

**Local Court Rules
Probate Courts
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LOCAL COURT RULES

PROBATE COURTS

ALLEGAN PROBATE

Rule 2.402. Facsimile Transmission of Documents.

[Local court rule 2.402 is rescinded, effective January 1, 2004.]

ANTRIM PROBATE

Rule 2.518. Submission of Trial and Hearing Exhibits.

(A) Introduction. This local rule establishes a procedure for represented and unrepresented parties to submit proposed exhibits to the court prior to hearings and trials.

(B) Submission of Exhibits in General.

(1) Exhibits are Not Court Records. Pursuant to MCR 1.109(A)(2), exhibits that are maintained by the court reporter or other authorized staff pursuant to MCR 2.518 or MCR 3.930 during the pendency of a proceeding are not court records.

(2) Personal Identifying Information. Motions and pleadings may reference attachments, except that such attachments shall not include unredacted personal identifying information, unless submitted in the form and manner established by the State Court Administrative Office.

(3) Attachment of Prohibited or Confidential Information. No motion or pleading shall attach any document that is:

(a) described in MCR 3.229,

(b) within the scope of a protective order filed or requested in the action, or

(c) the subject of an entered order or pending motion to seal the document under MCR 8.119(I), unless such document is identified as nonpublic, confidential, or sealed, pursuant to applicable court rule. Attachments to pleadings that violate this rule are subject to being stricken pursuant to MCR 2.115(B).

(4) Prior Orders or Judgments. It is unnecessary and redundant to attach copies of prior court orders or judgments to pleadings filed in the same case, as such prior orders are already part of the record.

(5) Attachments to and Items Inserted Within Pleadings are Not Exhibits. No attachment to or item inserted, copied and pasted, or similarly included within

a filed pleading shall be considered an exhibit. No attachment to or item inserted, copied and pasted, or similarly included within a filed pleading shall be simultaneously admissible as an exhibit at any subsequent hearing or trial (i.e., no attachment to a pleading may be removed from a court file to be used as an exhibit). A separate copy must be provided and marked as an exhibit at such a hearing or trial.

(6) Disposal of Exhibits. Pursuant to MCR 2.518, upon expiration of the applicable appeal period, parties shall retrieve the exhibits submitted by them except that any weapons and drugs shall be returned to the confiscating agency for proper disposition. If the exhibits are not requested and retrieved within 56 days after the conclusion of the applicable appeal period, the court may properly dispose of the exhibits without notice to the parties. Unretrieved exhibits that are confidential records or confidential electronic records may be disposed of by shredding or deletion, respectively.

(C) Prehearing and Pretrial Submission of Exhibits.

(1) Existing Pretrial Orders in a Case are Controlling. Documents, photographs, and other physical evidence shall be disclosed and exchanged between the parties in accordance with any pretrial or scheduling order entered in the case, and in accord with discovery requests pursuant to the Michigan Court Rules.

(2) Exchange of Exhibits in Absence of Pretrial Order. In the absence of a specific pretrial or scheduling order, parties shall exchange proposed exhibits at least seven days before any evidentiary hearing or trial before the judge, and parties shall exchange proposed exhibits at least 48 hours before any referee hearing or motion hearing, unless the court permits otherwise for good cause. These disclosure/exchange requirements do not apply to evidence submitted for rebuttal purposes. All proposed exhibits for any evidentiary hearing or trial are subject to admissibility under the Michigan Rules of Evidence. If the volume or nature of the proposed exhibit(s) makes them excessively expensive, difficult, or burdensome to print or submit in physical form, the proposing party shall promptly advise the court so as to determine whether electronic evidence can be exchanged between parties and presented to the court in a mutually-compatible electronic format, capable of being presented in court, and preserved as part of the electronic record. The timing of exhibit exchange under this rule does not override any requirements of the Michigan Court Rules imposing earlier exchange time frames.

(3) Court Staff Assistance is Limited. Court staff shall have no obligation to print any electronic file to paper or convert it to any other format prior to a hearing or trial. Any such printing done by court staff is strictly a courtesy to the judge and is conditioned upon court staff's time and availability. Judges and referees are not expected to search for proposed physical or electronic evidence prior to or during any hearing or trial, and submission of proposed exhibits directly to a judge or referee via email is prohibited as an ex parte communication.

(4) Prior Arrangement for Presentation of Electronic Evidence Required. Any party intending to present electronic evidence at any trial or hearing is responsible for confirming, before said trial or hearing, that:

- (a) said electronic evidence is compatible with the court's technology;
- (b) it can be seen, heard, or read during the trial or hearing;
- (c) if admitted into evidence, it can be preserved as part of the court record;
- and
- (d) said party will be capable of presenting said electronic evidence using available technology.

