Michigan Supreme Court

Administrative Orders

MICHIGAN SUPREME COURT
ADMINISTRATIVE ORDERS

Table of Contents

Subject Matter Index 1

AO No. 1968-2 — Judicial Tenure Commission 9

AO No. 1969-4 — Sexual Psychopaths 10

AO No. 1972-1 — Probate Court Judicial Assignments 11

AO No. 1972-2 — Assignment of Counsel in the Recorder's Court 12

AO No. 1972-4 — [Rescinded] Right to Counsel—Misdemeanors and Petty Offenses 13

AO No. 1973-1 — Legal Assistance for Litigants in the Landlord-Tenant Division of the Common Pleas Court 14

AO No. 1977-1 — Standard Criminal Jury Instructions 15

AO No. 1978-4 — Public Communication by Lawyers 16

AO No. 1978-5 — Standard Criminal Jury Instructions 17

AO No. 1979-4 — Fingerprinting of Applicants for Admission to the State Bar 18

AO No. 1981-5 — [Rescinded] Reporting Requirements for Circuit Court Appeals of Termination Orders 19

AO No. 1981-6 — Expedited Appellate Consideration of Orders Terminating Parental Rights 20

AO No. 1981-7 — Regulations Governing a System for Appointment of Appellate Counsel for Indigent Defendants in Criminal Cases and Minimum Standards for Indigent Criminal Appellate Defense Services 21

AO No. 1983-2 — Construction, Remodeling, or Renovation of Court Facilities 41

AO No. 1983-3 — [Rescinded] Sentencing Guidelines 42

AO No. 1983-7 — Additional Copy of the Order or Opinion In a Criminal Case 43

AO No. 1985-3 — Appellate Assigned Counsel: Rules and Standards 44

AO No. 1985-5 — Juvenile Court Standards and Administrative Guidelines for the Care of Children 45

AO No. 1985-6 — [Rescinded] Court Funding 55

AO No. 1987-1 — Providing Access to Juror Personal History Questionnaires 56

AO No. 1987-2 — [Rescinded] Michigan Uniform System of Citation 57

AO No. 1987-9 — [Rescinded] Selection of Mediators 58

AO No. 1988-2 — [Rescinded] Summary Jury Trials 59

AO No. 1988-3 — Juvenile Court Standards and Administrative Guidelines for the Care of Children 60

AO No. 1988-4 — Sentencing Guidelines 61

AO No. 1989-1 — Film or Electronic Media Coverage of Court Proceedings 62

AO No. 1989-2 — [Rescinded] Videotaped Record of Court Proceedings 65

AO No. 1989-3 — In re the Appointment of Appellate Assigned Counsel 66

AO No. 1989-4 — Use of Facsimile Communication Equipment in Mental Health Proceedings....71
AO No. 1990-1 — [Rescinded] Video Arraignment....72
AO No. 1990-2 — Interest on Lawyer Trust Accounts....73
AO No. 1990-3 — In re Recommendations of the Task Force on Gender Issues in the Courts and the Task Force on Racial/Ethnic Issues in the Courts....75
AO No. 1990-4 — [Rescinded] Pilot Project for District Court Judges Accepting Guilty Pleas in Felony Cases....76
AO No. 1990-7 — [Rescinded] Videotape Record of Court Proceedings....77
AO No. 1990-8 — Use of Facsimile Communication Equipment in Mental Health Proceedings....78
AO No. 1990-9 — [Rescinded] Voice and Facsimile Communication Equipment for the Transmission and Filing of Court Documents....79
AO No. 1991-1 — Use of Facsimile Communication Equipment in Mental Health Proceedings....80
AO No. 1991-2 — [Rescinded] Video Arraignment....81
AO No. 1991-4 — [Rescinded] Caseflow Management....82
AO No. 1991-5 — [Rescinded] Pilot Projects for District Court Judges Accepting Guilty Pleas in Felony Cases....83
AO No. 1991-7 — Election Procedures for Judicial Members of the Judicial Tenure Commission....84
AO No. 1991-8 — [Rescinded] State Judicial Council....85
AO No. 1992-1 — [Rescinded] Video Arraignment....86
AO No. 1992-2 — Court of Appeals Docketing Statement....87
AO No. 1992-3 — [Rescinded] Use of Facsimile Equipment in Mental Health Proceedings....88
AO No. 1992-4 — [Rescinded] State Bar of Michigan Activities....89
AO No. 1992-5 — [Rescinded] District Court Judges Accepting Pleas in Felony Cases....90
AO No. 1992-6 — Temporary Judges on Court of Appeals Panels....91
AO No. 1993-1 — Video Arraignment....92
AO No. 1993-2 — In re Silicone Gel Implant Product Liability Litigation....93
AO No. 1993-3 — [Rescinded] Pilot Project to Implement the Recommendations of the Commission on Courts in the 21st Century....95
AO No. 1993-5 — [Rescinded] State Bar of Michigan Activities....96
AO No. 1994-2 — [Rescinded] Facsimile and Communication Equipment for the Filing and Transmission of Court Documents....97
AO No. 1994-4 — [Rescinded] Resolution of Conflicts in Court of Appeals Decisions....98
AO No. 1994-5 — [Rescinded] Probate Fee Schedule....99
AO No. 1994-6 — Reductions in Trial Court Budgets by Funding Units....100
AO No. 1994-8 — Allocation of Funds From Lawyer Trust Account Program....102
AO No. 1994-9 — Suspension of Interest on Delinquent Costs Imposed in Attorney Discipline Proceedings....103
AO No. 1994-10 — Discovery in Criminal Cases....104
AO No. 1994-11 — Summary Jury Trial....105
AO No. 1995-1 — Temporary Judges on Court of Appeals Panels....106
AO No. 1995-2 — [Rescinded] Probate Court Fee Schedule....107
AO No. 1995-3 — Summary Jury Trial....108

AO No. 1995-4 — Temporary Judges on Court of Appeals Panels....109

AO No. 1995-5 — Reciprocal Visiting Judge Assignments for Judges of the Third Judicial Circuit and Recorder's Court of the City of Detroit....110

AO No. 1995-6 — Temporary Judges on Court of Appeals Panels....111

AO No. 1996-1 — [Rescinded] Authorization of Demonstration Projects to Study Court Consolidation....112

AO No. 1996-2 — [Rescinded] Authorization of Demonstration Projects to Study Court Consolidation....113

AO No. 1996-3 — Temporary Judges on Court of Appeals Panels....114

AO No. 1996-4 — Resolution of Conflicts in Court of Appeals Decisions....115

AO No. 1996-5 — [Rescinded] Authorization of Demonstration Projects to Study Court Consolidation....116

AO No. 1996-6 — [Rescinded] Authorization of Demonstration Projects to Study Court Consolidation....117

AO No. 1996-7 — [Rescinded] Authorization of Demonstration Projects to Study Court Consolidation....118

AO No. 1996-8 — Election of Members of the State Bar Board of Commissioners and the Representative Assembly....119

AO No. 1996-9 — [Rescinded] Authorization of Demonstration Projects to Study Court Consolidation....120

AO No. 1996-10 — Temporary Judges on Court of Appeals Panels....121

AO No. 1996-11 — [Rescinded] Hiring of Relatives by Courts....122

AO No. 1997-1 — [Rescinded] Implementation of the Family Division of the Circuit Court....123

AO No. 1997-2 — Suspension of License to Practice Law....124

AO No. 1997-3 — [Rescinded] Assignment of Medical Support Enforcement Matters to the Third Circuit for Discovery Purposes....125

AO No. 1997-4 — Appointment of Executive Chief Judge for Third Circuit Court and Recorder's Court; Establishment of Executive Committee....126

AO No. 1997-5 — [Rescinded] Defenders—Third Circuit Court....127

AO No. 1997-6 — [Rescinded] Chief Judge Responsibilities; Local Court Management Councils; Disputes between Courts and Their Funding Units or Local Court Management Councils....128

AO No. 1997-7 — Establishment of Child Support Coordinating Council....129

AO No. 1997-8 — Establishment of Court Data Standards....131

AO No. 1997-9 — Allocation of Funds from Lawyer Trust Account Program....132

AO No. 1997-10 — Access to Judicial Branch Administrative Information....133

AO No. 1997-11 — Access to Judicial Branch Administrative Decision Making....138

AO No. 1997-12 — [Rescinded] Authorization of Demonstration Projects to Study Court Consolidation....140

