 months.<sup>68</sup> The availability of rental assistance provided a new avenue for tenants to pay past-due rent and likely contributed to the increase in the number of cases dismissed during the pandemic.

Recognizing that rental assistance could resolve many landlord-tenant disputes, in Administrative

Order 2020-17, the Court temporarily stayed proceedings while a tenant's CERA application was pending for up to 30 days after the pretrial hearing.<sup>69</sup> The new court process complemented the emergency rental assistance application process. This incentivized tenants to participate in court proceedings to obtain assistance and address past-due rent issues, and the ability to obtain rent dollars through CERA incentivized landlords to work with the courts, tenants, and rental assistance agencies to reach a favorable resolution.

Beyond emergency rental assistance, Michigan expanded its Eviction Diversion Programs (EDPs) statewide during this time, including funding to hire additional legal aid and HARA staff. EDPs are partnerships among courts, legal aid programs, and community service organizations that provide tenants and landlords with information about available resources to help resolve the dispute and to assist the parties in accessing these resources as quickly as possible.<sup>70</sup> These programs help both parties identify common ground and make informed decisions about whether and how to resolve the case before an eviction judgment is rendered. In many EDPs, legal

aid attorneys and community service organization staff are present at court, resulting in many people receiving immediate assistance.

Tenants facing an eviction proceeding may be stigmatized and hesitant to ask for help. An EDP facilitator or EDP partner can help unrepresented parties feel more empowered engaging in the court process and can identify resources that may be available to them, normalizing the process for applying for and receiving rental assistance.

While Michigan has been a leader in developing EDPs for years,<sup>71</sup> the pandemic brought a greater understanding of the negative impact of unstable housing on tenants, landlords, and their communities and led to the creation of more EDPs. EDP partners—which include legal aid and financial counseling—were able to help tenants address their legal problems, such as negotiating a settlement agreement, and also their social problems of stable housing by assisting tenants in applying for rental and other financial assistance.<sup>72</sup> These readily available forms of assistance reduced the default rates by helping tenants and landlords reach agreements.

To help inform tenants of these new resources, the Court issued Administrative Order 2020-17, which required landlords to include with the summons “written information about the availability of counsel and housing assistance information as provided by legal aid or local funding agencies.”<sup>73</sup> This information provided vital advice to tenants, letting them know that resources were available, making it more likely for them to attempt to resolve the dispute by applying for rental assistance and seeking assistance from legal aid.

During this same time, the dismissal rate for summary proceedings cases soared, indicating that the parties were better able to resolve the case without the court having to issue an order. In 2019, prior to the

pandemic, the dismissal rate was 39%, and by 2021 the dismissal rate was 57%, which is a 46% increase.

The widespread use of remote proceedings and the coordinated resources and processes provided during the pandemic removed common barriers to tenants accessing courts and provided the parties a new avenue to resolve unpaid rent issues, which likely contributed to the marked rise in dismissal rates and decrease in default and stipulation rates during the pandemic. In addition, Administrative Order 2020-17 provided clear guidance on the use of conditional dismissals, which likely contributed to the increase in dismissals that may have previously been coded as stipulations by courts. Conditional dismissals are beneficial for tenants because they avoid the long-term impact of having an eviction judgment on their record without any negative impact on landlords.<sup>74</sup> On September 7, 2023, the Michigan Supreme Court amended MCR 4.201 to provide guidance on how parties can request a conditional dismissal going forward.<sup>75</sup>

#### **D. Most Courts Requiring Written Answers Had Higher Default Judgments Rates and Had Inconsistent Changes to Default Judgment Rates After Suspension of Local Rules During the Pandemic**

A handful of courts, prior to the pandemic, had local practices that required the tenant to file a written answer to the complaint within five days of service. If the tenant failed to file the written answer in time, then the court could issue a default judgment.

Prior to the pandemic, the data shows that most courts requiring written answers experienced higher-than-average default judgment rates, ranging from 39% to 54% compared to Michigan’s average 35% default judgment rate from 2017-2019. During this same time period, however, Dickinson and Iron Counties (D95B) had a 29% default judgment rate, which is below the Michigan average.



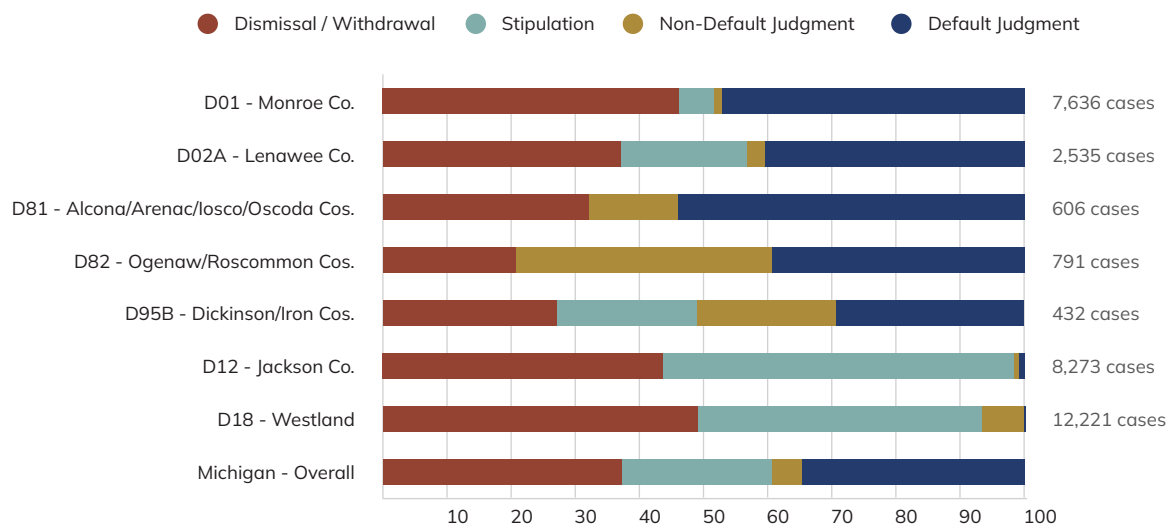
The data for two courts—Jackson County (D12) and Westland (D18)—does not appear to be accurate. Data from these courts show abnormally low default judgment rates. This is likely due to the way these individual courts tracked or labeled case outcomes and not an accurate indication of the actual default judgment rates. Indeed, attorneys practicing in these courts did not believe that this data reflected their experience with the courts. Further research into the practices of D12 and D18 is needed to understand the default judgment rate and the impact of requiring written answers on the default judgment rate.

During the pandemic, the Michigan Supreme Court temporarily suspended local rules upon which the requirement to file a written answer within five-days of service was allegedly based and the Court continued this suspension when it issued an amended administrative order on September 7, 2023.<sup>76</sup> At that same time, the court published for comment the rescission of remaining components of AO 2020-17 and further amendments to MCR 4.201(C) that would ensure courts with a local court rule under MCL 600.5735(4) correctly implement

their local court rule in accordance with the other provisions of MCR 4.201. The proposed rescission and amendments received public comment and were adopted as published on March 20, 2024.

There was no consistent pattern in the impact of suspending these local rules. Some courts experienced a higher-than-average decrease in the default judgment rate. For example, Monroe County’s default judgment rate decreased by 60% (from 47% to 18.1%) while the Five-Day procedure was suspended. Likewise, the default judgment rates for Lenawee County (D02A) and Dickinson and Iron Counties (D95B) decreased by 48% and 47%, respectively. Others, however, experienced a lower-than-expected decrease in their default judgment rates compared to the Michigan average. For example, Alcona, Arenac, Iosco, and Oscoda Counties (D81) and Ogemaw and Roscommon Counties (D82) only experienced a decrease of 21%, while on average, Michigan courts experienced an average 38% decrease in default judgment rates during this time.

Share of Disposed Cases by Disposition Type & Court, 2017-2019



Does not include 0.1% of cases dismissed for non-service.

Source: Michigan State Court Administrative Office Judicial Data Warehouse, 2017 - 2019.

It is not clear why the data shows such stark differences in default judgment rates across this sub-set of courts. They could stem from differences in how case outcomes are being reported in the case management systems for these courts. More information from these courts is needed to draw any conclusions about the data during the period the local procedures were in effect.

**E. Racial Disparities Exist in Case Dispositions**

Racial disparities exist in case outcomes. Cases filed against renters living in Black-majority neighborhoods have higher rates of default judgment than can filed against renters living in White-majority neighborhoods (40% vs. 31%) and higher rates of settlement (29% vs. 22%). Cases filed against renters living in Black-majority neighborhoods also have lower dismissal rates compared to cases filed against renters living in White-majority neighborhoods (27% vs. 41%). These disparities remain even when controlling for neighborhood median household income.

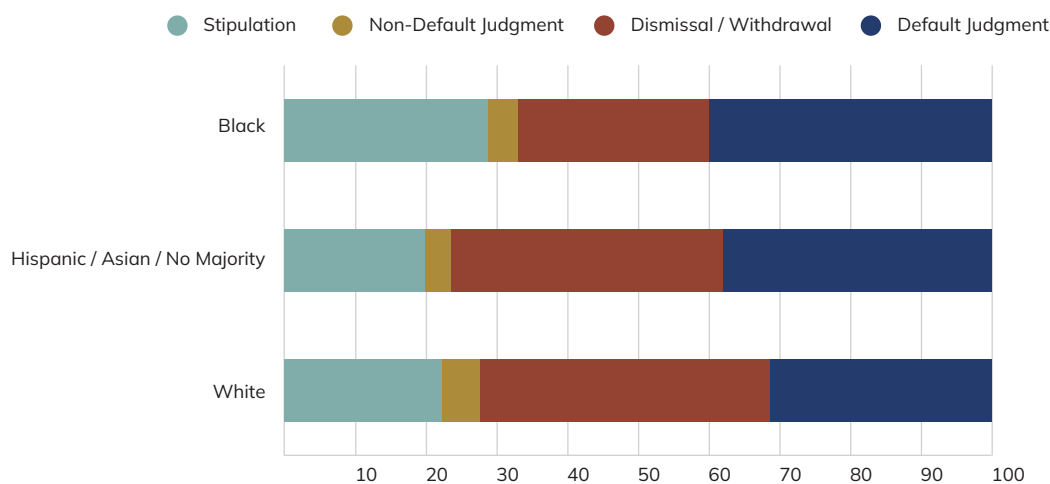
While these disparities may stem from the urban versus rural divide in the Black and White populations in Michigan, these disparities are also present within Detroit’s 36th District Court.

Race continued to be a factor in default judgment rates throughout the pandemic. During the pandemic, Black-majority neighborhoods experienced an increase in dismissals and a decline in default judgments; however, in 2021, renters living in Black-majority neighborhoods were still 25% more likely to receive a default judgment compared to renters living in Non-Hispanic White-majority neighborhoods (compared to 30% more likely in 2019).