Failure to confirm such compatibility and capacity prior to the hearing or trial is not grounds for adjournment unless the court determines otherwise for good cause. Nothing in this subrule authorizes the court to refuse to admit evidence that is otherwise admissible pursuant to the Michigan Rules of Evidence.

BARRY PROBATE

Rule: 2.402. Facsimile Transmission of Documents.

[Local court rule 2.402 is rescinded, effective January 1, 2004.]

EATON PROBATE

Rule 2.402. Facsimile Transmission of Documents.

[Local court rule 2.402 is rescinded, effective January 1, 2004.]

GENESEE PROBATE

Rule 2.119. Motion Practice.

(A) Motion Certification by Attorney. The following certificate signed by the attorney of record or by the party *in propria persona* shall be attached to or incorporated in the motion and notice of hearing filed with the clerk:

I hereby certify that I have made personal contact with

_____ [name] on _____ [date], requesting concurrence in the relief sought with this motion and that concurrence has been denied, or that I have made reasonable and diligent attempts to contact counsel requesting concurrence in the relief sought with this motion.

(B) Proposed Orders. A proposed order must be attached to and served with the motion.

(C) Application. This rule applies to all motions filed in the circuit court and to motions filed in civil actions in the probate court.

GRAND TRAVERSE PROBATE

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(6) Disposal of Exhibits. Pursuant to MCR 2.518, upon expiration of the applicable appeal period, parties shall retrieve the exhibits submitted by them except that any weapons and drugs shall be returned to the confiscating agency for proper disposition. If the exhibits are not requested and retrieved within 56 days after the conclusion of the applicable appeal period, the court may properly dispose of the exhibits without notice to the parties. Unretrieved exhibits that are confidential records or confidential electronic records may be disposed of by shredding or deletion, respectively.

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(1) Existing Pretrial Orders in a Case are Controlling. Documents, photographs, and other physical evidence shall be disclosed and exchanged between the parties

in accordance with any pretrial or scheduling order entered in the case, and in accord with discovery requests pursuant to the Michigan Court Rules.

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Rule 3.800. Notice for Court Appointed Special Advocates.

In the interest of justice, the Court Appointed Special Advocate appointed to work for a child in any abuse and neglect case shall be afforded notice of any adoption hearing that may occur on behalf of the child.

INGHAM PROBATE

Rule 2.402. Facsimile Transmission of Documents.

[Local court rule 2.402 is rescinded, effective January 1, 2004.]

KALAMAZOO PROBATE

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MENOMINEE PROBATE

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OAKLAND PROBATE

Rule 2.402. Use of Communication Equipment.

[Local court rule 2.402 is rescinded, effective January 1, 2004.]

Rule 3.205. Prior and Subsequent Orders and Judgments Affecting Minors.

(A) Venue. This rule applies whenever the prior and subsequent courts are Oakland County courts.

(B) Notice to Prior Court, Friend of the Court, Juvenile/Probate Register or Prosecuting Attorney.

(1) As used in this rule, “appropriate official” means the friend of the court, juvenile/probate register or Prosecuting Attorney, depending on the nature of the prior or subsequent action and the court involved.

(2) If a minor is known to be subject to the prior continuing jurisdiction of an Oakland County court, the plaintiff or other initiating party must file written notice of proceedings in the subsequent court with

(a) the clerk or register of the prior court, and

(b) the appropriate official of the prior court.

(3) The notice must be filed at least 21 days before the date set for hearing. If the fact of continuing jurisdiction is not then known, notice must be given immediately when it becomes known.

(4) The notice requirement of this subrule is not jurisdictional and does not preclude the subsequent court from entering interim orders before the expiration of the 21-day period, if required by the best interests of the minor.

(C) Prior Orders.

(1) Each provision of a prior order remains in effect until the provision is superseded, changed, or terminated by a subsequent order.

(2) A subsequent court must give due consideration to prior continuing orders of other courts, and may not enter orders contrary to or inconsistent with such orders, except as provided by law.

(D) Duties of Officials of Prior and Subsequent Courts.