AO No. 1998-1 — Reassignment of Circuit Court Actions to District Judges....141

AO No. 1998-3 — Family Division of the Circuit Court; Support Payments....142

AO No. 1998-4 — Sentencing Guidelines....143

AO No. 1998-5 — Chief Judge Responsibilities; Local Intergovernmental Relations....144

AO No. 1999-1 — Assignment of Medical Support Enforcement Matters to the Third Circuit for Discovery Purposes....149

AO No. 1999-2 — [Rescinded] Authorization of Additional Demonstration Project to Study Court Consolidation....150

AO No. 1999-3 — Discovery in Misdemeanor Cases....151

AO No. 1999-4 — Establishment of Michigan Trial Court Case File Management Standards 152
AO No. 2000-1 — [Rescinded] Establishment of Council of Chief Judges 153
AO No. 2000-2 — [Rescinded] In re Microsoft Corporation Litigation 154
AO No. 2000-3 — Video Proceedings (Circuit and District Courts) 155
AO No. 2000-4 — [Rescinded] Video Proceedings (Family Division of Circuit Court and Probate Court) 156
AO No. 2000-5 — In re Microsoft Antitrust Litigation 157
AO No. 2001-1 — Security Policies for Court Facilities 158
AO No. 2001-2 — Uniform Effective Dates For Court Rule Amendments 159
AO No. 2001-3 — Security Policy for the Michigan Supreme Court 160
AO No. 2001-4 — [Rescinded] Video Proceedings (Family Division of Circuit Court and Probate Court) 161
AO No. 2001-6 — Committee on Model Civil Jury Instructions 162
AO No. 2002-1 — [Rescinded] Child Support Leadership Council 164
AO No. 2002-2 — Facsimile Transmission of Documents in the Court of Appeals 165
AO No. 2002-3 — Family Violence Indicator (Family Division of Circuit Court and Probate Court) 167
AO No. 2002-4 — Cases Involving Children Absent From Court-Ordered Placement Without Legal Permission 169
AO No. 2002-5 — Differentiated Case Scheduling At the Court of Appeals 170
AO No. 2003-1 — Concurrent Jurisdiction 171
AO No. 2003-2 — Family Court Plans 172
AO No. 2003-3 — Appointment of Counsel for Indigent Criminal Defendants 173
AO No. 2003-4 — [Rescinded] Video Proceedings (Family Division of Circuit Court and Probate Court) 174
AO No. 2003-5 — Annual Dues Notice for the State Bar of Michigan 175
AO No. 2003-6 — Case Management at the Court of Appeals 176
AO No. 2003-7 — [Rescinded] Caseflow Management Guidelines 177
AO No. 2004-1 — State Bar of Michigan Activities 178
AO No. 2004-2 — Approval of the Adoption of Concurrent Jurisdiction Plans for Barry, Berrien, Isabella, Lake, and Washtenaw Counties, and for the 46th Circuit Consisting of Crawford, Kalkaska, and Otsego Counties 182
AO No. 2004-3 — [Rescinded] Video Proceedings (Family Division of Circuit Court and Probate Court) 184
AO No. 2004-4 — Adoption of Concurrent Jurisdiction Plans for Genesee and Van Buren Counties 185
AO No. 2004-5 (Original) — Expedited Summary Disposition Docket in the Court of Appeals 186
AO No. 2004-5 (Amended) — Expedited Summary Disposition Docket in the Court of Appeals 191
AO No. 2004-5 (SECOND AMENDED) — Expedited Summary Disposition Docket in the Court of Appeals 196
AO No. 2004-6 — Minimum Standards for Indigent Criminal Appellate Defense Services 201
AO No. 2004-7 — Adoption of Concurrent Jurisdiction Plans for the Third Circuit of Wayne County, the 19th District Court, the 29th District Court, and the 35th District Court 204
AO No. 2005-1 — [Rescinded] Adoption of Concurrent Jurisdiction Plan for the 41st Circuit Court, the 95B District Court, and the Iron County Probate Court 205
AO No. 2005-2 — Clarification of Time for Filing Postjudgment Motions 206
AO No. 2005-3 — Adoption of Concurrent Jurisdiction Plan for the 45th Circuit Court and the 3B District Court of St. Joseph County 207

AO No. 2006-2 — Privacy Policy and Access to Court Records 208

AO No. 2006-3 — [Rescinded] Michigan Uniform System of Citation 211

AO No. 2006-4 — Adoption of Concurrent Jurisdiction Plan for the 28th Circuit Court and the 84th District Court of Wexford County 212

AO No. 2006-5 — Adoption of the Michigan Child Support Formula as Juvenile Court Reimbursement Guideline 213

AO No. 2006-6 — Prohibition on "Bundling" Cases 214

AO No. 2006-7 — [Rescinded] Interactive Video Proceedings (Family Division of Circuit Court and Probate Court) 215

AO No. 2006-8 — Deliberative Privilege and Case Discussions in the Supreme Court 216

AO No. 2006-9 — Adoption of Concurrent Jurisdiction Plan for the 28th Circuit Court, the 84th District Court, and the Probate Court of Missaukee County 217

AO No. 2007-1 — [Rescinded] Expanded Use of Interactive Video Technology 218

Third Amended AO No. 2007-2 — Expedited Summary Disposition Docket in the Court of Appeals 219

AO No. 2007-3 — [Rescinded] E-filing in Oakland County 220

AO No. 2007-4 — Adoption of Concurrent Jurisdiction Plan for the 49th Circuit Court, the 77th District Court, and Probate District 18 of Mecosta and Osceola Counties 221

AO No. 2008-1 — Pilot Project No. 1 17th Judicial Circuit Court (Expedited Process in the Resolution of the Low Conflict Docket of the Family Division) 222

AO No. 2008-2 — Adoption of a Pilot Project to Study the Effects of the Jury Reform Proposal 224

AO No. 2009-1 — [Rescinded] Extension and Expansion of E-Filing Pilot Project 232

AO No. 2009-2 — Pilot Project No. 1 17th Judicial Circuit Court (Expedited Process in the Resolution of the Low Conflict Docket of the Family Division) 233

AO No. 2009-3 — Adoption of Concurrent Jurisdiction Plan for the 53rd Circuit Court of Cheboygan and Presque Isle Counties and the Presque Isle County Probate Court 234

AO No. 2009-4 — E-filing Pilot Project in the 42nd Circuit Court 235

AO No. 2009-5 — E-filing Pilot Project in the 56th Circuit Court (Eaton County) 242

AO No. 2009-6 — A Court Shall Submit a Local Administrative Order to SCAO When Appointing Magistrates and Referees 250

AO No. 2009-7 — Adoption of a Pilot Project in the 46th District Court to Study the Effects of Proposed Rule 8.119 of the Michigan Court Rules 251

AO No. 2010-1 — Adoption of Administrative Order to Establish and Require Compliance with Court Collections Program and Reporting Requirements 253

AO No. 2010-2 — Adoption of Concurrent Jurisdiction Plan for the 12th Circuit Court and the Baraga County Probate Court 254

AO No. 2010-3 — E-Filing Project in Oakland Circuit Court, Family Division 255

AO No. 2010-4 — [Rescinded] E-filing Project in the 13th Judicial Circuit Court 263

AO No. 2010-5 — 29th Judicial Circuit Court Pilot Project No. 1 (Family Division Informal Docket for Low Conflict Domestic Relations Cases) 264

AO No. 2010-6 — [Rescinded] E-filing in the 16th Circuit Court (Macomb County) 267

AO No. 2011-1 — [Rescinded] E-filing Project in the 3rd Circuit Court (Wayne County) 268

AO No. 2011-2 — Rescission of AO No. 2002-1 (Dissolution of the Child Support Leadership Council) 269

AO No. 2011-3 — [Rescinded] Caseflow Management Guidelines; Rescission of AO No. 2003-7 270

AO No. 2011-4 — [Rescinded] E-filing Rules for the 20th Circuit Court, the Ottawa County Probate Court, and the 58th District Court (Ottawa County) 271

AO No. 2011-6 — E-Filing in Oakland Probate Court 272

AO No. 2012-1 — Adoption of Concurrent Jurisdiction Plan for the 10th Circuit Court, the 70th District Court and the Saginaw County Probate Court 279

AO No. 2012-2 — Adoption of Concurrent Jurisdiction Plan for the 33rd Circuit Court, the 90th District Court and Charlevoix/Emmet Probate District 280