Since 2022, racial disparities have persisted in default judgment rates. While the default judgment rates remain lower across the board, Black-majority neighborhoods continue to have higher default judgment rates than Non-Hispanic White-majority neighborhoods (26.3% vs. 19.5%)

**More Defaults and Fewer Dismissals in Black-Majority Neighborhoods**

Percent of eviction cases by disposition type and race-ethnic majority of neighborhood, 2017-2019.



Source: Michigan State Court Administrative Office Judicial Data Warehouse, 2017 - 2019.

# Findings: Writs of Eviction

## AT A GLANCE

1. Time from disposition to writ of eviction only slightly increased during pandemic.
2. Writs of evictions were issued at lower rates during the pandemic.

## 1 Time from Disposition to Writ of Eviction Only Slightly Increased During Pandemic

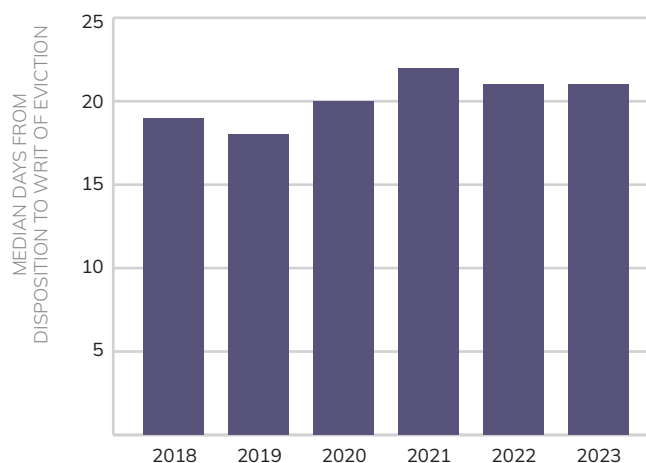
If the court grants the landlord possession of the premises, then the landlord needs to wait a certain amount of time before requesting the court to issue a writ of eviction to force the tenant out of the premises. The judgment will state how long the landlord must wait and under what conditions to request a writ of eviction.<sup>77</sup> Typically, the court is statutorily required to wait at least 10 days from entry of the judgment to issue a writ of eviction.<sup>78</sup>

A review of available Judicial Information Services (JIS) data<sup>79</sup> showed that in 2018 it took a median of 19 days from the time the judgment was entered for the court to issue a writ of eviction.

The time between a court entering a judgment for possession and issuing a writ of eviction only slightly increased during the pandemic, with courts taking a median of 22 days in 2021 (3 days more than in 2018). This time slightly decreased to a median of 21 days in 2022.

### Time Between Disposition and Eviction Increased Slightly During Pandemic

Median days from disposition to writ of eviction for cases filed between Jan. 2018 and May 2023 and disposed by May 2023.



Source: Michigan State Court Administrative Office Judicial Data Warehouse, Jan. 2018-May 2023.

## 2 Writs of Evictions Were Issued at Lower Rates During the Pandemic

As discussed above, summary proceedings cases can be resolved in several ways, many of which do not lead to the court issuing a writ of eviction and tenants being forcibly removed from their homes. The Eviction Court Displacement Rate calculates the likelihood that an eviction filing will lead to a writ of eviction, where a tenant is involuntarily removed from the home. This rate provides a better understanding of the court system’s role in evicting tenants.<sup>80</sup>

### A. Eviction Court Displacement Rates Deceased During the Pandemic

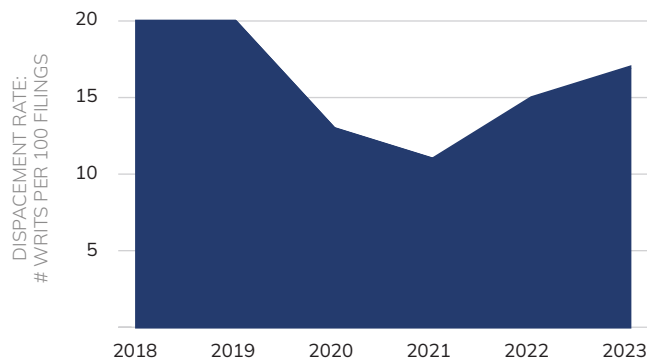
Based on the JIS data available,<sup>81</sup> prior to the COVID-19 pandemic, Michigan had a 20% Eviction Court Displacement Rate, meaning that approximately 20% of eviction filings in Michigan concluded with a court issuing a writ of eviction. This percentage reflects the portion of cases that led to tenants being involuntarily removed from their homes; many other tenants may have left voluntarily before a court issued a writ of eviction.

The pandemic brought changes to case disposition rates, with additional resources and procedural safeguards to allow parties to resolve their dispute without an eviction. The dismissal rate increased, the default judgment and stipulation rates decreased, and the non-default judgment rate held relatively steady. This translated into lower eviction court displacement rates during the pandemic. In 2020 and 2021, approximately 11-13% of eviction filings resulted in the issuance of a writ of eviction, showcasing the evolving dynamics within the eviction process during the pandemic period.

For cases filed in 2021, the Eviction Court Displacement Rate gradually increased toward pre-

pandemic levels, with an Eviction Court Displacement Rate of 17% in mid-2023.

### Eviction Displacement Rate Dipped During Pandemic and Was Still Below Pre-Pandemic Average in May 2023



Source: Judicial Information Services (JIS) Register of Actions, Jan. 2018-May 2023.

### B. Banks and Mortgage Lenders Have Significantly Higher Eviction Court Displacement Rates than Other Landlords

Different types of landlords have significantly different Eviction Court Displacement Rates.<sup>82</sup> Individual landlords have the highest tenant Eviction Court Displacement Rate at 23%. Apartment management companies follow closely with a 20% Eviction Court Displacement Rate, while public housing entities have a slightly lower rate of 18%. In contrast, mobile home

#### Individual Landlords Have the Highest Eviction Court Displacement Rate



Source: Judicial Information Services (JIS) Register of Actions, 2018-2023.

companies display the lowest percentage of eviction cases ending in a writ of eviction, standing at 14%. This lower rate can be attributed, at least in part, to their relatively higher rate of dismissals in comparison to other landlord types.

### C. Racial Disparities in Eviction Court Displacement Rates Are Sizeable

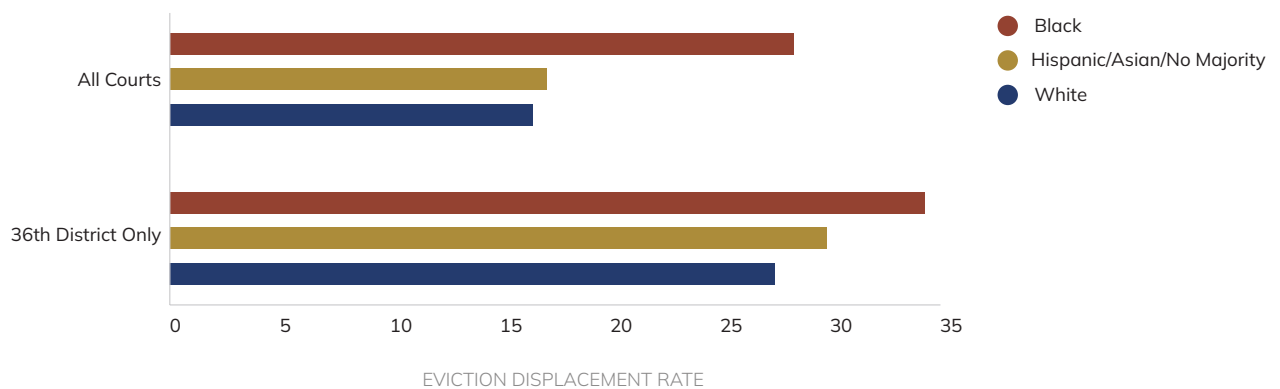
Tenants living in Black-majority neighborhoods have higher rates of cases ending with writs of eviction compared to tenants living in White-majority neighborhoods. Statewide data reveals that 28% of eviction cases filed in Black-majority neighborhoods end with a writ of eviction, while only 16% of cases filed in Non-Hispanic White-majority neighborhoods have the same outcome.

This disparity partly stems from the urban versus rural divide within the Black and White populations. However, even within the same urban court, racial disparities persist. For example, in Detroit’s 36th District, one-third (34%) of eviction cases filed in Black-majority neighborhoods result in a writ of eviction, whereas just more than one-quarter (27%) of cases filed against tenants in White-majority neighborhoods result in a writ of eviction.

Cases filed in Black-majority neighborhoods face a higher likelihood of ending with a writ of eviction compared to cases filed in Non-Hispanic White-majority neighborhoods, meaning that once an eviction case is filed, a renter in a Black-majority neighborhood is more likely to be involuntarily removed from the premises through an eviction.

### Black-Majority Neighborhoods Have Higher Eviction Court Displacement Rates

Eviction Court Displacement Rate by Race-Ethnic Majority of tenants’ neighborhood in JIS district courts with at least one writ issued, 2018-2019



Source: Judicial Information Services (JIS) register of actions, 2018-2019.

# Recommendations: Improved Case Management

## AT A GLANCE

1. Lesson Learned: Inconsistent adherence to administrative orders and court rule leads to inconsistent access to justice across courts.
2. Best Practice: Create dockets dedicated to summary proceedings cases.
3. Best Practice: Schedule summary proceeding cases for specific blocks of time.
4. Adopt statewide rules for remote proceedings specifically for summary proceedings cases.
5. Create a uniform adjournment request form.
6. Amend the court rules to provide tenants with the ability to request the ledger.
7. Provide plain language information on resources early in the process.
8. Create plain language forms and materials.
9. Evaluate language access needs in summary proceedings cases.
10. Develop enhanced education for all involved in the summary proceedings process.
11. Explore how regulatory reform can increase legal assistance to landlords and tenants.

Michigan has a broad array of courts, each with differing resources and community needs. This makes a one-size-fits-all case management model difficult. While Michigan's non-unified court system benefits court users, by allowing individual courts to tailor services to local community needs, this benefit is outweighed by the need for consistency, particularly in summary proceedings matters. Summary proceedings cases are unique in their need for uniformity for two main reasons. First, landlords may have properties in different jurisdictions across the state, which makes business difficult when they must conform to different processes and procedures across county lines. Second, the vast majority of tenants and a sizeable number of landlords attempt to navigate these cases without the assistance of legal representation, and inconsistent court processes make it difficult for self-help centers and Michigan Legal Help to provide accurate information to self-represented litigants. The recommendations below include lessons learned from the pandemic, overarching promising practices for managing cases, and recommendations for the State Court Administrative Office (SCAO) to consider and implement.

