



## Michigan Supreme Court

State Court Administrative Office

**Trial Court Services Division**

Michigan Hall of Justice

P.O. Box 30048

Lansing, Michigan 48909

Phone (517) 373-4835

Jennifer Warner  
Director

February 28, 2019

TO: Michigan Court Forms Committee, Civil Workgroup

FROM: Matthew Walker, Forms and Resources Analyst

RE: Agenda and Materials for **March 14, 2019 Meeting**

PLACE: **Michigan Hall of Justice**, 925 West Ottawa, downtown Lansing

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Below is the agenda for the March 14, 2019 meeting of the Michigan Court Forms Committee, Civil Workgroup. The meeting will be held in room 1S-69 and will begin at 9:30 a.m. 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 Street, 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 Change**

##### **DC 109, Motion and Order for Escrow, Landlord-Tenant, Land Contract**

Land Contract will be removed from the title of this form. Draft provided.

**2. CIA 07, Default Judgment, Civil Infraction**

It has been suggested that the notice stating, “You may have the right to set aside a default by requesting a hearing within 14 days of the mailing date. You must post a bond equal to the total fines and costs noted when requesting a hearing to set aside a default.” be revised. The suggestor states that the notice is unclear and that setting aside a default is not a right.

Should the language be modified?

**3. DC 84, Affidavit and Claim, Small Claims  
DCI 84, Collecting Your Money from a Small Claims Judgment  
DC 85, Judgment/Dismissal, Small Claims  
DC 86, Demand and Order for Removal, Small Claims**

It has been suggested that these forms be revised to contain a link to Michigan Legal Help. The suggestor states they refer individuals to Michigan Legal Help often and it would be beneficial to have a link on the form.

Should this suggestion be adopted?

**4. DC 100a, Demand for Possession, Nonpayment of Rent, Landlord-Tenant  
DC 100b, Demand for Possession, Damage/Health Hazard to Property, Landlord-Tenant  
DC 100c, Notice to Quit to Recover Possession of Property, Landlord Tenant  
DC 100d, Demand for Possession, Termination of Tenancy, Mobile Home Park - Mobile Home Owner (Just-Cause Termination)  
DC 100e, Demand for Possession, Termination of Tenancy Due to Unlawful Drug Activity on Premises, Landlord-Tenant**

It has been suggested that these forms be modified to include an option for electronic service as allowed by MCL 600.5718. The committee previously considered this request in 2016 and concluded that the conditions for electronic service, including written consent to electronic service of the demand, would be difficult to set forth on the form and would require additional instruction sections and form sections. In addition, members thought it was unlikely electronic service would be used very often.

The current suggestor states that electronic service is becoming more common and the forms should accommodate the practice.

Should this suggestion be adopted? If so, how should it be integrated into the forms?

**5. DC 102a, Complaint, Nonpayment of Rent, Landlord-Tenant**  
**DC 102b, Complaint, Damage/Health Hazard to Property, Landlord-Tenant**  
**DC 102c, Complaint to Recover Possession of Property**  
**DC 102d, Complaint, Termination of Tenancy, Mobile Home Park - Mobile Home**  
**Owner (Just-Cause Termination)**  
**New Form Request: Servicemembers Civil Relief Act Statement**

It has been suggested that the landlord-tenant complaint forms be modified or that a new form be created to better satisfy the requirements of the federal Servicemembers Civil Relief Act. See 50 USC 3931.

Should this suggestion be adopted or are the current forms adequate?

**6. DC 104, Summons, Landlord Tenant/Land Contract**

It has been suggested that additional checkboxes be added next to Rental unit eviction and Land contract forfeiture. The suggestor states that there are times when the plaintiff is trying to evict a trespasser, family member, squatter, or other person. The suggestor states that checkboxes for “Trespasser,” “Mortgage foreclosure,” and “Other” would help.

Should this suggestion be adopted?

**7. DC 111a, Answer, Nonpayment of Rent, Landlord-Tenant**  
**DC 111b, Answer, Damage/Health Hazard to Property, Landlord-Tenant**  
**DC 111c, Answer to Complaint to Recover Possession of Property**  
**DC 111d, Answer, Termination of Tenancy, Mobile Home Park - Mobile Home Owner**  
**(Just-Cause Termination)**

It has been suggested that the checkbox in item 2 of these forms be amended to include certified, restricted delivery mail with return receipt as allowed by MCR 4.201(G)(1)(b).

Should this suggestion be adopted?

## **Joint Session**

**8. Minor Changes**

**CIA 02, Judgment, Civil Infraction**

Citation to the Servicemembers Civil Relief Act will be corrected to 50 USC 3931.

**CIA 07, Default Judgment, Civil Infraction**

**MC 06, Notice to Appear**

**MC 216, 14-Day Notice, Traffic**

The language from MCR 1.110 will be replaced with a more accurate restatement of the court rule.