AO No. 2012-3 — Adoption of Concurrent Jurisdiction Plan for the 57th Circuit Court, the 90th District Court and Charlevoix/Emmet Probate District 281

AO No. 2012-4 — Adoption of Concurrent Jurisdiction Plan for the 48th Circuit Court, the 57th District Court, and Allegan County Probate Court 282

AO No. 2012-5 — Implementation of Trial Court Performance Measures 283

AO No. 2012-6 — Adoption of Concurrent Jurisdiction Plan for the 37th Circuit Court, the 10th District Court, and the Calhoun County Probate Court 284

AO No. 2012-7 — [Suspended] Adoption of Administrative Order to Allow State Court Administrative Office to Authorize a Judicial Officer's Appearance by Video Communication Equipment 285

AO No. 2013-1 — Adoption of Concurrent Jurisdiction Plan for the 18th Circuit Court, the 74th District Court, and the Bay County Probate Court 287

AO No. 2013-2 — Adoption of Concurrent Jurisdiction Plan for the 14th Circuit Court, the 60th District Court, and the Muskegon County Probate Court 288

AO No. 2013-3 — Adoption of Concurrent Jurisdiction Plan for the 45th Circuit Court, the 3-B District Court, and the St. Joseph County Probate Court 289

AO No. 2013-4 — Adoption of Concurrent Jurisdiction Plan for the 56th Circuit Court, the 56-A District Court, and the Eaton County Probate Court 290

AO No. 2013-5 — Adoption of Concurrent Jurisdiction Plan for the 54th Circuit Court, the 71-B District Court, and the Tuscola County Probate Court 291

AO No. 2013-6 — Implementation of Business Court Standards 292

AO No. 2013-7 — Adoption of Concurrent Jurisdiction Plan for the 38th Circuit Court, the 1st District Court and the Monroe County Probate Court 293

AO No. 2013-8 — Trial Court Requirements for Providing Meaningful Access to the Court for Limited English Proficient Persons 294

AO No. 2013-9 — Adoption of Concurrent Jurisdiction Plan for the 40th Circuit Court, the 71-A District Court, and the Lapeer County Probate Court 295

AO No. 2013-10 — Adoption of Concurrent Jurisdiction Plan for the 44th Circuit Court, the 53rd District Court, and the Livingston County Probate Court 296

AO No. 2013-11 — Adoption of Concurrent Jurisdiction Plan for the 1st Circuit Court, the 2-B District Court, and the Hillsdale County Probate Court 297

AO No. 2013-12 — Revised Caseflow Management Guidelines and Rescission of AO No. 2011-3 298

AO No. 2013-13 — Creation of Committee on Model Criminal Jury Instructions 303

AO No. 2013-14 — Adoption of Concurrent Jurisdiction Plan for the 20th Circuit Court, the 58th District Court, and the Ottawa County Probate Court 305

AO No. 2013-15 — Adoption of Concurrent Jurisdiction Plan for the 31st Circuit Court, the 72nd District Court, and the St. Clair County Probate Court 306

AO No. 2013-16 — Adoption of Concurrent Jurisdiction Plan for the 25th Circuit Court, the 96th District Court, and the Marquette County Probate Court 307

AO No. 2014-1 — Adoption of Concurrent Jurisdiction Plan for the 15th Circuit Court, the 3-A District Court, and the Branch County Probate Court 308

AO No. 2014-2 — Adoption of Concurrent Jurisdiction Plan for the 9th Circuit Court, the 8th District Court, and the Kalamazoo County Probate Court 309

AO No. 2014-3 — Adoption of Concurrent Jurisdiction Plan for the 29th Circuit Court, the 65A and 65B District Courts, and the Clinton County and Gratiot County Probate Courts 310

AO No. 2014-4 — Adoption of Concurrent Jurisdiction Plan for the 30th Circuit Court, the 54A, 54B, and 55th District Courts, and the Ingham County Probate Court 311

AO No. 2014-5 — Order Creating the Task Force on the Role of the State Bar of Michigan 312

AO No. 2014-6 — Adoption of Concurrent Jurisdiction Plan for the 43rd Circuit Court, the 4th District Court, and the Cass County Probate Court 314

AO No. 2014-7 — Adoption of Concurrent Jurisdiction Plan for the 42nd Circuit Court, the 75th District Court, and the Midland County Probate Court 315

AO No. 2014-8 — Adoption of Concurrent Jurisdiction Plan for the 27th Circuit Court, the 78th District Court, and the Newaygo County and Oceana County Probate Courts 316

AO No. 2014-9 — Adoption of Concurrent Jurisdiction Plan for the 24th Circuit Court, the 73A District Court, and the Sanilac County Probate Court 317

AO No. 2014-10 — Adoption of Concurrent Jurisdiction Plan for the 6th Circuit Court and the Oakland County Probate Court 318

AO No. 2014-11 — Adjustment of Discipline Portion of State Bar of Michigan Dues 319

AO No. 2014-12 — Order Creating the Michigan Tribal State Federal Judicial Forum 320

AO No. 2014-13 — Automated Income Tax Garnishment Pilot Project in 36th District Court 323

AO No. 2014-14 — Adoption of Concurrent Jurisdiction Plan for the 47th Circuit Court, the 94th District Court, and the Delta County Probate Court 328

AO No. 2014-15 — Adoption of Concurrent Jurisdiction Plan for the 16th Circuit Court, the 42nd District Court, and the Macomb County Probate Court 329

AO No. 2014-16 — Adoption of Concurrent Jurisdiction Plan for the 32nd Circuit Court, the 98th District Court, and the Gogebic and Ontonagon County Probate Courts 330

AO No. 2014-17 — Adoption of Concurrent Jurisdiction Plan for the 4th Circuit Court, the 12th District Court, and the Jackson County Probate Court 331

AO No. 2014-18 — Merger of the State Appellate Defender Office (SADO) and Michigan Appellate Assigned Counsel System (MAACS) 332

AO No. 2014-19 — Reporting Requirements for the 36th District Court 333

AO No. 2014-20 — Adoption of Concurrent Jurisdiction Plan for the 35th Circuit Court, the 66th District Court, and the Shiawassee County Probate Court 335

AO No. 2014-21 — [Rescinded] Adoption of Concurrent Jurisdiction Plan for the 18th District Court and the 29th District Court 336

AO No. 2014-22 — Rescission of Administrative Order No. 2006-3 (Michigan Uniform System of Citation) 337

AO No. 2014-23 — E-filing System for the Michigan Supreme Court and the Michigan Court of Appeals 338

AO No. 2014-24 — Extension of Expiration Date for E-filing Pilot Project in Oakland Circuit Court, Family Division 342

AO No. 2014-25 — Establishment of Videoconferencing Standards.....343

AO No. 2015-1 — Authorization of Pilot Project for Summary Jury Trials in the 16th Circuit Court and for Pilot Projects Testing Summary Jury Trials in Other Courts Approved by the Michigan Supreme Court 344

AO No. 2015-2 — Adoption of Concurrent Jurisdiction Plan for the 52nd Circuit Court, the 73B District Court, and the Huron County Probate Court 348

AO No. 2015-3 — Establishment of Michigan Trial Court Standards and Guidelines for Websites and Social Media 349

AO No. 2015-4 — Authorization for Use of GarnIT in the 36th, 46th, and 47th District Courts.....350

AO No. 2015-5 — Adoption of Administrative Order Requiring Trial Courts to Comply With Certain ADA-Related Practices 355

AO No. 2015-6 — Adoption of Concurrent Jurisdiction Plan for the 23rd Circuit Court, the 81st District Court, and the Alcona, Arenac, Iosco, and Oscoda County Probate Courts 356

AO No. 2015-7 — Adoption of Concurrent Jurisdiction Plan for the 26th Circuit Court, the 88th District Court, and the Montmorency County Probate Court 357

AO No. 2015-8 — Authorization of Pilot Project to Study Feasibility and Effectiveness of Mediation in the Court of Appeals.....358

AO No. 2015-9 — Authorization of a One-year Pilot Project Related to the SADO/MAACS Merger 360

AO No. 2015-10 — Adoption of Concurrent Jurisdiction Plan for the 51st Circuit Court, the 79th District Court, and the Mason County Probate Court.....362