## 1 Lesson Learned: Inconsistent Adherence to Administrative Orders and Court Rules Leads to Inconsistent Access to Justice Across Courts

Administrative orders are one tool that the Michigan Supreme Court uses to encourage uniform court processes across Michigan courts. Throughout the pandemic, the Court issued administrative orders pertaining to case management for summary proceedings cases, which included rules on prioritizing cases, utilizing remote proceedings, suspending local rules that required tenants to submit written answers, and requiring courts to hold pretrial hearings to inform parties of their rights.<sup>83</sup>

District courts, however, did not implement these administrative orders uniformly. As noted by subject matter experts in the Workgroup, these inconsistencies led to confusion among court users, particularly self-represented litigants who often rely on guidance from self-help centers and Michigan Legal Help, which created resources based on the guidance provided by the administrative orders. These inconsistencies also led to different hearing processes for litigants. For example, although Administrative Order 2020-17 set forth a two-step hearing process for summary proceedings cases when the defendant appeared at the initial hearing, some courts entered judgments at the initial hearing, rather than holding a pretrial hearing informing the parties of their rights.<sup>84</sup> This was not only contrary to the two-step process required by the administrative order but also contrary to the information available on Michigan Legal Help, creating confusion and procedural disparities for litigants.

Similarly, Administrative Order 2020-17 required that courts utilize remote hearings to "the greatest extent possible," however, courts interpreted this

provision differently, resulting in some courts requiring a larger percentage of landlords and tenants to appear in person. This inconsistency, in turn, created additional barriers to some parties exercising their rights to participate in their court hearing, especially as shown in Finding 12c, remote proceedings allowed more landlords and tenants connect with needed information and access resources.

These examples demonstrate how the inconsistent implementation of administrative orders—particularly administrative orders impacting court processes—leads to more systemic inconsistencies in access to justice downstream. While courts across the state struggle with varying resources and challenges, court processes should not change for litigants based on what side of the county line they live on.

## 2 Best Practice: Create Dockets Dedicated to Summary Proceedings Cases

Summary proceedings cases require unique court and community resources. As discussed above, these cases are one of the highest volume cases filed in Michigan’s district court, and 98% of tenants and 14% of landlords are not represented by counsel.<sup>85</sup> These cases significantly impact Michigan’s rental community, with an estimated 16.1 cases filed per 100 renters.<sup>86</sup>

Summary proceedings cases are also high stakes cases. On the surface, important property interests are at stake—income property for the landlord and a home for the renter’s family. Research, however, indicates that evictions can have severe collateral consequences for families beyond access to stable housing, including negatively impacting their ability to obtain basic necessities (e.g., food, clothing, and medicine), mental health, education for children (e.g.,

higher rates of absenteeism and lower test scores), and can even lead to child abuse and neglect.<sup>87</sup>

**To effectively address the unique needs of summary proceedings cases, the Court should adopt a best practice for trial courts to schedule summary proceedings matters on a dedicated docket.**

This practice would permit courts to focus resources on the unique needs of these cases, while still providing flexibility to individual courts to schedule cases on the main docket if determined to be more effective. By scheduling like case-types in a consistent, recurring, and clustered manner, dedicated dockets create efficiencies for landlords, tenants, and courts. A dedicated docket would allow legal aid lawyers to attend and provide limited services to self-represented litigants and would allow community resource organizations to identify individuals in need and connect them with resources in an efficient way. For example, a human services agency could send staff to the dedicated docket hearing summary proceedings cases to conduct outreach and provide information to landlords and tenants. Dedicated dockets would also be more efficient for landlords, who would be able to have multiple cases on the same docket.

Lower volume courts may not have enough cases to create an entire docket, but these courts should cluster summary proceedings cases together to achieve similar objectives.



### 3 Best Practice: Schedule Summary Proceeding Cases for Specific Blocks of Time

Simply having dedicated dockets for summary proceedings actions is not enough to eliminate barriers to litigants effectively participating in the process. Throughout Michigan and across the country, landlord-tenant dockets are held in a bulk fashion, in which all landlords and tenants are expected to arrive at court at the same time, packing the courtroom, forcing many litigants into crowded hallways to wait for hours while straining to hear if their case is being called.<sup>88</sup>

During the COVID-19 pandemic, many courts experimented with different docket management strategies to reduce the number of people in a room at one time, such as block scheduling, where a court schedules a portion of cases to be heard each half hour or hour. Block scheduling reduced the number of people filling court hallways and made attending court more convenient for many litigants.<sup>89</sup>

**To help ensure that litigants have meaningful access to the courts, the Workgroup recommends that the Court adopt block scheduling as a best practice.**

Courts should eliminate bulk dockets where every case is scheduled to arrive at the same time and instead schedule cases in blocks, where a reasonable number of cases can be heard each half-hour or hour to reduce the amount of time that litigants must wait for their case to be heard. When scheduling hearings, the court should accommodate both parties, whenever possible.

This need also has been recognized by the JFAC Reimagining Courthouses Workgroup, which has developed a similar recommendation.<sup>90</sup> In addition, in the criminal context, the SCAO Lessons Learned

Committee has recommended that the “SCAO prohibit the scheduling of entire dockets at one time and instead require the use of a staggered docket in which multiple hearings are scheduled in varying time slots.”<sup>91</sup>

### 4 Adopt Statewide Rules for Remote Proceedings Specifically for Summary Proceedings Cases

Without a doubt, the use of videoconferencing technology has increased access to justice in landlord-tenant proceedings for many Michiganders. The Michigan Supreme Court recently amended the court rules to address the use of remote proceedings in summary proceedings actions, specifying that use of videoconferencing technology is presumed when providing the advice of rights and information.<sup>92</sup> The recently-adopted rules, however, fail to take into account other unique characteristics of summary proceedings actions, including the high volume of cases, the high rate of pro se litigants on both sides, the need to direct litigants to resources, and some litigants may lack access to reliable internet and devices to participate in the hearing.

**Given the unique needs of summary proceedings actions, the Workgroup recommends the development of proposed rules that specifically govern remote proceedings in summary proceedings actions to address the unique characteristics of these cases.**

The proposed rule should focus on ways in which technology can be streamlined, made more user-friendly for litigants, and effectively utilize breakout rooms to facilitate negotiations between parties.

## 5 Create a Uniform Adjournment Request Form

As highlighted by experts in the Workgroup, litigants use adjournment requests to ask the court to move the hearing date and time because they have a conflict. Currently, the process to request an adjournment is inconsistent among Michigan courts. Some courts require a telephone call, while others prefer e-mail. When a party is represented by counsel, the attorney knows how to navigate the various court systems to request an adjournment and notify the other side; however, self-represented litigants often struggle with requesting an adjournment, articulating their need for an adjournment, and properly notifying the other side because there are no clear and consistent processes. Self-represented litigants face barriers simply getting answers on how to request an adjournment, struggling to locate the correct contact information for the court and trying to get court staff to answer their calls.

**For these reasons, the Workgroup recommends that the JFAC Forms Committee or the SCAO creates a specific form for requesting adjournments in summary proceedings cases.**

This new form will promote consistency in the process and remove barriers to self-represented litigants requesting an adjournment when necessary.

## 6 Amend the Court Rules to Provide Tenants with the Ability to Request the Ledger

As highlighted through discussions in Workgroup meetings with subject matter experts, discovery is typically not available in summary proceedings cases;<sup>93</sup> however, the rent ledger often contains vital information, including an itemized list of charges that the landlord is seeking to recover from the tenant. This information is so important that some Workgroup members advocated that the rules should require landlords to attach the ledger to the complaint to help tenants to better understand the claims landlords are raising against them. Those against requiring the ledger to be attached to the complaint noted that it was unnecessary because the information in the ledger is typically already incorporated in the complaint and that the ledger changes during the life of the case.

**As a compromise position, the Workgroup recommends that the appropriate court rules be amended to provide tenants with the ability to request a ledger, if any.**

If the rules are amended, the ability to request a ledger should be incorporated into any Landlord-Tenant Advice of Rights that is provided to tenants with the Summons and Complaint, informing tenants of their rights and responsibilities as well as resources to help them.

## 7 Provide Plain Language Information on Resources Early in the Process

Resources and help, such as legal aid and emergency rental assistance, are available to tenants facing evictions; however, tenants and landlords are often not aware of the resources available to them or how to access them, as outlined in Finding 9. Consequently, litigants do not access assistance at all or do so too late in the process to resolve the issue, unnecessarily costing litigants and courts time, money, and resources. To enable litigants to efficiently resolve their disputes, they must understand what resources are available and how to access those resources as early in the process as possible.

During the COVID-19 pandemic, the Court required landlords to include with the summons “written information about the availability of counsel and housing assistance information as provided by legal aid or local funding agencies.”<sup>94</sup> This information allowed tenants to understand available resources and to make informed decisions with how to proceed with their case; it may have also contributed to the decreased default judgment rate and increased dismissal rate during the pandemic.

This temporary requirement has now been incorporated into MCR 4.201, which requires, pursuant to SCAO guidelines, “written information attached to the summons regarding the availability of rental and other housing assistance provided by legal aid or local funding agencies,”<sup>95</sup> and requires courts to inform tenants at the hearing about the availability of resources, including legal help, rental assistance, and dispute resolution services.<sup>96</sup> While this rule will help ensure that tenants are informed about some resources available, the information included with the summons and given at the hearing should include mental health resources (such as the local community mental health agency and crisis lines)

and, in jurisdictions with expanded access to counsel programs, contact information for these programs.

**For these reasons, the Workgroup recommends that the SCAO include these additional resources in its guidelines for the written information to be included with the summons and that MCR 4.201(k) (2) be amended to require courts to provide this information at the hearing.**

## 8 Create Plain Language Forms and Materials

Resources and information are helpful, but they must be in a format that people can understand, which was highlighted by Workgroup discussions. It is essential for forms and materials to be in plain language to allow self-represented litigants to meaningfully access courts and understand their rights, obligations, and potential legal consequences.

Data from the United States Department of Education indicates that more than half of adult Americans read below the equivalent of a sixth-grade reading level.<sup>97</sup> Indeed, in Michigan, 18% of adults read at or below a Level 1 literacy level,<sup>98</sup> meaning that they lack the skills to compare and contrast, paraphrase, or make low-level inferences.<sup>99</sup>

**The Workgroup recommends that the language on the summary proceedings forms be amended so that they are understandable at least to individuals who read at a sixth-grade reading level.<sup>100</sup>**

The Workgroup recommends that it collaborate with the JFAC Forms Committee to develop plain language court forms for summary proceedings.

## 9 Evaluate Language Access Needs in Summary Proceedings Cases

Many English speakers struggle with the summary proceedings process. The level of complexity is compounded for individuals with limited English proficiency.

**The Workgroup recommends that the summary proceedings process should be reviewed from the perspective of a non-English speaking litigant to identify the barriers they currently face in the process, including any barriers to requesting interpretation services and access to information and court forms.**

The JFAC's Reimagining Courthouses Workgroup is charged with examining language access issues and their impact on access to justice. Therefore, the Workgroup recommends that the Reimagining Courthouses Workgroup evaluate language access needs specific to summary proceedings cases and make appropriate recommendations.