**MC 52, Request and Writ for Garnishment (Income Tax Refund/Credit)**

At the request of the Department of Treasury, a bullet will be placed next to the “Plaintiff FE no./Social Security no.” writing space and the "plaintiff's attorney" and "plaintiff" in line 4 will be reversed.

**9. MC 70, Request for Reasonable Accommodations and Response  
MC 70a, Review of Request for Reasonable Accommodations and Response**

Modifications have been suggested to clarify that these are the forms to be used to request a sign language interpreter. The suggested modification is the addition of a use note to both forms to clarify that individuals needing a foreign language interpreter, except sign language, should utilize form MC 81.

It was also suggested that the forms should be corrected by moving the parenthetical language in subparagraph 3 to the end of subparagraph 4 because the parenthetical language defines the accommodation being requested, not the impairment.

It was also suggested that the header language for the response section on MC 70a be revised to read “Response to Request for Review” to more accurately reflect the form’s purpose. In addition, it was suggested to add a question to MC 70 about whether a person is represented by an attorney and what the attorney’s contact information is. The suggestor states that a number of parties who request accommodations do not notify their attorneys of the request, which becomes a problem when investigating the request.

Drafts provided.

**10. MC 81, Request and Order for Interpreter  
MC 81a, Review of Request for Interpreter and Order**

Modifications have been suggested to insert the words “Foreign Language” before “Interpreter” in the title and section headers of each form to clarify that the form is only for foreign language interpreters. In addition, it was suggested to add a use note to both forms to clarify that individuals needing a sign language interpreter should utilize form MC 70.

It was also suggested that language should be added to paragraph 1 to clarify the time period for which the interpreter is appointed under MCR 1.111(B)(1).

Drafts provided.

### **11. MC 01, Summons**

It has been suggested that the proof of service be modified to clarify that parties may not serve process of the complaint. The suggestor states that many *pro per* parties do not understand that they cannot serve the complaint.

Should this suggestion be adopted? Draft provided.

Public Comments:

- I think this is a great idea!

Kristi Cox  
Chief Deputy County Clerk – Legal Division  
44th Circuit Court  
Livingston County

### **12. MC 01a, Summons and Complaint, Blank**

In 2018, MC 01 was revised from a “Summons and Complaint” to only a “Summons” and the signature line was removed in accordance with several amended court rules. Because of these changes, modifications are suggested to MC 01a to include a signature line and change the title.

Draft provided.

### **13. MC 07, Default, Request, Affidavit, and Entry**

It has been suggested that the affidavit portion of this form be replaced with a verification as provided in MCR 1.109(D)(3). Currently, the governing rule, MCR 2.603, states that the party should provide an affidavit or otherwise state the facts. A proposed court rule change (ADM File 2002-37, September 27, 2018 Proposed Amendments) would replace the affidavit requirement with a verified statement under MCR 1.109(D)(3).

Should this suggestion be adopted?

### **14. DC 85, Judgment/Dismissal, Small Claims**

**MC 09, Dismissal**

**New Form Request: Dismissal, Small Claims**

In 2018, this committee reviewed a suggestion to modify MC 09 to include “Magistrate” in the signature line to account for small claims cases. The committee did not agree with the suggestion because the suggestion could result in misuse of the form. Instead, members added a note to MC 09 and modified the title of DC 85.

However, these changes did not account for voluntary dismissals in small claims cases. It has been suggested now that a new dismissal form be created for small claims cases to account for all dismissals. If this suggestion is adopted, the dismissal section of DC 85 will be removed.

Alternatively, it has been suggested again that Magistrate be added to MC 09 with an explanatory parenthetical that the magistrate can only sign the form for small claims cases. If this suggestion is adopted, the dismissal section of DC 85 will be removed.

#### **15. MC 09, Dismissal**

It has been suggested that this form be revised to include dismissals of counterclaims.

Should this suggestion be adopted?

Public Comments:

➤ Excellent!

Kristi Cox  
Chief Deputy County Clerk – Legal Division  
44th Circuit Court  
Livingston County

#### **16. MC 11, Subpoena**

It has been suggested that an additional copy of the proof of service be included in the subpoena packet. The suggestor states that when a plaintiff is filling out the affidavit for judgment debtor examination in a carbonless form, the information bleeds through the front top half of the subpoena. The suggestor adds that an extra copy of the affidavit for judgment debtor examination would eliminate this problem.

Should this suggestion be adopted?

#### **17. MC 20, Fee Waiver Request**

This form was recently modified to accommodate the amendments to MCR 2.002. Several suggestions are listed below. Draft provided.

- A. It has been suggested that “Do not include your Social Security number” should be removed from the line caption in item 1. The suggestor states that the line caption is unnecessary because fee waiver requests are nonpublic documents. In addition, Medicaid no longer uses Social Security numbers as their case number.