AO No. 2016-1 — Authorizes the 7th Circuit Court to Require Parties and Attorneys to Submit Pleadings in Electronic Format in Personal Injury or Other Civil Cases Arising From Allegations of Lead or Other Contaminants in Flint Water.....363

AO No. 2016-2 — Regulations Governing a System for Appointment of Counsel for Indigent Defendants in Criminal Cases and Minimum Standards for Indigent Criminal Defense Services.....364

AO No. 2016-3 — Prisoner Electronic Filing Program with the Michigan Supreme Court and the Michigan Department of Corrections.....371

AO No. 2016-4 — Adoption of Administrative Order to Expedite Disposition of Pending Probate Appeals in Circuit Court.....373

AO No. 2016-5 — Adoption of New Antinepotism Policy and Rescission of AO No. 1996-11 374

AO No. 2017-1 — Adjustment of Discipline Portion of State Bar of Michigan Dues 377

AO No. 2017-2 — Adoption of Concurrent Jurisdiction Plan for the 19th Circuit Court, the 85th District Court, and the Benzie and Manistee County Probate Courts.....378

AO No. 2017-3 — Merger of the State Appellate Defender Office (SADO) and Michigan Appellate Assigned Counsel System (MAACS).....379

AO No. 2018-1 — Adoption of Concurrent Jurisdiction Plan for the 34th Circuit Court, the 82nd District Court, the Ogemaw and Roscommon County Probate Courts.....381

AO No. 2018-2 — Adoption of Concurrent Jurisdiction Plan for the 8th Circuit Court, the 64th District Court, the Ionia and Montcalm County Probate Courts.....382

AO No. 2019-1 — Establishment of Court Security Committees.....383

AO No. 2019-2 — Requirements for E-Filing Access Plans.....384

AO No. 2019-3 — Adoption of Concurrent Jurisdiction Plan for the 41st Circuit Court, the 95A District Court, the 95B District Court, and the Dickinson, Iron, and Menominee County Probate Courts.....385

AO No. 2019-4 — Electronic Filing in the 3rd, 6th, 13th, 20th, and 16th Circuit Courts 386

AO No. 2019-5 — Adoption of Concurrent Jurisdiction Plan for the 17th Circuit Court and the Kent County Probate Court....389

AO No. 2019-6 — Briefs Formatted for Optimized Reading on Electronic Displays....390

AO No. 2020-1 — In re Emergency Procedures in Court Facilities....392

AO No. 2020-2 — [Rescinded] Order Limiting Activities/Assemblages in Court Facilities....394

AO No. 2020-3 — [Rescinded] Order Extending Deadlines for Commencement of Actions....399

AO No. 2020-4 — [Rescinded] Order Suspending Filing Deadlines in the Michigan Supreme Court and Court of Appeals....400

AO No. 2020-5 — Order Extending Administrative Order Nos. 2020-1 and 2020-2 Until at Least April 14, 2020....401

AO No. 2020-6 — Order Expanding Authority for Judicial Officers to Conduct Proceedings Remotely....402

AO No. 2020-7 — Extension of Administrative Order Nos. 2020-1, 2020-2, and 2020-6....404

AO No. 2020-8 — Additional Verification Required for Landlord Tenant Cases....405

AO No. 2020-9 — Temporary Amendments and Extensions Related to Continuing Work in Courts....406

AO No. 2020-10 — Delay of Jury Trials....408

AO No. 2020-11 — Extension of Personal Protection Orders that Expire During the State of Emergency....409

AO No. 2020-12 — Extension of Administrative Order Nos. 2020-1, 2020-2, 2020-6, and 2020-9....410

AO No. 2020-13 — Order Authorizing Courts to Collect Contact Information....411

AO No. 2020-14 — Continued Status Quo Court Operations and Phased Return to Full Court Operations....412

AO No. 2020-15 — Revised Format for July 2020 Michigan Bar Examination....414

AO No. 2020-16 — Order Resuming Filing Deadlines in the Michigan Supreme Court and Court of Appeals....415

AO No. 2020-17 — Priority Treatment and New Procedure for Landlord/Tenant Cases....416

Guidance Document Issued in Conjunction with Administrative Order No. 2020-17....420

AO No. 2020-18 — Order Resuming Usual Computation of Days for Determination of Deadlines Applicable to the Commencement of Civil and Probate Actions....423

AO No. 2020-19 — Continuing Order Regarding Court Operations....424

AO No. 2020-20 — Administrative Order Regarding Election-Related Litigation....426

Subject Matter Index

Numerics

10th Circuit Court 279
10th District Court 284
12th Circuit Court 254
12th District Court 331
14th Circuit Court 288
15th Circuit Court 308
16th Circuit Court 329
18th Circuit Court 287
19th District Court 204
1st Circuit Court 297
1st District Court 293
20th Circuit Court 305
23rd Circuit Court 356
24th Circuit Court 317
25th Circuit Court 307
26th Circuit Court 357
27th Circuit Court 316
28th Circuit Court 212, 217
29th Circuit Court 310
29th District Court 204
2-B District Court 297
30th Circuit Court 311
31st Circuit Court 306
32nd Circuit Court 330
33rd Circuit Court 280
35th Circuit Court 335
35th District Court 204
36th District Court 333
37th Circuit Court 284
38th Circuit Court 293
3-A District Court 308
3-B District Court 289
3B District Court of St. Joseph County 207
40th Circuit Court 295
42nd Circuit Court 315
42nd District Court 329
43rd Circuit Court 314
44th Circuit Court 296
45th Circuit Court 207, 289
47th Circuit Court 328
48th Circuit Court 282

49th Circuit Court 221
4th Circuit Court 331
4th District Court 314
51st Circuit Court 362
52nd Circuit Court 348
53rd Circuit Court of Cheboygan and Presque Isle Counties 234
53rd District Court 296
54A, 54B, and 55th District Courts 311
54th Circuit Court 291
56-A District Court 290
56th Circuit Court 290
57th Circuit Court 281
57th District Court 282
58th District Court 305
60th District Court 288
65A and 65B District Courts 310
66th District Court 335
6th Circuit Court 318
70th District Court 279
71-A District Court 295
71-B District Court 291
72nd District Court 306
73A District Court 317
73B District Court 348
74th District Court, 287
75th District Court 315
77th District Court 221
78th District Court 316
79th District Court 362
7th Circuit Court 363
81st District Court 356
84th District Court 217
84th District Court of Wexford County 212
88th District Court 357
8th District Court 309
90th District Court 280, 281
94th District Court 328
96th District Court 307
98th District Court 330
9th Circuit Court 309

A

Access to Judicial Branch Administrative Decision Making 138
Access to Judicial Branch Administrative Information 133
Additional Copy of the Order or Opinion In a Criminal Case 43

Administrative Guidelines for the Care of Children 45, 60
Alcona, Arenac, Iosco, and Oscoda County Probate Courts 356
Allegan County Probate Court 282
Allocation of Funds From Lawyer Trust Account Program 102
Allocation of Funds from Lawyer Trust Account Program 132
Annual Dues Notice for the State Bar of Michigan 175
Antinepotism Policy 374
AO No. 1996-11 374
AO No. 2002-1 269
AO No. 2011-3 298
Appearance by Video Communication Equipment 285
Appellate Assigned Counsel Rules and Standards 44
Appellate Counsel for Indigent Defendants 21
Appellate Defender Commission 21
Appointing Magistrates and Referees 250
Appointment of Appellate Assigned Counsel 66
Appointment of Appellate Counsel for Indigent Defendants in Criminal Cases 21
Appointment of Counsel for Indigent Criminal Defendants 173
Appointment of Counsel for Indigent Defendants in Criminal Cases 364
Appointment of Executive Chief Judge for Third Circuit Court and Recorder's Court 126
Assignment of Medical Support Enforcement Matters to the Third Circuit for Discovery Purposes 149
Attorney Eligibility for Assignments 30

B

Baraga County Probate Court 254
Barry County 182
Bay County Probate Court 287
Berrien County 182
Branch County Probate Court 308
Business Court Standards 292

C

Calhoun County Probate Court 284
Case Management at the Court of Appeals 176
Caseflow Management Guidelines 298
Cases Involving Children Absent From Court-Ordered Placement Without Legal Permission 169
Cass County Probate Court 314
Charlevoix/Emmet Probate District 280, 281
Chief Judge Responsibilities 144
Child Support Leadership Council 269
Clarification of Time for Filing Postjudgment Motions 206
Clinton County 310
Committee on Model Civil Jury Instructions 162
Committee on Model Criminal Jury Instructions 303

