



## Michigan Supreme Court

State Court Administrative Office

### Trial Court Services Division

Michigan Hall of Justice

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Jennifer Warner  
Director

February 25, 2018

TO: Michigan Court Forms Committee, Civil Workgroup

FROM: Matthew Walker, Forms and Manuals Analyst

RE: Agenda and Materials for **March 8, 2018 Meeting**

PLACE: **Michigan Hall of Justice**, 925 West Ottawa, downtown Lansing (map enclosed)

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Below is the agenda for the March 8, 2018 meeting of the Michigan Court Forms Committee, Civil Workgroup. The meeting will be held in room 1S-69. Lunch reservations have been made for you. **If you cannot attend, please contact me at least two days before the meeting.** Please note that our office is located at 925 W. Ottawa St., Lansing, MI 48915.

This agenda is divided into three sessions: district court, joint, and circuit court. Please bring these agenda materials to the meeting. Although documentation is provided with the agenda, it would also be helpful to bring a copy of the Michigan Court Rules and any other resources you believe are necessary.

### District Court Session

#### 1. Minor Changes

##### **CIA 03, 14-Day Notice, Civil Infraction**

The language "Fines, costs, and other financial obligations imposed by the court must be paid at the time of assessment." will be added to comply with Court Collections Program Component 2 and MCR 1.110.

**2. DC 53, Appeal Worksheet for Application for Leave to Appeal  
DC 54, Appeal Worksheet for Claim of Appeal of Right**

Modifications are suggested to include references to form MC 20 to waive the filing fee for the appeal.

Drafts provided.

**3. DC 85, Judgment, Small Claims**

A. Modifications are suggested to clarify when a judgment-creditor can start collecting the judgment.

The suggester states that the form is misleading because it lists different dates of when collection can begin: item 2 and the notice below the judge's signature. Item 2 is required by MCL 600.8410(5).

B. Modifications are suggested to clarify the title of this form to "Judgment/Dismissal, Small Claims."

The suggester states that the title of this form does not inform individuals that it should be used for dismissals. Instead, individuals use form MC 09, Dismissal, which does not accommodate usage in small claims cases.

**4. DC 105, Judgment, Landlord-Tenant**

It has been suggested that this form be revised to contain general instructions. The suggester states that many landlords file proceedings without an attorney and instructions would be helpful.

Should this suggestion be adopted?

**Joint Session**

**5. Deletion Review**

The following forms have not been revised in 10 or more years and are being reviewed for possible deletion. If comments are not received indicating these forms are being used, these forms may be deleted.

<b>Form</b>	<b>Last Revision</b>
CC 05, Order to Deposit Funds	4/87
CC 18, Order to Release Funds	4/87

CC 78, Dismissal of Prisoner Civil Action, Frivolous Action	3/08
MC 29, Notice of Intent to Destroy Discovery Materials	6/93
MC 92, Cash Bond	6/05

**6. MC 09, Dismissal**

It has been suggested that “Magistrate” be added to the signature line of this form to accommodate use in Small Claims cases. The suggester states that in small claims cases, parties often submit this form for dismissal, rather than DC 85.

Alternatively, it has been suggested that a note be included on MC 09 to indicate that it should not be used in small claims and DC 85 should be used instead.

Should either suggestion be adopted?

**7. MC 20, Waiver/Suspension of Fees and Costs**

Item 1b of this form allows individuals to list sources of public assistance other than MDHHS. The item requests that the individual list the "type, source, and case number (if any)" of that public assistance. However, for some sources of public assistance, the individual's social security number is the case number.

It has been suggested that item 1b clarify that individuals should not write their social security number if it is their case number.

Should this suggestion be adopted? If so, how should the language be modified?

**8. MC 35, Complaint, Claim and Delivery**

It has been suggested that item 6 be clarified or removed from this form.

The suggester states that item 1 establishes the property and its value; item 5 establishes the amount of a supplemental money judgment if necessary. However, it is unclear as to what item 6 is intended to represent. The suggester thinks that item 6 is intended to represent the total of what is requested for the judgment amount. If this is true, how should item 6 be clarified to indicate this?

**9. MC 302, Proof of Mailing**

It has been suggested that this form be modified to accommodate personal service. The suggester states that creating a generic proof of service form would be helpful to practitioners and self-represented litigants.

However, many forms contain an attached proof of service that account for the different service options available in a given action.

Should this suggestion be adopted?

**10. MC 390, Ex Parte Motion and Order to Renew Civil Judgment**

The United States Department of Justice has requested that this form be revised to comply with the Servicemembers Civil Relief Act (SCRA), 50 USC 3931. The SCRA applies to any civil action or proceeding in which the defendant does not make an appearance. 50 USC 3931(a).