(1) Upon receipt of the notice required by subrule (B), the appropriate official of the prior court

(a) must provide the assigned judge of the subsequent court with the docket sheet;

- (b) may appear in person at proceedings in the subsequent court, as the welfare of the minor and the interests of justice require.
- (2) The appropriate official of the prior court shall furnish documents upon request of the subsequent court.
- (3) Upon request of the prior court, the appropriate official of the subsequent court
- (a) must notify the appropriate official of the prior court of all proceedings in the subsequent court, and
 - (b) must send copies of all orders entered in the subsequent court to the attention of the clerk or register and the appropriate official of the prior court.
- (4) If a circuit court awards custody of a minor pursuant to MCL 722.26b, the clerk of the circuit court must send a copy of the judgment or order of disposition to the probate court that has prior or continuing jurisdiction of the minor as a result of the guardianship proceedings, regardless of whether there is a request.
- (5) Upon receipt of an order from the subsequent court, the appropriate official of the prior court must take the steps necessary to implement the order in the prior court.

Rule 5.503. Adjournments in the Estates Division.

[Local Rule 5.503 is rescinded, effective October 24, 2012.]

OSCODA PROBATE

Rule 2.402. Facsimile Transmission of Documents.

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OTTAWA PROBATE

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(1) **Existing Pretrial Orders in a Case are Controlling.** Documents, photographs, and other physical evidence shall be disclosed and exchanged between the parties in accordance with any pretrial or scheduling order entered in the case, and in accord with discovery requests pursuant to the Michigan Court Rules.

(2) **Exchange of Exhibits in Absence of Pretrial Order.** In the absence of a specific pretrial or scheduling order, parties shall exchange proposed exhibits at least seven days before any evidentiary hearing or trial before the judge, and parties shall exchange proposed exhibits at least 24 hours before any referee hearing or motion hearing, unless the court permits otherwise for good cause. These disclosure/exchange requirements do not apply to evidence submitted for rebuttal purposes. All proposed exhibits are subject to admissibility under the Michigan Rules of Evidence. If the volume or nature of the proposed exhibit(s) makes them excessively expensive, difficult, or burdensome to print or submit in physical form, the proposing party shall promptly advise the court so as to determine whether electronic evidence can be exchanged between parties and presented to the court in a mutually-compatible electronic format, capable of being presented in court and preserved as part of the electronic record.

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ST. JOSEPH PROBATE

Rule 2.402. Use of Facsimile Communication Equipment for Purposes of Filing Court Documents.

[Local court rule 2.402 is rescinded, effective January 1, 2004.]

WAYNE PROBATE

Rule 5.101. Mandatory Filing by E-mail by Attorneys.

(A) Scope and Applicability. This local court rule applies to all filings by attorneys in the Wayne County Probate Court.

(B) Mandatory Filing via Electronic Mail. Attorneys are required to file all items via e-mail in a single .pdf attachment for each filing. Multiple .pdf attachments can be submitted in one e-mail.

(C) Exception for Original Wills.

(1) A scanned copy of an original will is to be submitted as part of the .pdf file for the case. The original will must be sent via mail, certified mail, or a delivery service to the court and received within 14 days of the date of filing via electronic mail. The court reserves the right to dismiss the case if the original will is not submitted within this period.

(2) An original will delivered by the custodian to the court pursuant to MCL

700.2516 where no case is being opened must be sent by mail, certified mail, or a delivery service to the court.

(D) Filing Instructions. Details regarding the electronic filing and payment protocols will be posted on the court's home page, including an e-mail address and phone number for questions and resolving issues related to this process.

(E) Request for Exemption.

(1) Upon request, an attorney who has a disability that prevents or limits his or her ability to use electronic mail is exempt from filing via electronic mail without the need to demonstrate good cause.

(2) All other requests for an exemption must be filed with the court and shall be granted if the attorney can demonstrate good cause. There is no fee for the request. The request must specify the reasons that prevent the attorney from filing electronically. The attorney may file supporting documents along with the request for the court's consideration. The court shall consider the following factors in determining whether the party has demonstrated good cause:

(i) Whether the attorney has a lack of reliable access to an electronic device that includes access to the Internet;

(ii) Whether the attorney must travel an unreasonable distance to access a public computer or has limited access to transportation and is unable to access an electronic mail system from home;

(iii) Whether the attorney has the technical ability to use and understand e-mail;

(iv) Whether access from a home computer system or the ability to gain access at a public computer terminal present a safety issue for the attorney;

(v) Any other relevant factor raised by the attorney.

(3) A judge must review the request and any supporting documentation and issue an order granting or denying the request within two business days of the date the request was filed. The court must promptly e-mail or mail the order to the attorney. The court must place the request, any supporting documentation, and the order in its records, which must be maintained in a group file.

(F) Expiration Date. This local court rule will expire upon the entry of a local administrative order by the State Court Administrative Office designating the Wayne County Probate Court Phase Four of its plan to return to full capacity.