Compliance with Court Collections Program and Reporting Requirements 253
Concurrent Jurisdiction 171
Concurrent Jurisdiction Plan 182, 185, 207, 212, 217, 221, 234, 254, 279, 280, 281, 282, 284, 287, 288, 289, 290, 291, 293, 295, 296, 297, 305, 306, 307, 308, 309, 310, 311, 314, 315, 316, 317, 318, 328, 329, 330, 331, 335, 348, 356, 357, 362
Construction, Remodeling, or Renovation of Court Facilities 41
Court of Appeals Docketing Statement 87
Crawford, Kalkaska, and Otsego Counties 182
Criminal Appellate Defense Services 201

D

Deliberative Privilege and Case Discussions in the Supreme Court 216
Delta County Probate Court 328
Differentiated Case Scheduling At the Court of Appeals 170
Discipline Portion of State Bar of Michigan Dues 377
Discovery in Criminal Cases 104
Discovery in Misdemeanor Cases 151
Domestic Relations Cases 264
Dues 377
Duties of the appellate assigned counsel administrator. 23

E

Eaton County Probate Court 290
E-Filing in Oakland Probate Court 272
E-filing Pilot Project in Oakland Circuit Court, Family Division 342
E-filing Pilot Project in the 42nd Circuit Court 235
E-filing Pilot Project in the 56th Circuit Court (Eaton County) 242
E-Filing Project in Oakland Circuit Court, Family Division 255
E-filing System for the Michigan Supreme Court and the Michigan Court of Appeals 338
Election Procedures for Judicial Members of the Judicial Tenure Commission 84
Electronic Media Coverage of Court Proceedings 62
Equal and Full Access to Courts 355
Establishment of Child Support Coordinating Council 129
Establishment of Executive Committee 126
Establishment of Michigan Trial Court Case File Management Standards 152
Establishment of the Office of the Appellate Assigned Counsel Administrator. 21
Expedited Appellate Consideration of Orders Terminating Parental Rights 20
Expedited Process in the Resolution of the Low Conflict Docket of the Family Division 222, 233
Expedited Summary Disposition Docket in the Court of Appeals 186, 191, 196, 219

F

Facsimile Transmission of Documents in the Court of Appeals 165
Family Court Plans 172
Family Division of the Circuit Court 142
Family Violence Indicator 167
Film or Electronic Media Coverage of Court Proceedings 62

Fingerprinting of Applicants for Admission to the State Bar 18
Flint Water 363

G

GarnIT in the 36th, 46th, and 47th District Courts 350
Gender Issues 75
Genesee 185
Genesee County 185
Gogebic 330
Gratiot County Probate Court 310

H

Hillsdale County Probate Court 297
Huron County Probate Court 348

I

In re Microsoft Antitrust Litigation 157
Income Tax Garnishment 323
Ingham County Probate Court 311
Interest on Lawyer Trust Accounts 73
Intergovernmental Relations 144
Isabella County 182

J

Jackson County Probate Court 331
Judicial Tenure Commission 9, 84
Juror Personal History Questionnaires 56
Jury Reform Proposal 224
Juvenile Court Reimbursement Guideline 213
Juvenile Court Standards and Administrative Guidelines for the Care of Children 45, 60

K

Kalamazoo County Probate Court 309

L

Lake County 182
Lapeer County Probate Court 295
Legal Assistance for Litigants in the Landlord-Tenant Division of the Common Pleas Court 14
Limited English Proficient Persons 294
Livingston County Probate Court 296

M

Macomb County Probate Court 329
Marquette County Probate Court 307
Mason County Probate Court 362

Mediation in the Court of Appeals 358
Merger 332, 360
Michigan Appellate Assigned Counsel System 332, 360
Michigan Child Support Formula 213
Michigan Tribal State Federal Judicial Forum 320
Michigan Uniform System of Citation 337
Midland County Probate Court 315
Minimum Standards for Appointed Counsel under the MIDC Act 365
Minimum Standards for Indigent Criminal Appellate Defense Services 21, 201
Minimum Standards for Indigent Criminal Defense Services 364
Model Criminal Jury Instructions 303
Monroe County Probate Court 293
Montmorency County Probate Court 357
Muskegon County Probate Court 288

N

Newaygo County 316

O

Oakland County Probate Court 318
Oceana County 316
Ontonagon 330
Order or Opinion In a Criminal Case 43
Ottawa County Probate Court 305

P

Performance Measures 283
Persons with Disabilities 355
Pleadings in Electronic Format 363
Presque Isle County Probate Court 234
Privacy Policy and Access to Court Records 208
Probate Appeals in Circuit Court 373
Probate Court Judicial Assignments 11
Probate Court of Missaukee County 217
Probate District 18 of Mecosta and Osceola Counties 221
Prohibition on “Bundling” Cases 214
Proposed Rule 8.119 of the Michigan Court Rules 251
Providing Access to Juror Personal History Questionnaires 56
Public Communication by Lawyers 16

R

Racial/Ethnic Issues in the Courts 75
Reassignment of Circuit Court Actions to District Judges 141
Reciprocal Visiting Judge Assignments for Judges of the Third Judicial Circuit and Recorder’s Court of the City of Detroit 110

Reductions in Trial Court Budgets by Funding Units 100
Reporting Requirements for the 36th District Court 333
Resolution of Conflicts in Court of Appeals Decisions 115

S

Saginaw County Probate Court 279
Sanilac County Probate Court 317
Security Policies for Court Facilities 158
Security Policy for the Michigan Supreme Court 160
Selection of Assigned Counsel. 26
Sentencing Guidelines 61, 143
Sexual Psychopaths 10
Shiawassee County Probate Court 335
Silicone Gel Implant Product Liability Litigation 93
Social Media 349
St. Clair County Probate Court 306
St. Joseph County Probate Court 289
Standard Criminal Jury Instructions 15, 17
State Appellate Defender Office 332, 360
State Bar of Michigan 312, 377
State Bar of Michigan Activities 178
State Bar of Michigan Dues 319
Summary Jury Trial 105, 108
Summary Jury Trials 344
Support Payments 142
Suspension of Interest on Delinquent Costs Imposed in Attorney Discipline Proceedings 103
Suspension of License to Practice Law 124

T

Task Force on the Role of the State Bar of Michigan 312
Temporary Judges on Court of Appeals Panels 91, 106, 109, 111, 114, 121
Third Circuit Court of Wayne County 93, 110, 126, 149, 157, 204
Time for Filing Postjudgment Motions 206
Tuscola County Probate Court 291

U

Uniform Effective Dates For Court Rule Amendments 159
Use of Facsimile Communication Equipment in Mental Health Proceedings 71, 78, 80

V

Van Buren 185
Van Buren County 185
Video Arraignment 92
Video Proceedings (Circuit and District Courts) 155
Videoconferencing Standards 343

W

Washtenaw County 182
Websites and Social Media 349

AO No. 1968-2 — Judicial Tenure Commission

[Entered November 19, 1968.]

Directed to State Bar of Michigan:

The State Bar shall publish in its journal a notice to all members that they may nominate judges and practicing attorneys who are not judges from among whom the membership will elect one judge and two attorneys as members of the judicial tenure commission. Nominating petitions, available at the State Bar office, will require the signature of 50 attorneys in good standing, and must be filed with the State Bar by a determined deadline (i.e., 30 days after publication).

In the event two nominations for each position are not received by the petition method, the board of commissioners shall thereupon nominate up to that number.

Within 10 days after the nomination of candidates therefor, the State Bar shall cause to be mailed to each member a ballot containing the names of the nominees divided into two categories,

(1) all judges nominated,

(2) all nonjudges nominated,

and space for write-in candidates.

The ballots shall be returned to the office of the State Bar of Michigan on or before (a date certain). Five tellers selected by the board of commissioners shall meet at the office of the State Bar on (a date certain), to tally the ballots. The judge receiving the highest number of votes, and the two nonjudges receiving the highest number of votes shall be declared elected.

AO No. 1969-4 — Sexual Psychopaths

[Entered October 20, 1969.]