Should this suggestion be adopted?

- B. It has been suggested that item 3 be revised to state, “I am unable to pay the fees and I do not receive public or legal assistance.” The suggestor states that item 3 should be clarified because applicants unnecessarily check item 3 when checking item 1 or 2.

Should this suggestion be adopted?

- C. It has been suggested that items 1 and 2 of the order section contain additional preprinted checkbox options for public assistance and when an applicant’s income is over 125% of the federal poverty guideline. The suggestor states that the additional checkboxes would make completion of the order easier for judges.

Should this suggestion be adopted?

- D. It has been suggested that a new item 3 be added to the form to account for MCR 2.002(J), Review of Fee Waiver Petitions.

Should this suggestion be adopted?

- E. It has been suggested that a certificate of mailing section be added to this form to accommodate the requirement that the clerk provide a copy of the waiver to the applicant.

Should this suggestion be adopted?

Public Comments:

- I like all of these.

Kristi Cox  
Chief Deputy County Clerk – Legal Division  
44th Circuit Court  
Livingston County

➤ Agenda #17 – C

If the above suggestion is adopted, can a table be included on the back of the form to show the criteria for the Federal Poverty Guidelines? The majority of our public doesn't know where they would fall in the guideline. The table would help the person identify exactly where they fit into these guidelines.

Thanks,

Gail Michel  
Clare County Circuit Court  
Deputy Circuit Court Clerk

**18. MC 49, Objections to Garnishment and Notice of Hearing**

Revisions to clarify item 2 of this form have been suggested. The suggestor states that the wording of item 2 may lead individuals to objecting to the underlying judgment. The suggestor states that the line should be rephrased to "I object to the written statement/balance set forth in the garnishment because that amount is wrong." Item 2 is present on this form to accommodate MCL 600.4012(5)(a).

Should this suggestion be adopted?

**19. New form request: Notice of Limited Appearance**

**New form request: Notice of Withdrawal from Limited Appearance**

**New form request: Objection to Withdrawal from Limited Scope Appearance and Notice of Hearing**

**New form request: Motion for Service upon Limited Scope Client and Notice of Hearing**

**New form request: Motion to Determine Scope of Representation and Notice of Hearing**

It has been suggested that several new forms be created to accommodate the 2017 court rule amendments for limited scope representation. See MCR 2.117.

Should these forms be adopted?

Public Comments:

➤ I encourage you to adopt these!

Kristi Cox  
Chief Deputy County Clerk – Legal Division  
44th Circuit Court  
Livingston County

## **Circuit Court Session**

### **20. CC 269, Order Regarding Driver’s License Restoration After Review of the Record**

Modifications to this form are suggested to accommodate 2018 PA 99. Draft provided.

### **21. CC 382a, Order after Hearing on Show Cause for Violating Valid Personal/Foreign Protection Order** **CC 384, Order after Hearing on Violation of Valid Personal/Foreign Protection Order**

In 2018, the Legislature passed 2018 PA 67, which changed the statutes regarding expunction and destruction of biometric data. The amended statute states that the arrest record and biometric data shall be expunged/destroyed and the arrest record shall be removed from ICHAT if the charge or charges are dismissed before trial. MCL 28.243(8). A court order is required to effectuate this section. MCL 28.243(9). The Michigan State Police have interpreted subsection (9) to require a specific order directing the destruction of the arrest record and biometric data. In addition, MCL 28.176(4)(a) requires the Michigan State Police to destroy or expunge an individual’s DNA sample or DNA identification profile if charge for which the sample was obtained has been dismissed or resulted in acquittal, or no charge was filed, unless an exception applies. See MCL 28.176.

Modifications are suggested to these forms to comply with the requirements of 2018 PA 67 and MCL 28.176.

Drafts provided.

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

It has been suggested that a new option be added to item 3 stating, “Insufficient evidence is alleged showing that irreparable harm would result from the delay required to have a hearing and give notice of a hearing.”

Should this language be adopted?

### **23. CC 377, Petition for Personal Protection Order (Nondomestic)** **CC 395, Petition for Personal Protection Order (Nondomestic Sexual Assault)**

Modifications to replace “husband and wife” in item 1 of these forms has been suggested.

Drafts provided.

Public Comments:

- Can this form be edited to include “contacting petitioner through a third party”? Most petitioners don’t list this in the “other” field. This would specifically prohibit third party contact if this were also input on the Personal Protection Orders.

Thanks,  
Gail Michel  
Deputy Circuit Court Clerk  
Clare County

**24. New form: Motion to Transfer Wireless Telephone Number**  
**New form: Order to Transfer Wireless Telephone Number**

New forms are suggested to accommodate MCL 600.2950n and MCL 600.2950o.

Drafts provided.