## 10 Develop Enhanced Education for All Involved in the Summary Proceedings Process

Education is vital for all participants in summary proceedings, and the Workgroup recommends improving the already-available educational materials and opportunities related to this subject matter.

Experts in the Workgroup highlighted that tenants often have a number of misconceptions about the summary proceedings process and the substantive rights they may be able to assert during that process. To address these issues, the Workgroup recommends

partnering with appropriate stakeholders—potentially including the JFAC Training and Outreach Committee and Michigan Legal Help—to create culturally competent education materials that consider the fact that tenants may be scared and stressed when they access these materials and they may have varying levels of trust of public institutions, including our courts. In addition, since most tenants are self-represented litigants with limited or no experience with courts, basic concepts—such as the differences between summary proceedings and criminal cases—need to be explained. Because tenants may face any number of barriers to engaging with the court (such as distance to court, as highlighted above in Finding 12b), these resources should be developed in partnership with trusted community partners, including local libraries. Stakeholders could work with the Michigan Library Association to produce materials and distribute to local libraries in print form and in other media, such as videos.

The Workgroup recognizes that beyond legal information on Michigan Legal Help and the State Court Administrative Office court forms, few resources or support currently exists for self-represented landlords. Self-represented landlords may benefit from do-it-yourself (DIY) document assembly tools, more information on the eviction process and rental assistance options, mediation options, and legal clinics or other legal assistance. To address this issue, the Workgroup recommends putting together a separate stakeholder group to engage in research on the types of resources that self-represented landlords may need and how to provide those resources most effectively, learning from similar efforts in other jurisdictions. Potential partners in these efforts may include local bar associations, landlord associations, trained navigators, community dispute resolution centers, Michigan Legal Help, and court staff.

In addition, there are also opportunities to improve the existing education for judges, including the potential creation of a resource guide for the bench that identifies sources of legal and rental help. This

guide would help judges direct litigants to resources that can help resolve their current dispute and assistance to avoid court involvement in the future. Educational materials could be developed, potentially in partnership with Michigan State Housing & Development Authority (MSHDA), focusing on the unique legal issues posed by subsidized and public housing, such as “good cause” eviction standards and how Housing Choice Vouchers interact with the private landlord/tenant lease contract.

**For these reasons, the Workgroup recommends partnering with the JFAC Training and Outreach Committee to collaborate with stakeholders to develop more effective educational materials for tenants, landlords, and judges.**

## 11 Explore How Regulatory Reform Can Increase Legal Assistance to Landlords and Tenants

A number of states have amended their court rules or created pilot projects to allow paraprofessionals who have received focused training to offer limited legal services in specific areas of law, including landlord-tenant proceedings. In 2022, the Delaware Supreme Court enacted Rule 57.1 to allow Qualified Tenant Advocates to provide legal advice in landlord-tenant cases under the supervision of a Delaware legal aid lawyer.<sup>101</sup> Prior to enacting this rule, landlords were already allowed to be represented by an agent who was not a lawyer in eviction proceedings, but tenants were not. Minnesota recently implemented a pilot project that allows trained legal paraprofessionals to provide legal advice in landlord-tenant cases under the supervision of an attorney.<sup>102</sup> In January 2023, New Hampshire started a Legal Paraprofessional Pilot Project that allows legal paraprofessionals, under the supervision of an attorney, to assist in family and landlord-tenant matters; beginning in 2025, the pilot project will

allow legal paraprofessionals to represent clients in court for these matters.<sup>103</sup> Alaska has developed a broader Community Justice Worker Program, in which individuals who have completed approved training can provide legal assistance to low-income Alaskans under the supervision of the Alaska Legal Services Corporation.<sup>104</sup>

In September 2023, the Justice for All Commission approved recommendations to develop a Paralegal Licensing Pilot project to assist individuals in landlord-tenant proceedings and other high need areas of law.<sup>105</sup>

**Based on the unmet need for legal assistance in summary proceedings cases and the successful programs developed in other states, the Workgroup recommends the inclusion of summary proceedings cases in any future pilot program created in Michigan to allow trained paraprofessionals under appropriate supervision to provide limited legal services.**

# Recommendations: Strengthen Community Partnerships

## AT A GLANCE

1. Support Michigan's Eviction Diversion Programs by identifying and supporting effective EDP strategies.
2. Create mechanisms to allow courts to learn from housing partners and stakeholders.
3. Work collaboratively with community partners to overcome barriers to effectively serve landlords and tenants.
4. Support and participate in pilot programs aimed at holistically addressing the needs of tenants facing chronic housing instability.

As part of its strategic vision, the JFAC seeks to improve Michigan's justice system to "provide[ ] a safe, trusted, and inclusive experience for addressing problems and strengthening communities."<sup>106</sup> To achieve this strategic vision, courts should be community partners that collaboratively work with a wide variety of partners to achieve better outcomes for people's civil legal and related problems. The Summary Proceedings Workgroup has several recommendations to further this goal in the area of evictions.

## 1 Support Michigan's Eviction Diversion Programs by Identifying and Supporting Effective EDP Strategies

EDPs are strategic partnerships between courts and community partners to help tenants and landlords resolve eviction filings by providing legal assistance to self-represented tenants and landlords in court.

EDPs help make court processes more navigable and understandable for self-represented tenants and landlords by providing access to legal and non-legal resources and information necessary to make informed legal decisions and find common ground for settlement agreements. By providing legal assistance and resources to self-represented litigants, the summary proceeding process flows more smoothly through the courts, creating efficiencies in the system

and improving the administration of justice. For example, if a tenant qualifies for rental assistance, this can present a win-win situation in which the landlord will be able to recover unpaid rent and the tenant can remain in housing.

EDPs can provide powerful support to landlords and tenants; however, some workgroup members noted that EDPs can also cause unnecessary delays and questioned whether their benefits outweighed their costs.

There is currently no systematic understanding of what programs exist across Michigan, what outcomes these programs are achieving, or how to replicate effective programs across courts.

The Workgroup recommends that the SCAO complete an inventory of current Eviction Diversion Programs around Michigan and, where possible, identify program impacts, synthesize the most successful components of each program, and create a toolkit for replication for courts who are considering implementing an EDP.

Components of a successful EDP often include:<sup>107</sup>

- Engaging in effective outreach to self-represented landlords and tenants to let them know about the resources available;
- Inviting social services agencies to engage with litigants as part of the eviction court processes to connect self-represented litigants with resources, assess their eligibility for resources including rental assistance, and assist with the application process for any available resources;
- Allowing legal services in the courtroom (virtual or physical) to provide screening, advice, and potentially representation to tenants and landlords who qualify for their services;

- Having the cooperation and support from the Court through its procedures and resources to enable partner organizations to provide the services outlined above; and
- Providing mechanisms to share information between agencies (without violating applicable ethical rules) to facilitate collaboration (e.g., sharing the status of rental assistance applications, the number of cases on the docket for a given day; and whether a particular hearing has been postponed).

**In addition, to further develop best practices and the courts' role in supporting and helping their communities, the Workgroup recommends that the JFAC support the development of pilot projects in partnership with other community service providers, such as the Michigan Department of Health and Human Services (MDHHS), to help people apply for benefits such as food assistance and health insurance while accessing other benefits, such as rental assistance.**

## 2 Create Mechanisms to Allow Courts to Learn from Housing Partners and Stakeholders

EDPs are one specific example of how courts can bring in community partners to help tenants and landlords receive resources and help. All courts, however, should strengthen their community partnerships to help support court users and their community. As members of the Workgroup have discussed, courts and community partners should actively and regularly share information and data to help each other better understand how to effectively address the needs of their community. Information and data from community partners provide courts with a better understanding of the rental needs in their community, such as the availability and cost

of housing, availability of subsidized housing, the number of unplaced subsidized housing vouchers, estimated waiting time on homeless preference waiting lists, and staffing and funding capacity of local financial assistance agencies. Eviction court data, in turn, would provide community partners with a better understanding of the volume and trends in case filings to help those community partners respond to the ever-changing needs of the community.

To encourage this information sharing, the Workgroup recommends that the SCAO assist district courts in developing a regular summary proceedings stakeholder convening focused on information, resource, and data sharing and designed to facilitate cross disciplinary collaboration between the courts and stakeholders, including local and statewide service providers, and professional associations.

### 3 Work Collaboratively with Community Partners to Overcome Barriers to Effectively Serve Landlords and Tenants

To improve access to justice across the state, the Workgroup recommends convening an interdisciplinary stakeholder group—including Judicial Branch stakeholders, such as the JFAC, and Executive Branch stakeholders, such as MDHHS and MSHDA—to collaboratively address systemic issues with resources like rental assistance and to address barriers landlords and tenants face and their impact on court processes and housing stability, including:

- Differences in resources exist in different parts of the state, especially between urban and rural locations.
- The eligibility requirements to qualify for certain resources often exclude subsets of

renters. For example, mainstream emergency assistance resources often prioritize workers with an emphasis on earned income and increasing earned income, failing to recognize that some tenants are unable to work due to age and/or disability or other significant barriers.

- Delays in determining a tenant's eligibility for rental assistance can prevent landlords and tenants from understanding whether there is any common ground for them to reach a settlement. The stakeholder group could help provide support to identify strategies to expedite the process, such as using proxies or data sharing in lieu of a lengthy and complicated eligibility determination process.
- Lack of consistency in processing rental assistance applications makes it difficult for landlords to work with tenants because they do not know when they will receive the rental assistance payments. The stakeholder group should work with community partners to more efficiently process rental assistance payments and make the process more uniform across the state to remove this barrier to landlord participation.
- The timing for applying and receiving rental assistance would be more effective if judicial and executive branch processes were better aligned. Currently, tenants can only apply for certain types of financial assistance after an eviction case has been filed against them. This costs the court resources, takes time and money from the landlord, and hurts tenants by having an eviction case on their record. If tenants could apply for assistance after receiving the initial Demand or Notice from the landlord, then the court would save resources because fewer cases would be filed, the tenants would receive emergency assistance without an eviction case on their record, and landlords would receive rent sooner and not have to incur court costs and attorney fees.



- Courts should work collaboratively with their community partners to identify problems with emergency rental assistance rules to effectively provide support to families at risk of eviction. Workgroup members identified barriers they have experienced with the rules, including the limits on the maximum amount of assistance, affordability conditions, the prohibition on assistance to doubled-up families, and the lack of ability to provide assistance to pay future rent.
- Comprehensive review and revision of the application process for emergency rental assistance will serve both landlords and tenants. Currently, many programs require burdensome documentation to qualify for assistance, which is difficult for landlords and tenants to follow while they are also in the midst of a summary proceeding process. In addition, many landlords and tenants misunderstand the guidelines and requirements for emergency rental assistance. Stakeholders should collaborate to help ensure all forms of rental assistance have plain language materials and user-friendly frequently asked question to make their rules and regulations more understandable.
- The amount of mainstream emergency rental assistance support should be reviewed with consideration of increasing rental rates. Currently, the affordability requirements fail to account for the significant lack of affordable housing throughout the state.
- The stakeholder group should work with community partners to identify new and alternative sources for rental assistance.