It appearing upon repeal of PA 1939, No 165, that jurisdiction to hear petitions to test the recovery of persons committed as criminal sexual psychopaths under the provisions of said act remains unresolved, that proceedings in various courts wherein relief has been sought have been dismissed with the result that a situation has continued for several months wherein the proper forum for reviewing the propriety of continued custody of persons committed under the provisions of said law remains in question, that protection of the basic rights of such persons and the uninterrupted administration of justice requires designation of a proper forum for hearing said matters until such time as the legislature shall provide clarification, now therefore, pursuant to the provisions of Constitution 1963, art 6, § 13, and PA 1961, No 236, § 601, the revised judicature act.

It is ordered, that until such time as there is further legislative clarification of jurisdiction of proceedings for testing recovery of persons committed under the provisions of said PA 1939, No 165, as amended, jurisdiction shall continue and proceedings shall be conducted in accordance with the provisions of section 7 of said act, CL 1948, § 780.507, as amended by PA 1952, No 58 (Stat Ann 1954 Rev § 28.967[7]).

This order shall constitute a rule of the Supreme Court within Constitution 1963, art 6, § 13, and shall be effective as of August 1, 1968, the date of effect of the repeal of PA 1939, No 165, as amended.

AO No. 1972-1 — Probate Court Judicial Assignments

[Entered January 10, 1972.]

It is ordered that the assignment of a judge to serve as a judge of the probate court of a county in which he was not elected or appointed as a probate judge shall be made only by order of this Court or through the Court Administrator, and no judge shall so serve unless assigned in conformity herewith. This shall not apply to a judge of the circuit court for such county as provided for by MCLA 701.11.

It is further ordered that this order be given immediate effect.

AO No. 1972-2 — Assignment of Counsel in the Recorder's Court

[Entered May 11, 1972; extended by AO No. 1997-5 on July 25, 1997.]

It appearing to the Court that the Defender's Office of the Legal Aid and Defender Association of Detroit is a nonprofit organization providing counsel to indigent defendants in the Wayne Circuit Court and the Recorder's Court of the City of Detroit, and that such method of providing counsel to indigent defendants should be encouraged for the efficient administration of criminal justice; and

It further appearing that assignments from Recorder's Court have been irregular, sometimes involving too many such assignments and sometimes too few;

Now, therefore, it is ordered that, from the date of this order until the further order of this Court, the Presiding Judge of Recorder's Court of the City of Detroit shall assign as counsel, on a weekly basis, the Defender's Office of the Legal Aid and Defender Association of Detroit in twenty-five percent of all cases wherein counsel are appointed for indigent defendants.

AO No. 1972-4 — [Rescinded] Right to Counsel—Misdemeanors and Petty Offenses

[Entered July 27, 1972; rescinded by AO No. 2003-3 on April 1, 2003.]

AO No. 1973-1 — Legal Assistance for Litigants in the Landlord-Tenant Division of the Common Pleas Court

[Entered January 12, 1973.]

It appearing to the Court that there is sufficient necessity to furnish legal aid, on a case-to-case basis, to litigants in summary proceeding actions commenced in the Landlord-Tenant Division of Common Pleas Court and that existing standards of indigency preclude eligibility of said litigants for legal assistance, now therefore it is ordered, effective from date of this order until further order of the Court, that all parties in summary proceeding actions who cannot afford an attorney in the proceedings shall be eligible for legal assistance from the legal aid clinics in the nature and manner administered under GCR 1963, 921; Provided however, that no plaintiff shall qualify for said services if he has a monetary interest in more than one income unit of real property.

AO No. 1977-1 — Standard Criminal Jury Instructions

[Entered January 6, 1977.]

Proposed GCR and DCR 516.8, which would direct the use of the Standard Criminal Jury Instructions under certain conditions, were published in the State Bar Journal in April, 1976, for comment by the bench and bar. Comments have been received from proponents and opponents of the concept of pattern instructions. The intelligent concerns expressed by both sides have caused the Court to conclude that it would be provident to observe and evaluate actual trial use of the instructions over a substantial period before making the decision regarding implementation of use of the instructions by court rule.

Accordingly all members of the bench and bar are urged to use the instructions. Such use, particularly in the manner proposed in the rules published in the April 1976 Bar Journal, would provide a basis for communicating to the Court advantages or disadvantages encountered in their use. Comments based on such use are invited immediately, and on a continuing basis. It is the intention of the Court to readdress the question of implementation of the Standard Criminal Jury Instructions by court rule after approximately one year's experience has been obtained.

AO No. 1978-4 — Public Communication by Lawyers

[Entered March 15, 1978; extended by AO No. 1979-3 on February 2, 1979; continued in effect until further order of the Court by AO No. 1979-7 on August 31, 1979.]

A lawyer may on behalf of himself, his partner or associate, or any other lawyer affiliated with him or his firm, use or participate in the use of any form of public communication that is not false, fraudulent, misleading, or deceptive. Except for DR 2-103 and DR 2-104, disciplinary rules in conflict with this order are suspended for a period of one year.

AO No. 1978-5 — Standard Criminal Jury Instructions

[Entered June 2, 1978.]

To assist the Supreme Court in evaluating the Standard Criminal Jury Instructions, every trial judge is requested during the four-month period beginning August 1, 1978, at the conclusion of every criminal case tried to a jury, to dictate to the court reporter a statement (outside the presence of the jury, counsel and the parties) of the offense or offenses covered by the instructions; the extent to which he used the Standard Criminal Jury Instructions; if he did not use them, why he did not; and any additional comments he may care to make to assist the Supreme Court in evaluating those instructions and in considering whether they should be made obligatory in the sense that the Standard Civil Jury Instructions are generally required to be given. The statement is not considered part of the record on appeal. The court reporter shall forward the statement to Donald Ubell, Chief Commissioner of the Supreme Court, within two weeks after the judge instructs the jury.

AO No. 1979-4 — Fingerprinting of Applicants for Admission to the State Bar

[Entered March 8, 1979.]

On order of the Court, pursuant to the power of superintending control, Const 1963, art VI, § 4, and MCL 600.904; MSA 27A.904, empowering the Court to provide for the organization, government and membership of the State Bar of Michigan, and to adopt rules and regulations concerning the conduct and activities of the State Bar of Michigan and the investigation and examination of applicants for admission to the bar, the Board of Law Examiners is ordered forthwith to require that any applicant for admission to the State Bar of Michigan by examination be fingerprinted to enable the State Bar Committee on Character and Fitness to determine whether the applicant has a record of criminal convictions in jurisdictions other than Michigan. The Board of Law Examiners and the State Bar Committee on Character and Fitness are authorized to exchange fingerprint data with the Federal Bureau of Investigation, Identification Division.

AO No. 1981-5 — [Rescinded] Reporting Requirements for Circuit Court Appeals of Termination Orders

[Entered November 4, 1981; effective January 1, 1982; rescinded by order entered December 14, 2016, effective immediately.]

AO No. 1981-6 — Expedited Appellate Consideration of Orders Terminating Parental Rights

[Entered November 4, 1981.]

Directed to the clerk of the court of appeals and the clerk of this Court:

On order of the Court, it appearing that there is a need to expedite consideration of appeals terminating parental rights under the juvenile code, the clerk of the court of appeals and of this Court are directed to give priority to such appeals in scheduling them for submission to their respective courts.

AO No. 1981-7 — Regulations Governing a System for Appointment of Appellate Counsel for Indigent Defendants in Criminal Cases and Minimum Standards for Indigent Criminal Appellate Defense Services

[Entered December 4, 1981; effective February 1, 1982; superseded by AO 2017-3, entered November 15, 2017.]

Pursuant to 1978 PA 620, MCL 780.711-780.719; MSA 28.1114(101)-28.1114(109), the Appellate Defender Commission submitted to this Court regulations governing a system for appointment of appellate counsel for indigents in criminal cases and minimum standards for indigent criminal appellate defense services. The Court has considered the submissions and after due consideration we approve them. However, the operation of the system and enforcement of the standards pursuant to the system requires that the Legislature appropriate funds necessary to implement the system. When funds sufficient to operate the system are appropriated, this Court will promulgate an administrative order implementing the system and requiring adherence to it.

The approved regulations governing the system for appointment of appellate counsel for indigents in criminal cases, together with the commentary of the Appellate Defender Commission are as follows:

INTRODUCTION BY THE COMMISSION: In order to meet its charge under MCL 780.711 *et seq*.; MSA 28.1114(101) *et seq*., to design an appointment system and develop minimum performance standards, the State Appellate Defender Commission, seeking the broadest possible input, established an advisory committee, which met during 1979 and developed a set of initial proposals. After review by the commission, the proposals were circulated among the bar, presented at public hearings, further refined on the basis of the advice received, and passed on to the Supreme Court for its review, revision, and approval. The commission comments, which follow the sections of the regulations and standards, are designed to briefly present some of the thinking behind the regulations and standards as distilled from these sources.