Modifications are suggested for compliance with this act. Draft provided.

**11. MC 502, Notice of Filing of Transcript and Affidavit of Mailing**

It has been suggested that e-mail be added to the Affidavit of Mailing section on this form. Under MCR 7.109(B)(3)(e) and MCR 7.210(B)(3)(e), is e-mail an acceptable form of notification?

Modifications are suggested to item 1 of this form to accommodate previously filed transcripts. Draft provided.

**12. New Forms Request: Notice of Garnishee's Failure and Request for Entry of Default Against Garnishee**

It has been suggested that forms for Notice of the Garnishee's Failure and Request for Entry of Default Against Garnishee under MCL 600.4012(6) and (7).

The suggester states that there are no SCAO forms to use in connection with the procedure for default against a garnishee. Many attorneys and self-represented litigants are confused by the process. Creating these forms would assist litigants and the courts.

In 2016, the Civil Forms Workgroup addressed this issue. An excerpt from the minutes provides:

The committee discussed the suggestion to create a new default form under MCL 600.4012(6)-(10) because other default forms (MC 07 and MC 07a) are not suited for garnishee defaults.

Staff advised against creating forms until there are court rules for garnishee defaults. Members agreed that a new default form should only be created after a clear practice has been established. Members discussed the possibility of modified court rules, but agreed that it may

be premature to amend the court rules because the statutory amendments MCL 600.4012 have only been effective for five months.

Has a clear practice been established regarding garnishee defaults? Is it necessary to create these forms?

## **Circuit Court Session**

### **13. CC 79, Claim of Appeal on Application for Concealed Pistol License**

- A. Modifications to the distribution and the certificate of mailing section to always include a copy of the form for the county clerk.
- B. Modifications are suggested that this form indicate that an appeal must be filed within 21 days of entry of the decision being appealed.
- C. Modifications are suggested to item 1c to remove unnecessary language.
- D. Modifications are suggested to remove item 1d. MCR 7.121(B) clarifies that an appeal of a failure to reinstate a concealed weapon license is treated in the same manner as a failure to issue a license.

Draft provided.

### **14. CC 376, Personal Protection Order (Domestic Relationship)**

**CC 376m, Personal Protection Order Against a Minor (Domestic Relationship)**

**CC 380, Personal Protection Order (Nondomestic)**

**CC 380m, Personal Protection Order Against a Minor (Nondomestic)**

**CC 383, Order Denying or Dismissing Petition for Personal Protection Order**

**CC 385, Order on Motion to Modify, Extend, or Terminate Personal Protection Order**

**CC 396, Personal Protection Order (Nondomestic Sexual Assault)**

**CC 396m, Personal Protection Order Against a Minor (Nondomestic Sexual Assault)**

In 2016, the Civil Forms Workgroup discussed a suggestion to create a single form containing a combined ex parte motion and order to extend a personal protection order. The committee agreed to create the form, but the suggestion was held by the SCAO Forms and Manuals Analyst for further consideration.

- A. Instead of the combined ex parte motion and order, it has been suggested that the order to extend a personal protection order be integrated into the personal protection order. The suggester states that the court is required to enter an amended personal protection order if the expiration date is extended. MCR 3.707(B)(2).

However, MCR 3.707(B)(2) does not explicitly state that an amended *personal protection order* must be entered-it only states *amended order*. Currently, item 5 of CC 385 does not enter amended personal protection order. Instead, CC 385 extends the expiration date and continues the conditions of the existing personal protection order, except as to the new expiration date.

Should the court enter an amended personal protection order or is it sufficient to extend the expiration date and continue the conditions of the existing personal protection order?

- B. If the court should enter an amended personal protection order, the following modifications are suggested:
1. Remove the extension and modification options from CC 385 and include orders for extension and modification on the personal protection order forms CC 376, CC 376m, CC 380, CC 380m, CC 396, and CC 396m.  
  
This eliminates the requirement that the court produce multiple orders for extensions and modifications that have been granted.
  2. Revise CC 385 (which would now be an Order to Terminate) to include a “removal from LEIN” order.  
  
This eliminates the requirement that the court produce a separate removal from LEIN order, MC 239.
  3. Revise from CC 383, Order Denying or Dismissing Petition for Personal Protection Order to include an order denying a motion to extend or modify.  
  
In addition, it has been suggested that CC 383 contain an order stating that the petition is denied because the petitioner failed to meet the burden for an ex parte order.

Drafts provided.