Courts cannot address these barriers alone.

**To effectively address these barriers, the Workgroup recommends that the JFAC support the creation of a separate group composed of a diverse range of community and legal stakeholders to collaborate to identify solutions to help meet the needs of landlords, tenants, and communities at large.**

This group should be composed of higher-level representatives from state government—including MSHDA and MDHHS, as well as private philanthropy, local social services agencies, and those with lived experience—to evaluate revisions to program requirements to address these concerns, with a special emphasis on the unique resource needs and challenges of rural communities. To assist this stakeholder group in making the most informed and effective recommendation, they should consider research on the value of stable housing and avoiding displacement when possible, including the benefits to workforce development and the health system (especially in regard to seniors and those with disabilities).

## 4 Support and Participate in Pilot Programs Aimed at Holistically Addressing the Needs of Tenants Facing Chronic Housing Instability

Some tenants experience complex problems that result in chronic housing instability. Having these problems go unaddressed hurts tenants, their landlords, and their communities. Courts also play an important role for tenants experiencing chronic housing instability—these tenants are often in and out of district court with repeated summary proceedings actions filed against them. Organizations that specifically address chronic housing instability would greatly benefit from access to court data about these individuals, including case level data.

For these reasons, the Workgroup recommends that the SCAO participate in future pilot project(s) initiated by other stakeholders (such as MDHHS or MSDHA) aimed at addressing the needs of those facing chronic housing instability by providing data and information to assist in these efforts. In addition, the SCAO should encourage courts to refer individuals to existing programs that assist people facing chronic housing instability.

# Recommendations: Improve Court Data and Access to Court Records

## AT A GLANCE

1. Improve data collection and reporting across courts.
2. Standardize plaintiff names and writ of eviction orders.
3. Standardize event data in summary proceedings cases.
4. Improve data collection and data sharing.

Court data is vital to identifying access to justice and understanding the impact of policy reforms. The court data used in this study were essential to understanding the summary proceedings process in Michigan. Court record data, however, could be improved to increase public access and to track trends and effects of policy reform in Michigan.

## 1 Improve Data Collection and Reporting Across Courts

The Workgroup recommends that the SCAO work with January Advisors or other data analysis experts to improve the data currently being collected and to make data collection consistent across courts. This includes structured data that some jurisdictions already report to the SCAO, as well as other “event” data that may be unclassifiable or free-form text. Courts using the JIS case management system report some additional information such as whether and when a writ of eviction is issued in a case; however, there appears to be a lack of standardization and consistency in reporting practices.

The court should collect data on the type of party (e.g., if the landlord is an individual or corporation) and the reason the landlord seeks an eviction (e.g., non-payment of rent, damage to property). Ultimately, this extended data collection should go beyond clearance rates to help court stakeholders understand trends and key points in the summary proceedings process.

In addition, court case management systems should be modified to accurately track EDP assistance, allowing EDPs to collect and share data to better understand their impact on summary proceedings cases.<sup>108</sup> If it is not feasible to modify the case management system, the JFAC should encourage courts to allow EDPs to incorporate and track case data.

**For these reasons, the Workgroup recommends that the JFAC encourage the SCAO to develop best practices for data collection and reporting and to incentivize courts to comply through a statewide report and/or performance awards and continue supporting the JFAC Data Committee’s work in this area.**

## 2 Standardize Plaintiff Names and Writ of Eviction Orders

Research focused on cities outside of Michigan has indicated that a small number of landlords can significantly impact state eviction filing and eviction rates.<sup>109</sup> To understand the impact of repeat filers in Michigan, it is important that researchers can identify these filers in the court data.

When reviewing the summary proceedings court data, January Advisors faced difficulties with the use of multiple names and spellings for the same repeat filers, which made it more difficult to identify repeat filers, thus creating an unnecessary barrier to identify trends related to filers.

**The Workgroup recommends that the JFAC support the continued efforts of the SCAO's MiFILE initiative in the spirit of standardizing data entry of plaintiff names and offers the assistance of Workgroup members in this initiative to provide their specific perspective as experts in this practice area.**

## 3 Standardize Event Data in Summary Proceedings Cases

In the review of the data, courts differed in how they entered certain events in the system, and in many instances not all case events were even recorded. For example, the writ of eviction and the execution of the writ are two separate events; however, they are not consistently recorded as such in case management systems. The writ of eviction returns were not consistently recorded (perhaps due to inconsistent practices of filing the return with the court) and did not consistently indicate whether the writ was fully executed (lock out), cancelled, or posted and not executed (because the tenant already moved out).

To increase consistency in summary proceedings data, the Workgroup recommends that the JFAC support efforts to standardize data entry of case events in summary proceedings cases and, to the extent helpful, offers the assistance of Workgroup members as experts in this practice area.

## 4 Improve Data Collection and Data Sharing

Currently, Michigan has not defined the data that courts should capture during the course of eviction cases, making it difficult to evaluate proceedings and the effectiveness of policy reforms. For example, court records do not accurately report legal aid representation, particularly when legal aid steps in to assist in a limited fashion through an EDP. An analysis of all active cases filed January 2021 through September 2021 found that only 8% of the eviction cases Legal Aid served had representation in the SCAO data. This lack of data makes it difficult to understand how many tenants are being assisted through legal aid through either full or limited representation.

**To improve this data, the Workgroup recommends that the SCAO map the life of a summary proceedings case to identify points in the process in which data would be beneficial. The SCAO should also inventory the data points that are currently collected, identify missing data points, and develop uniform procedures for courts to increase consistency in future data collection.**

This will help promote data sharing with legal service providers and housing stakeholders and help stakeholders assess the impact of various programs and practice efforts.

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# Appendix A: Methodology

## *Data sources*

Data for this analysis comes primarily from Michigan’s Judicial Data Warehouse (JDW). The JDW compiles, cleans, and harmonizes court records and fields from several different court management systems across Michigan.

The JDW data includes district courts that cover 95% of the population. Not all district courts reported their data to the JDW during the time period covered by this report (January 2020 to May 2023). Six courts—including District 61, which covers Grand Rapids—had either no or low representation (relative to their population) in the JDW data. According to recent Census estimates, roughly 5% of Michigan’s population (~481,000 residents) live in the boundaries of these district courts.

Currently, courts are not required to report information on writs of evictions and other data points typically found in a case’s register of actions. These fields provide key data points for understanding eviction cases. These data, however, are available for roughly 75% of district courts that use the Judicial Information Services (JIS) court management software.

The data used in this report cover January 2010 through September 2021. When examining trends over time, we typically use the full time period to see how filings, case outcomes, and other data points vary over the past twelve years.

Given the substantial social, economic, and structural changes that have occurred during the last fifteen years, from the aftermath of the Great Recession to the recent Covid-19 pandemic, our benchmark years for most analyses in this report focus on the years 2017 to 2019. This benchmark provides the most recent snapshot of summary proceedings cases that are not affected by the unprecedented changes to court operations and case filings that occurred during the pandemic.

## *Classifying types of landlords*

The Michigan courts do not classify landlords by type. We developed our own classification system and methodology for classifying landlords based on landlord name in the court filing. Our landlord type categories included: apartment management companies, individual landlords, mobile home parks, banks/mortgage lenders, and other/unclassified.

To classify landlords, we took a two-step approach:

1. Classify top 200 filers by hand. We went through the top filers by hand and manually looked many of them up online to verify their classification. In particular, mobile home parks were often hard to distinguish from apartment management companies unless we dived deeper into their business.
2. Classify remaining filers by keywords and string patterns. We were able to identify many of the remaining filers through algorithmic methods. We identified individual landlords based

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on a common string pattern (includes a comma, has two words, and does not include a list of commonly used apartment management terms like “property,” “realty,” and “LLC”). This approach is imperfect and likely misses many mom-and-pop-landlords that use a pseudonym LLC business. Nevertheless, it did capture a substantial number of case filings. The other cases were classified based on commonly identified words. For instance, many mobile home park landlords include “MOBILE” or “MHC” (mobile home community) in their name.

As we developed and refined this methodology, we stress-tested the approach along the way to ensure that we were properly classifying landlords as much as possible.

### *Defining Neighborhoods by Race-Ethnicity*

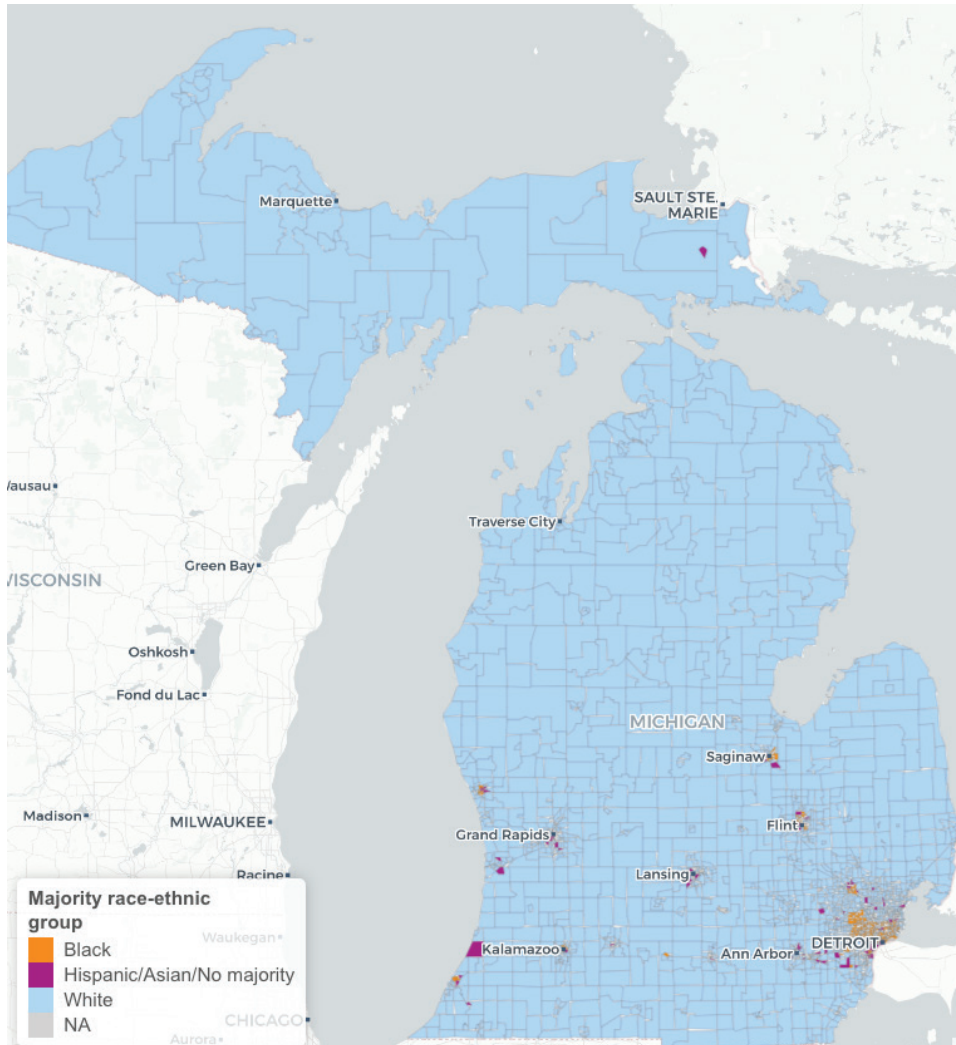
Several analyses in this report use demographic characteristics of a defendant’s neighborhoods to try to identify disparities in case filings and outcomes by race-ethnicity and household income. Although neighborhood characteristics are informative, they are not the same as having accurate data on a defendant’s race or income, which are not generally collected by Michigan courts and are not available in the JDW dataset. Still, given historical patterns of residential segregation along lines of race and income, these crude markers shed light on important inequalities in access to justice.