SECTION 1. ESTABLISHMENT OF THE OFFICE OF THE APPELLATE ASSIGNED COUNSEL ADMINISTRATOR.

(1) The Appellate Defender Commission shall establish an Appellate Assigned Counsel Administrator's Office which shall be coordinated with but separate from the State Appellate Defender Office. The duty of this office shall be to compile and maintain a statewide roster of attorneys eligible and willing to accept criminal appellate defense assignments and to engage in activities designed to enhance the capacity of the private bar to render effective assistance of appellate counsel to indigent defendants.

(2) An appellate assigned counsel administrator shall be appointed by and serve at the pleasure of the Appellate Defender Commission.

(3) The appellate assigned counsel administrator shall:

(a) be an attorney licensed to practice law in this state,

(b) take and subscribe the oath required by the constitution before taking office,

(c) perform duties as hereinafter provided, and

(d) not engage in the practice of law or act as an attorney or counselor in a court of this state except in the exercise of his duties under these rules.

(4) The appellate assigned counsel administrator and supporting personnel shall be considered to be court employees and not to be classified civil service employees.

(5) The salaries of the appellate assigned counsel administrator and supporting personnel shall be established by the Appellate Defender Commission.

(6) The appellate assigned counsel administrator and supporting personnel shall be reimbursed for their reasonable actual and necessary expenses by the state treasurer upon the warrant of the state treasurer.

(7) Salaries and expenses attributable to the office of the appellate assigned counsel administrator shall be paid out of funds available for those purposes in accordance with the accounting laws of this state. The auditor general, under authority of Michigan Const 1963, art 4, § 53, shall perform audits utilizing the same policies and criteria that are used to audit executive branch agencies.

(8) Within appropriations provided by law, the Appellate Defender Commission shall provide the office of the appellate assigned counsel administrator with suitable space and equipment at such locations as the commission considers necessary.

Commission Comment: MCL 780.711 *et seq*.; MSA 28.1114(101) *et seq*., mandates development of a mixed system of appellate defense representation containing both public defender and private assigned counsel components. The assigned counsel component is to be structured around a statewide roster of private attorneys, which the Appellate Defender Commission is to compile and maintain. The commission as an unpaid policy-making body must delegate the performance of ongoing tasks. Since establishing and administering the newly authorized roster is a large, permanent job, the first issue addressed is the organizational entity to which responsibility for the roster should be delegated.

Two administrative models for mixed systems are widely recognized and approved. The defender-administered model makes supervision of the assigned counsel panel a function of the defender office and is currently used in some states which have statewide trial defender offices. The independently administered model makes each component of the system autonomous while encouraging coordination of training and support services. See ABA Standards for Criminal Justice (2d ed, 1980), 5-1.2 (ABA Standards); National Study Commission on Defense Services, *Guidelines for Legal Defense Systems in the United States* (National Legal Aid and Defender Association, 1976), pp 124-135 (hereafter NLADA); *Report of the Defense Services Committee*, 57 Mich St B J 242 (March 1978), recommendation 9d, p 260; Goldberg & Lichtman, *Guide to Establishing a Defender System* (May 1978), pp 71-79.

The independently administered model was perceived to be most compatible with the statute and the desires of private attorneys. It promotes the independence of assigned attorneys from the defender office and provides them with an administration which can focus exclusively on their special needs. It nonetheless permits the efficient sharing of such resources as training materials, information retrieval systems and supportive services through the coordinating efforts of the Appellate Defender Commission to which both components are ultimately responsible.

SECTION 2. DUTIES OF THE APPELLATE ASSIGNED COUNSEL ADMINISTRATOR.

The appellate assigned counsel administrator, with such supporting staff as the commission deems appropriate, shall:

(1) After reasonable notice has been given to the members of the State Bar of Michigan, compile a roster of attorneys eligible under § 4 of these regulations and willing to accept appointments to serve as appellate counsel for indigent criminal defendants.

(a) The roster shall be updated semiannually and circulated among all probate, circuit, and appellate courts of the state. It shall also be provided, on request, to any interested party.

(b) The roster shall appear in two parts. Part one shall contain an alphabetized listing by name of all attorneys in the state who are eligible and willing to accept criminal appellate assignments. Part two shall be subdivided according to the circuits in which the attorneys' primary practices are maintained and shall contain the following information regarding each attorney: name, firm's name, business address, business telephone, and level of assignments for which the attorney is eligible.

(2) Place in the issue of the Michigan Bar Journal to be published after the results of the bar examinations have been released an announcement specifying the procedure and eligibility criteria for placement on the assigned counsel roster.

(3) Distribute by November 1 of every second year to all attorneys on the roster a standard renewal application containing appropriate questions regarding education and experience obtained during the preceding two years and notice that the completed application must be forwarded to the administrator's office within 30 days.

(a) The eligibility level of every attorney on the list shall be reviewed every second year based on the information contained in the renewal application.

(b) Where a renewal application has not been filed or reveals deficiencies in complying with any requirement for continuing eligibility, the administrator shall notify the affected attorney in writing of such deficiencies. The names of all attorneys who fail to correct deficiencies in their continuing eligibility within 60 days after the issuance of notice shall be removed from the roster, except that the administrator shall have the discretion to extend the deadline for correcting deficiencies by an additional 60 days where good cause is shown. Such extensions shall be requested and granted only in writing and shall include a summary of the pertinent facts.

(4) Notify all recipients of the roster of any change in the eligibility of any attorney within 20 days after the date on which a change occurs. Publication of a semiannual roster which reflects

such changes within the time specified shall constitute adequate notice for purposes of this provision.

(5) Receive and take appropriate action as hereafter set forth regarding all correspondence forwarded by judges, defendants, or other interested parties about any attorney on the roster.

(6) Maintain a file for each case in which private counsel is appointed which shall contain:

(i) the order of appointment,

(ii) the cover page and table of contents of all briefs and memorandums filed by defense counsel,

(iii) counsel's voucher for fees, and

(iv) a case summary which shall be completed by counsel on forms provided by the administrator and which shall contain such information about filing dates, oral arguments, case disposition, and other pertinent matters as the administrator requires for statistical purposes.

(7) Forward to the Legal Resources Project copies of all briefs filed by assigned counsel for possible placement in a centralized brief bank.

(8) Select an attorney to be appointed for an appeal when requested to do so by an appellate court or by a local designating authority pursuant to § 3(4).

(9) Compile data regarding the fees paid to assigned counsel and take steps to promote the payment of reasonable fees which are commensurate with the provision of effective assistance of appellate counsel.

(10) Provide, on request of an assigned attorney or an appointing authority, information regarding the range of fees paid within the state to assigned counsel or to expert witnesses and investigators who have been retained by counsel with the prior approval of the trial court. On the request of both the attorney and the appointing authority, the administrator may arbitrate disputes about such fees in particular cases according to prevailing local standards.

(11) Take steps to promote the development and delivery of support services to appointed counsel.

(12) Present to the commission within 90 days after the end of the fiscal year an annual report on the operation of the assigned counsel system which shall include an accounting of all funds received and disbursed, an evaluation of the cost-effectiveness of the system, and recommendations for improvement.

(13) Perform other duties in connection with the administration of the assigned counsel system as the commission shall direct.

Commission Comment: The appellate assigned counsel administrator's duties described in § 2 go beyond the performance of ministerial tasks. Other functions include directing focus on

efficient systems for delivery of services, adequate support services and other matters of concern to appellate practitioners. The eligibility requirements for the roster are intended to be a vehicle for upgrading as well as organizing the services of private assigned counsel. It is also important, however, that private attorneys who are willing to maintain their eligibility for the roster benefit from an organizational structure dedicated to rationalizing and improving the conditions under which they receive, perform, and are compensated for criminal appellate assignments. The view that the director of the assigned counsel system must be a competent criminal defense attorney as well as a sensitive administrator is widely shared. ABA Standards, 5-2.1; NLADA, pp 236-239; *Guide to Establishing a Defender System*, pp 84-85.