This report uses census tracts to represent neighborhood boundaries. This report uses census tracts to represent neighborhood boundaries. The 2,700 census tracts in Michigan were classified into three groups by the race-ethnic majority of residents: white, Black/African American, and Hispanic/Asian/Other/No majority. A neighborhood is defined as being majority one race-ethnic group if census data shows that more than 50% of residents are of that race-ethnic group. A neighborhood is defined as being majority one race-ethnic group if census data shows that more than 50% of residents are of that race-ethnic group.

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## Map Of Michigan By Census Tract Majority Race-Ethnic Group





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# Endnotes

- 1 Justice for All Task Force, *Report and Strategic Plan*, (December 2020), p 2, available at <<https://www.courts.michigan.gov/4af54d/siteassets/committees,-boards-special-initiatves/justiceforall/final-jfa-report-121420.pdf>> (accessed June 16, 2023).
- 2 *Id.*
- 3 *Id.* at 4.
- 4 Benfer, et al, *The COVID-19 Eviction Crisis: an Estimated 30-40 Million People in America Are at Risk*, The Aspen Institute (August 7, 2020), p 2 available at <[https://nlihc.org/sites/default/files/The\\_Eviction\\_Crisis\\_080720.pdf](https://nlihc.org/sites/default/files/The_Eviction_Crisis_080720.pdf)> (accessed January 9, 2024).
- 5 In 2021, in a Federal Reserve Study, 32% of respondents reported that they would not pay an unexpected expense with cash or its equivalent but rather would put in a credit card to pay overtime, borrow the money, sell something, obtain a loan or be unable to completely cover the expense. Board of Governors of the Federal Reserve System, *Report on the Economic Well-Being of US Households in 2021* (May 2022) <<https://www.federalreserve.gov/publications/files/2021-report-economic-well-being-us-households-202205.pdf>> (accessed October 2, 2023).
- 6 Benfer, *The COVID-19 Eviction Crisis*, *supra* note 4, p 2.
- 7 Desmond, *Eviction and the Reproduction of Urban Poverty*, 118 *American Journal of Sociology* 88, (July 2012), p 120-121 available at <<https://scholar.harvard.edu/files/mdesmond/files/desmond.evictionpoverty.ajs2012.pdf>> (accessed January 9, 2024).
- 8 Franzese & Thomas, *Disrupting Dispossession: How the Right to Counsel in Landlord-Tenant Proceedings Is Reshaping Outcomes*, 52 *Seton Hall L Rev* 1255, 1257 (2022); Goodspeed et al, *Michigan Evictions: Trends, Data Sources, and Neighborhood Determinants*, Univ. of Mich. Poverty Solutions, (2020), at 4, available at <<https://poverty.umich.edu/files/2020/06/Michigan-Eviction-Project-working-paper.pdf>> (accessed January 9, 2024).
- 9 Franzese, *Disrupting Dispossession*, *supra* note 8, at 1257; Desmond, *Eviction and the Reproduction of Urban Poverty*, *supra* note 7, at 120.
- 10 Benfer, *The COVID-19 Eviction Crisis*, *supra* note 4, at 2.
- 11 Gerchick, *No Easy Way Out: Making the Summary Eviction Process a Fairer and More Efficient Alternative to Landlord Self-Help*, 41 *UCLA Law Rev* 759, 768 (1994).
- 12 Nicole Bateman and Martha Ross, *The Pandemic Hurt Low-Wage Workers the Most—and So Far, the Recovery Has Helped Them the Least*, Brookings, 2021, available at <https://www.brookings.edu/research/the-pandemic-hurt-low-wage-workers-the-most-and-so-far-the-recovery-has-helped-them-the-least/> (accessed January 9, 2024).
- 13 Benfer, *The COVID-19 Eviction Crisis*, *supra* note 4, at 2.

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**14** As discussed in more detail later in this report, EDPs are partnerships between courts, legal aid programs, and community service organizations to provide tenants and landlords with information about resources that may be available to help resolve the dispute and to assist the parties in accessing these resources as quickly as possible.

**15** In 2021, the federal government appropriated unprecedented funds for emergency rent and housing stability assistance, through the Consolidated Appropriations Act 2021 (appropriating \$25 billion, available through September 30, 2022). These funds helped Michigan create a \$1.1 billion-dollar Covid Emergency Rental Assistance Fund to provide monetary assistance to renters with household incomes below 80% of the area median income (AMI) for up to 18 months. As of August 25, 2022, the program had spent \$875 million and helped almost a quarter million of families with rental and utility assistance. See Mich. State Housing Dev. Auth., *COVID Emergency Rental Assistance (CERA) FAQ*, <[https://www.michigan.gov/mshda/-/media/Project/Websites/mshda/rental/cera/CERA\\_FAQ\\_32521.pdf?rev=9f33d42dc0aa451795711f39222e9a0b&hash=A49A000ED0C3BE1A8176B2221FCE0631](https://www.michigan.gov/mshda/-/media/Project/Websites/mshda/rental/cera/CERA_FAQ_32521.pdf?rev=9f33d42dc0aa451795711f39222e9a0b&hash=A49A000ED0C3BE1A8176B2221FCE0631)> (accessed January 31, 2024); White, *Michigan's \$1 Billion of Pandemic Rent Fund is Drying Up. What's Next?*, MLive (July 6, 2022) <<https://www.mlive.com/public-interest/2022/07/michigans-1-billion-pandemic-rent-fund-is-dryingup-whats-next.html>> (accessed January 31, 2024); White, *Michigan Using \$63M in Federal Dollars to Aid Homeless and At-Risk Renters*, MLive (Aug. 25, 2022), <[https://www.mlive.com/public-interest/2022/08/michigan-using-63m-in-federal-dollars-to-aid-homeless-and-at-risk-renters.html?utm\\_source=Sailthru&utm\\_medium=email&utm\\_campaign=Newsletter\\_morning\\_briefing%202022-08-26&utm\\_term=Newsletter\\_morning\\_briefing](https://www.mlive.com/public-interest/2022/08/michigan-using-63m-in-federal-dollars-to-aid-homeless-and-at-risk-renters.html?utm_source=Sailthru&utm_medium=email&utm_campaign=Newsletter_morning_briefing%202022-08-26&utm_term=Newsletter_morning_briefing)> (accessed January 31, 2024).

**16** Benton et al, *Reducing Michigan Evictions: The Pandemic and Beyond*, Univ. of Mich. Poverty Solutions (2021), p 12, available at <<https://poverty.umich.edu/publications/reducing-michigan-evictions-the-pandemic-and-beyond/>> (accessed January 31, 2024).

**17** Administrative Order No. 2020-17, Michigan Supreme Court (June 9, 2020), original order and subsequent amendments available at <[https://www.courts.michigan.gov/4a71a8/siteassets/rules-instructions-administrative-orders/proposed-and-recently-adopted-orders-on-admin-matters/adopted-orders/2020-08\\_2020-06-09\\_formattedorder\\_ao2020-17withamendments.pdf](https://www.courts.michigan.gov/4a71a8/siteassets/rules-instructions-administrative-orders/proposed-and-recently-adopted-orders-on-admin-matters/adopted-orders/2020-08_2020-06-09_formattedorder_ao2020-17withamendments.pdf)> (accessed January 9, 2024).

**18** Administrative Order No. 2020-08, Michigan Supreme Court (Sept. 7, 2023), available at <[https://www.courts.michigan.gov/4a7b3f/siteassets/rules-instructions-administrative-orders/proposed-and-recently-adopted-orders-on-admin-matters/adopted-orders/2020-08\\_2023-09-07\\_formor\\_amdao2020-17.pdf](https://www.courts.michigan.gov/4a7b3f/siteassets/rules-instructions-administrative-orders/proposed-and-recently-adopted-orders-on-admin-matters/adopted-orders/2020-08_2023-09-07_formor_amdao2020-17.pdf)> (accessed January 9, 2024).

**19** As part of the recommendations, the Workgroup advocates for the implementation of best practices across courts. The best practice recommendations are meant to identify strategies or processes that will effectively address a problem; however, these best practices are not intended to be requirements for all courts to follow, particularly given the varying resources and challenges that courts face throughout the state.

**20** SCAO, Notice to Quit to Recover Possession of Property Form, available at <<https://www.courts.michigan.gov/siteassets/forms/scao-approved/dc100c.pdf>> (accessed January 31, 2024).

**21** SCAO, Demand for Possession Non-Payment of Rent Form, available at <<https://www.courts.michigan.gov/49cc01/siteassets/forms/scao-approved/dc100a.pdf>> (accessed January 31, 2024).

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22 MCL 600.5714.

23 MCL 600.5714(1)(E)(iii); MCL 600.5714(e); MCL 554.134(1).

24 MCL 600.5714(1)(a).

25 MCL 600.5714(1)

26 MCR 4.201(F)(5).

27 This section was added by the JFA executive team, after receiving the report from the workgroup, to reflect the current court processes in accordance with the MCR 4.201 amendments.

28 MCR 4.201(C)(1)(a).

29 The Michigan Judicial Institute created a similar flowchart for summary proceedings. <<https://www.courts.michigan.gov/4ab027/siteassets/publications/benchbooks/qrms/civil/lt-proceedings/summary-proceedings-flowchart.pdf>>

30 The 16.1% case filing rate is based on January Advisors' analysis of JDS court data. The Eviction Lab calculates the case filing rate in Michigan to be 16.6%. See The Eviction Lab, *National Eviction Map*, <<https://evictionlab.org/map/?m=model&c=p&b=efr&s=all&r=states&y=2018&z=3.73&lat=37.90&lon=-98.08&lang=en>> (accessed January 9, 2024). The University of Michigan Poverty Solutions identifies flaws with the Eviction Lab Data and calculates a 17% case filing rate in Michigan for 2018. Goodspeed, *Michigan Evictions*, *supra* note 7, p

31 Garnham et al, *New Data Release Shows that 3.6 Million Eviction Cases Were Filed in the United States in 2018*, The Eviction Lab (July 11, 2022), available at <<https://evictionlab.org/new-eviction-data-2022/>> (accessed January 9, 2024).

32 Executive Order 2020-19, available at <<https://www.legislature.mi.gov/documents/2019-2020/executiveorder/pdf/2020-EO-19.pdf>> (accessed January 9, 2024).

33 Congressional Research Service, *CARES Act Eviction Moratorium* (April 7, 2020), p 1, available at <<https://crsreports.congress.gov/product/pdf/IN/IN11320>> (accessed January 31, 2024). Researchers estimate the CARES Act eviction moratorium applied to between 28% and 46% of occupied rental units nationally. Congressional Research Service, *Federal Eviction Moratoriums in Response to the COVID-19 Pandemic*, (updated March 30, 2021), p 2, available at <<https://crsreports.congress.gov/product/pdf/IN/IN11516>> (accessed January 31, 2024).

34 *Id.*; *Alabama Ass'n of Realtors v Dep't of Health and Human Servs*, 594 US \_\_\_\_, slip op at 2, 141 S Ct 2485 (2021) available at <[https://www.supremecourt.gov/opinions/20pdf/21a23\\_ap6c.pdf](https://www.supremecourt.gov/opinions/20pdf/21a23_ap6c.pdf)> (accessed January 9, 2024).

35 Federal Register, Vol. 86, No. 149 (August 6, 2021), available at <<https://www.govinfo.gov/content/pkg/FR-2021-08-06/pdf/2021-16945.pdf>> (accessed January 31, 2024).

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36 *Alabama Ass'n of Realtors*, *supra* note 39.

37 Administrative Order 2020-17 (July 2, 2021), *supra* note 17, p 4.

38 Hepburn et al, *US Eviction Filing Patterns in 2020*, The Eviction Lab (April 27, 2021), available at <<https://evictionlab.org/us-eviction-filing-patterns-2020/>> (accessed January 9, 2024); Haas et al, *Preliminary Analysis: Eviction Filing Trends After the CDC Moratorium Expiration*, The Eviction Lab (December 9, 2021), available at <<https://evictionlab.org/updates/research/eviction-filing-trends-after-cdc-moratorium/>> (accessed January 9, 2024).

39 The Minnesota moratorium began a gradual phase out starting in July 2021. In July, landlords were allowed to evict tenants for lease violations other than non-payment of rent. In August 2021, landlords could seek to terminate leases for tenants not paying rent if they were not eligible for CERA, and in September, landlords could evict tenants who are ineligible for CERA. These protections did not expire until June 1, 2022. Goetz et al, *The Impact of the COVID-19 Eviction Moratorium on Landlord-Initiated Displacement Actions in Minnesota*, Center for Urban & Regional Affairs, Univ. of Minn. (December 14, 2022), available at <<https://www.cura.umn.edu/research/impact-covid-19-eviction-moratorium-landlord-initiated-displacement-actions-minnesota#:~:text=The%20Minnesota%20eviction%20moratorium%20was,for%20non%2Dpayment%20of%20rent>> (accessed January 9, 2024).

40 MCL 450.681; *Detroit Bar Ass'n v Union Guardian Trust Co*, 282 Mich 707 (1938) (“Corporations are not only not licensed to practice law but are specifically prohibited from doing so”).

41 Benton, *Reducing Michigan Evictions*, *supra* note 16, p 13.

42 Goodspeed, *Michigan Evictions*, *supra* note 8, p 2.

43 The US Census Rental Housing Finance Survey provides the following breakdown of ownership of rental units: 38% individual/small-scale (individual investor and tenant in common); 48% corporate (LLP, LP, LLC, general partnership, real estate investment trust (REIT), real estate corporation); 3% housing cooperative or non-profit; 2% trust; and 9% other/not reported. To compare the national data with Michigan data, the 9% other/not reported was removed. This resulted in individual/small-scale landlords accounting for 42% and entity landlords accounting for 58% ownership of rental units. United States Census Bureau, *Rental Housing Finance Survey (2021)*, available at <[https://www.census.gov/data-tools/demo/rhfs/#/?s\\_type=2&s\\_tableName=TABLE2](https://www.census.gov/data-tools/demo/rhfs/#/?s_type=2&s_tableName=TABLE2)> (accessed January 9, 2024). A recent study of ownership of Detroit rental properties found that small-scale landlords owning 1-2 properties owned almost 55% of the rental units in the city. A number of these entities, however, were incorporated and would be classified as such based on the data analysis in this report. Large scale landlords, owning five or more properties, owned 33% of residential rental units in Detroit. Detroit Future City, *Understanding the Rental Landscape: A Profile Analysis of Detroit Landlords to Inform Lead-Safe Housing Policy* (August 2022), p 16-17, available at <<https://detroitfuturecity.com/wp-content/uploads/2022/08/FINAL-Understanding-the-Rental-Landscape.pdf>> (accessed January 4, 2024).

44 In Michigan court data, plaintiffs who either had their listed name as an individual (e.g., “Smith, John”) or those who lacked an attorney and were not able to be classified as another landlord type (e.g., apartment management company, public housing, bank/mortgage company, mobile home park) were identified as individual landlords.

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45 Rental Housing Finance Survey, *supra* note 44.

46 *Id.*

47 Michigan Justice for All Commission, *Advancing Justice for All in Debt Collection Lawsuits: Report & Recommendations*, (Nov. 2022), p 11, available at <[https://misc01mstrtu25qprod.dxcloud.episerver.net/4ac33d/siteassets/reports/special-initiatives/justice-for-all/jfa\\_advancing\\_justice\\_for\\_all\\_in\\_debt\\_collection\\_lawsuits.pdf](https://misc01mstrtu25qprod.dxcloud.episerver.net/4ac33d/siteassets/reports/special-initiatives/justice-for-all/jfa_advancing_justice_for_all_in_debt_collection_lawsuits.pdf)> (accessed January 9, 2024).

48 Rutan & Desmond, *Top Evicting Landlords Drive U.S. Eviction Crisis*, The Eviction Lab (April 5, 2021), available at <<https://evictionlab.org/top-evicting-landlords-drive-us-eviction-crisis/>> (accessed January 9, 2024).

49 *Id.*

50 Hepburn et al, *Racial and Gender Disparities Among Evicted Americans*, 7 *Sociological Science* 649, p 653 (2020), available at <[https://sociologicalscience.com/download/vol-7/december/SocSci\\_v7\\_649to662.pdf](https://sociologicalscience.com/download/vol-7/december/SocSci_v7_649to662.pdf)> (accessed January 9, 2024) (study analyzing eviction filings across 1,195 counties in the United States, finding Black individuals were over-represented in eviction filings; Black renters “made up 19.9 percent of adult renters but 32.7 percent of all eviction filing defendants”).

51 In linear regression models, the racial gap in urban areas in Michigan remains even after controlling for differences in median household incomes between neighborhoods, meaning that the neighborhood racial gap in eviction filings is not only about income.

52 Hepburn, *Racial and Gender Disparities*, *supra* note 51, at 657.

53 Bowdler & Harris, *Racial Inequity in the United States*, U.S. Department of the Treasury (July 21, 2022), available at <<https://home.treasury.gov/news/featured-stories/racial-inequality-in-the-united-states>> (last visited January 9, 2024).

54 Hepburn, *Racial and Gender Disparities*, *supra* note 51, p 658.

55 *Id.* at 658-59.

56 January Advisors Debt Collection Data Analysis (on file with the JFAC).

57 Administrative Order No. 2020-08, *supra* note 18.

58 Eisenberg & Brantley, *Crisis Before the Emergency: Evictions in Detroit Before and After the Onset of COVID-19*, Univ. of Mich. Poverty Solutions (June 2022), p 9, available at <<https://sites.fordschool.umich.edu/poverty2021/files/2022/PovertySolutions-Covid-Evictions-PolicyBrief-r2-2.pdf>> (accessed January 9, 2024) (average time to process CERA applications in Wayne County was 90 days).

59 Eisenberg, *Crisis Before the Emergency*, *supra* note 59, at 2.

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**60** In Michigan, an eviction proceeding is the last step in a foreclosure case. Mortgage lenders file a summary proceeding action, the same as a landlord would file to evict a tenant. The Michigan court data does not distinguish between rental evictions and foreclosure evictions. In foreclosure cases, by the time the lender files the eviction action, it is highly likely that the homeowner has already left the premises and is therefore less likely to engage with court processes.

**61** While still significant, the default judgment rate for summary proceedings cases (35%) is markedly lower than debt collection cases (68%), the other high-volume civil case type heard in Michigan district courts. *Advancing Justice for All in Debt Collection Lawsuits*, *supra* note 48, p 24.

**62** Administrative Order 2020-17 (June 9, 2020), *supra* note 17, at 2.

**63** SRLN Digital Divide Dashboard - Michigan, available at <<https://srln.maps.arcgis.com/apps/dashboards/6c1631a808e241c8b4a0711c2291ce52>> (accessed January 9, 2024)).

**64** Administrative Order No. 2020-08, *supra* note 18.

**65** Herberg, *Detroit City Council Approves Right to Counsel Ordinance*, WDET (May 10, 2022), available at <<https://wdet.org/2022/05/10/detroit-city-council-approves-right-to-counsel-ordinance/>> (accessed January 9, 2024).

**66** United Community Housing Coalition, 2023 Annual Report (Nov. 9, 2023), p 6, available at <[https://www.uchcdetroit.org/\\_files/ugd/a98955\\_a75ccc1f78594096a38da50a68a23ffd.pdf](https://www.uchcdetroit.org/_files/ugd/a98955_a75ccc1f78594096a38da50a68a23ffd.pdf)> (accessed January 31, 2024).

**67** Hoffman & Strezhnev, *Longer Trips to Court*, PNAS, Vol 120, No 2 (January 3, 2023), available at <<https://www.pnas.org/doi/epdf/10.1073/pnas.2210467120>> (accessed January 5, 2024).

**68** Consumer Financial Protection Bureau, *How Federal Rental Assistance Works*, <<https://www.consumerfinance.gov/coronavirus/mortgage-and-housing-assistance/renter-protections/emergency-rental-assistance-for-renters/>> (accessed January 9, 2024); Consumer Financial Protection Bureau, *Help for Landlords*, <<https://www.consumerfinance.gov/coronavirus/mortgage-and-housing-assistance/help-for-landlords/>> (accessed January 9, 2024).

**69** Administrative Order No. 2020-17, *supra* note 17, Section (G).

**70** In Michigan, EDPs have generally been created through partnerships between local courts, legal aid organizations, and local Department of Health and Human Services (DHHS) offices and Coordinated Entry Agencies (CEAs) (formerly known as Housing Assessment and Resource Agencies).

**71** Kalamazoo was one of Michigan's first EDPs, launching in 2010, and followed by the development of EDPs in Lansing, Jackson County, and Calhoun County. Tjapkes & Lowe, *COVID-19 Eviction Crisis: Large-Scale Development of Eviction Diversion Programs in Michigan*, Michigan Bar Journal (Nov. 2021), available at <<https://www.michbar.org/journal/Details/COVID-19-eviction-crisis-Large-scale-development-of-eviction-diversion-programs-in-Michigan?ArticleID=4268>> (last visited January 9, 2024).

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72 National Center for State Courts, *Eviction Diversion Initiative Grant Program*, <<https://www.ncsc.org/consulting-and-research/areas-of-expertise/access-to-justice/eviction-diversion-diagnostic-tool/eviction-diversion-initiative-grant-program>> (accessed January 9, 2024).

73 Administrative Order No. 2020-17, *supra* note 17, Section D.

74 *Id.*, Section E.

75 Administrative Order No. 2020-08, *supra* note 18.

76 Administrative Order No. 2020-17, *supra* note 17; Administrative Order No. 2020-08, *supra* note 18.

77 MCR 4.201(K)(1).

78 MCL 600.5744(5).

79 Currently, not all courts are required to report information related to the register of actions. These data, however, are available for roughly 75% of district courts that use the Judicial Information Services (JIS) court management software. The State Court Administrator's Office (SCAO) provided data on these register of actions for cases filed between 2018-2021.

80 Summers, *Eviction Court Displacement Rates*, 117 Northwestern Univ L Rev 287 (2022).

81 Data specifically pertaining to writs of eviction in Michigan is limited to the approximately 75% of courts utilizing the JIS court management system between 2018 and 2021. Moreover, data recording practices may vary across these courts, potentially impacting the consistency and reliability of the recorded information.

82 Eviction filings brought by banks and mortgage lenders are excluded from this analysis because these cases most likely represent mortgage lenders foreclosing on homeowners' properties. In Michigan, an eviction proceeding is the last step in a foreclosure case. Mortgage lenders file a summary proceeding action, the same as a landlord would file to evict a tenant. The Michigan court data does not distinguish between rental evictions and foreclosure evictions. In foreclosure cases, by the time the lender files the eviction action, it is highly likely that the homeowner has already left the premises. The eviction order is much less likely to lead to an actual eviction but is much more likely to just be the last step in foreclosing on a property that has already been vacated.

83 See Administrative Order No. 2020-17, *supra* note 17.

84 This failure to adhere to the two-step process set forth by the Court is evidenced by the data. During the pandemic, one court took as few as a median of nine days to dispose of summary proceedings cases. This is a dramatically shorter time period than the median across courts of 26-31 days across courts to dispose of cases during the pandemic, and even shorter than the pre-pandemic time to disposition of 14-15 days.

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**85** While the tenant representation rate tripled in 2020, only 1.5% of tenants were represented in their landlord-tenant cases. Based on Judicial Warehouse data from the State Court Administrative Office, from 2010 to 2021, the average rate of tenant representation was 0.6%.

**86** Cunningham, *Reduce Poverty by Improving Housing Stability*, The Urban Wire (June 26, 2016), <<https://www.urban.org/urban-wire/reduce-poverty-improving-housing-stability>> (accessed June 16, 2023). In addition, the Michigan Poverty Task Force Report notes, housing instability can lead to serious health risks, including higher rates of mortality and worse health outcomes. Michigan Department of Labor and Economic Opportunity, *Poverty Task Force Report* (2022), p 20, available at <[https://www.michigan.gov/leo/-/media/Project/Websites/leo/Folder16/22-LEO-0478-PTF-PrePress.pdf?hash=5F422576BB6C143F65BB5A50ED5A1E70&rev=db428253b1154b5e8621b799370c123d&utm\\_medium=email&utm\\_source=govdelivery](https://www.michigan.gov/leo/-/media/Project/Websites/leo/Folder16/22-LEO-0478-PTF-PrePress.pdf?hash=5F422576BB6C143F65BB5A50ED5A1E70&rev=db428253b1154b5e8621b799370c123d&utm_medium=email&utm_source=govdelivery)> (accessed June 16, 2023).

**87** Cunningham, *Reduce Poverty by Improving Housing Stability*, *supra* note 88.

**88** See, e.g., Monea, *Eviction Moratorium Litigation: What Courts Said, and What Courts Missed*, 51 Univ Baltimore L Rev 185, 228 (2022) (“Traditionally, eviction courts operate in ‘cattle call’ fashion, where huge numbers of tenants facing eviction are packed into a courtroom.”); Schmidt, *North Dakota Case Study: The Eviction Mill’s Fast Track to Homelessness*, 92 N Dakota L Rev 595, 599 (2017) (noting that “[e]viction court has often become a cattle call with an assembly line stamping eviction orders in favor of the landlords”); Steven H. Schulman, *Race and Civil Justice: A Reflection from a Corporate Law Firm Pro Bono Attorney*, 28 Georgetown J Legal Ethics 317, 318 (2015) (noting the racial disparities in DC’s landlord-tenant branch court, describing the tenants as “sitting and waiting through the cattle call—are almost all unrepresented”).

**89** Summers & Zarnow, *Pandemic Era Procedural Improvements Courts Should Adopt Permanently*, National Center for State Courts, at 29 (Sept. 2022), available at <[https://www.ncsc.org/\\_data/assets/pdf\\_file/0030/84873/Pandemic-Improvements-10.31.2022.pdf](https://www.ncsc.org/_data/assets/pdf_file/0030/84873/Pandemic-Improvements-10.31.2022.pdf)> (accessed January 9, 2024).

**90** Michigan Justice for All Commission, *Reimagining Our Courthouses: Report & Recommendations* (December 2023), p 11, available at <<https://www.courts.michigan.gov/492644/siteassets/reports/special-initiatives/justice-for-all/final-reimagining-courthouses-report.pdf>> (accessed February 29, 2024).

**91** SCAO Lessons Learned Committee, *Michigan Trial Courts: Lessons Learned from the Pandemic of 2020-2021: Findings, Best Practices, and Recommendations*, (Nov. 19, 2021), p 43 available at <<https://www.courts.michigan.gov/4afc1e/siteassets/covid/lessons-learned/final-report-lessons-learned-findings-best-practices-and-recommendations-111921.pdf>> (accessed January 17, 2024).

**92** MCR 4.201(F). See also Administrative Order No. 2020-08, *supra* note 18.

**93** MCR 2.301(A).

**94** Administrative Order 2020-17, *supra* note 17, Section D.

**95** MCR 4.201(C)(3)(f).



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96 MCR 4.201(k)(2).

97 APM Research Lab, *Reading the Numbers: 130 Million American Adults Have Low Literacy Skills, but Funding Differs Drastically by State* (March 16, 2022), available at <<https://www.apmresearchlab.org/10x-adult-literacy>> (last visited January 9, 2024), citing Rothwell, *Assessing the Economic Gains of Eradicating Illiteracy Nationally and Regionally in the United States*, Gallup and the Barbara Bush Foundation for Family Literacy (September 8, 2020), available at <[https://www.barbarabush.org/wp-content/uploads/2020/09/BBFoundation\\_GainsFromEradicatingIlliteracy\\_9\\_8.pdf](https://www.barbarabush.org/wp-content/uploads/2020/09/BBFoundation_GainsFromEradicatingIlliteracy_9_8.pdf)> (accessed January 9, 2024).

98 National Center for Education Statistics, U.S. *Skills Map: State and County Indicators of Adult Literacy and Numeracy*, United States Department of Education, <<https://nces.ed.gov/surveys/piaac/skillsmap/>> (accessed January 9, 2024).

99 Those below a Level 1 literacy level may only understand basic vocabulary or be functionally illiterate. National Center for Education Statistics, *Data Point: Adult Literacy in the United States*, United States Department of Education, <<https://nces.ed.gov/pubs2019/2019179/index.asp>> (accessed January 9, 2024).

100 When amending the forms, stakeholders should be mindful that the forms also should be easily translatable to other languages spoken throughout the state, including Spanish, Arabic, and Chinese, which are the most common non-English languages spoken as the primary language in households in Michigan. Data USA, *Michigan*, <<https://datausa.io/profile/geo/michigan/>> (last visited January 9, 2024).

101 *Delaware Supreme Court Announces Adoption of New Supreme Court Rule 57.1 to Allow Non-Lawyer Representation of Residential Tenants in Eviction Cases*, Delaware Supreme Court Press Release (January 28, 2022), <<https://courts.delaware.gov/forms/download.aspx?id=133348>> (accessed January 9, 2024).

102 *Legal Paraprofessional Pilot Project*, Minnesota Judicial Branch, <<https://www.mncourts.gov/Help-Topics/Legal-Paraprofessional-Pilot-Project.aspx>> (accessed January 9, 2024).

103 House Bill 1343, New Hampshire Legislature (2022 Session), <<https://www.courts.nh.gov/sites/g/files/ehbemt471/files/inline-documents/sonh/supreme-court-rule-35-appearances-in-court-by-eligible-paraprofessionals-chapter-194-sc-rule-35.pdf>> (accessed January 9, 2024).

104 *Community Justice Worker Program*, Alaska Legal Services Corp, <<https://www.alsc-law.org/community-justice-worker-program/>> (accessed January 9, 2024).

105 Michigan Justice for All Commission, *Report and Recommendations on Increased Access to Justice Through Paralegals and Associated Professionals Pilot Programs*, (September 2023), p 7-8, available at <<https://www.courts.michigan.gov/4928c8/siteassets/reports/special-initiatives/justice-for-all/final-regulatory-reform-non-attorney-report-.pdf>> (accessed February 29, 2024).

106 JFAC Strategic Plan, *supra* note 1, at 5.

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**107** Many of these recommendations parallel eviction diversion outreach strategies set forth by the National Center for State Courts. National Center for State Courts, *Eviction Diversion Outreach Strategies*, available at <[https://www.ncsc.org/\\_data/assets/pdf\\_file/0018/85032/Eviction-Diversion-Best-Practices-Outreach-Strategies.pdf](https://www.ncsc.org/_data/assets/pdf_file/0018/85032/Eviction-Diversion-Best-Practices-Outreach-Strategies.pdf)> (last visited January 9, 2024).

**108** In many cases in which legal aid is representing a client through an EDP, the representation is not noted on the record, so it is difficult to understand how many tenants and landlords are being represented through these programs. This recommendation aligns with the JFAC Technology and Data Sharing Committee's work, which is developing a pilot project using data sharing and anonymizing the results to study the impacts of legal advice (and not representation) on eviction cases.

**109** Rutan & Desmond, *Top Evicting Landlords*, *supra* note 49.