Subsections 2(1)-(4) specify the mechanics of compiling and circulating a roster which is both current and convenient. The semiannual notice and updating provisions are designed especially for new lawyers. Those who pass each bar examination will see the notice in the bar journal in time to seek placement on a semiannual roster. Eligible attorneys may join, withdraw, or be removed from the list at anytime.

Subsection 2(5) recognizes that once an institutional entity with overall responsibility for assigned counsel exists, it will become the recipient of comments requiring a response. This subsection also reflects a commitment to passive rather than active review of attorneys' performance. Therefore, while the administrator is nowhere charged with overseeing the content of assigned counsel's work on a regular basis, he or she is directed to act when substantive problems come to light. Appropriate action may range from writing a letter of inquiry or clarification to removing an attorney from the roster in accordance with the due process safeguards specified in § 4. See ABA Standards, 5-2.2 and accompanying commentary.

Subsection 2(6) requires the administrator to collect such information as is needed to promote the goals of the assigned counsel system without unduly duplicating the tasks performed by other entities. The items listed in subsections (6)(i)-(iv) are adequate to inform the administrator that a case has been assigned, work is ongoing, and a case has been closed. Tracking of all pleadings in each case for timeliness is not necessary since such oversight is already provided by the courts. Should additional information be needed regarding a particular case, it can be obtained from the appropriate court file. The costly and time-consuming handling of excess paperwork is thus eliminated. On the other hand, the completion of uniform summaries after cases have been closed is a convenient way for the administrator to gather data on the operation of the system as a whole. Such data has not been collected and analyzed to date.

Subsection (7) makes the administrator's office the conduit for assigned counsel's contributions to the Legal Resources Project's brief bank. The brief bank currently serves assigned counsel but primarily contains pleadings prepared by the State Appellate Defender's staff attorneys. By performing this pass-through role, the administrator's office will have a ready means of collecting the items mentioned in subsection (6)(ii).

Subsection (8) functions are fully discussed in the commentary to § 3.

Subsections (9) and (10) reflect the commission's grave concern about the adequacy of current assigned counsel fees. Quality representation is inevitably tied to reasonable compensation. Low fees make it economically unattractive for competent attorneys to seek assignments and expend all the time and effort a case may require, and economically tempting to

accept an excessive number of assignments in order to maintain a desirable income. Flat fees per case discourage attorneys from undertaking certain responsibilities, such as client visits or oral arguments, since they will be paid the same amount regardless of the work done.

While the commission recognized that specific suggestions regarding fees were outside the scope of its mandate, it also recognized that setting minimum performance standards without addressing the issue of compensation is unrealistic. Similar views have been expressed by others. See ABA Standards, 5-2.4; *Report of the Defense Services Committee,* recommendation 5, p 249; NLADA, pp 271-275. In addition, over half of the Court of Appeals judges responding to a questionnaire felt that increased fees would significantly enhance the quality of indigent defense representation. Some judges suggested rates believed to be substantially above those now being paid. Therefore, the commission included among the administrator's enumerated duties the active representation of the interests of assigned counsel and their clients in securing reasonable compensation for assigned counsel.

In subsection (10) the term "arbitrate" was substituted for the originally proposed term "mediate" at the State Bar's request.

Subsection (11) addresses counsel's need for support services in such areas as legal research, factual investigation, expert consultations and witnesses, and prison inmate problems. Some of these needs are already being filled by the Legal Resources Project and the State Appellate Defender Office. It is anticipated that close cooperation between the assigned counsel and defender components will lead to the development of additional shared services as well as continuing legal education programs. See ABA Standards, 5-1.4.

SECTION 3. SELECTION OF ASSIGNED COUNSEL.

(1) The judges of each circuit or group of voluntarily combined circuits shall appoint a local designating authority who shall be responsible for the selection of assigned appellate counsel from a rotating list and shall perform such other tasks in connection with the operation of the list as may be necessary at the trial court level. The designating authority may not be a judge, prosecutor or member of the prosecutor's staff, public defender or member of the public defender's staff, or any attorney in private practice who currently accepts trial or appellate criminal assignments within the jurisdiction. Circuits which have contracted with an attorney or group of attorneys to provide representation on appeal for indigent defendants must comply with these regulations within one year after implementation by the Supreme Court.

(2) Each local designating authority shall compile a list of attorneys eligible and willing to accept criminal appellate assignments as indicated on the statewide roster. In order to receive appellate assignments from a trial court, an attorney's name must appear on that circuit's local list. The local lists shall be compiled in the following manner:

(a) The name of each attorney appearing on the statewide roster who has identified the circuit in question as his or her circuit of primary practice shall automatically be placed on the local list.

(b) The name of each attorney appearing on the statewide roster who submits a written request to the local designating authority shall also be placed on the local list.

(c) The name “State Appellate Defender Office” shall be placed in every fourth position on each local list.

(3) On receiving notice from a trial judge that an indigent defendant has requested appellate counsel, the local designating authority shall select the attorney to be assigned by rotating the local list in the following manner:

(a) The opportunity for appointment shall be offered to the attorney whose name appears at the top of the list unless that attorney must be passed over for cause.

(b) When the attorney accepts the appointment or declines it for reasons other than those hereafter specified as “for cause,” the attorney's name shall be rotated to the bottom of the list.

(c) When an attorney’s name is passed over for cause, his or her name shall remain at the top of the list.

(d) An attorney’s name must be passed over for cause in any of the following circumstances:

(i) The crime of which the defendant has been convicted carries a possible life sentence or a statutory maximum sentence exceeding 15 years and the attorney is qualified only at Level I as described in § 4(3) of these regulations.

(ii) The attorney represented the defendant at trial or plea and no exception for continued representation as specified in § 3(8) is to be made.

(iii) Representation of the defendant would create a conflict of interest for the attorney. Conflicts of interest shall be deemed to exist between codefendants whether they were jointly or separately tried. Codefendants may, however, be represented by the same attorney if they express a preference for such representation under § 3(7) of these regulations, provided that there is no apparent conflict of interest.

(iv) The attorney did not represent the defendant at trial or plea and an exception for continued representation by trial counsel as specified in § 3(8) is to be made.

(v) The defendant’s request for an attorney on the list who is neither trial counsel nor next in order for appointment is to be honored pursuant to § 3(7).

(vi) The appeal to be assigned is from an habitual offender conviction and the designating authority, pursuant to § 3(9), desires to select the attorney assigned to appeal the underlying conviction.

(e) When an attorney is passed over for cause under subsections 3(d)(i), (ii), or (iii), the local designating authority shall continue systematic rotation of the list until reaching the name of an attorney willing and able to accept the appointment.

(f) When an attorney is passed over for cause under subsections 3(d)(iv), (v), or (vi) and an attorney whose name appears other than at the top of the list is selected, on accepting the appointment the latter attorney's name shall be rotated to the bottom of the list.

(g) The local designating authority shall maintain records which reflect all instances where attorneys have been passed over and the reasons therefor.

(4) Where a complete rotation of the local list fails to produce the name of an attorney willing and able to accept appointment in a particular case, the local designating authority shall refer the case to the appellate assigned counsel administrator for assignment.

(5) After selecting an attorney to be assigned in a particular case, the local designating authority shall obtain an order of appointment from the appropriate trial judge and shall forward copies of this order to the attorney named therein, the defendant, and the appellate assigned counsel administrator.

(6) All assignments other than those made to the State Appellate Defender Office shall be considered personal to the individual attorney named in the order of appointment and shall not be attributed to a partnership or firm.

(7) When advising defendants of their right to assigned counsel on appeal pursuant to GCR 1963, 785.11, trial judges shall explain that the defendant may indicate on the written request for the appointment of counsel a preference for a particular attorney. Trial judges shall further explain that the defendant's preference is not controlling and that the eligibility and willingness of the desired attorney to accept appellate assignments are controlling. When the defendant expresses a preference for counsel whose name appears on the local list, the local designating authority shall attempt to honor it.

(8) When the defendant specifically requests the appointment of his or her trial attorney for purposes of appeal and the trial attorney is otherwise eligible and willing to accept the assignment, the defendant shall be advised by the trial judge of the potential consequences of continuous representation. If the defendant thereafter maintains a preference for appellate representation by trial counsel, the advice given and the defendant's waiver of the opportunity to receive new counsel on appeal shall be by waiver on the record or by written waiver placed in the court file.

(9) Where a designating authority treats an habitual offender conviction as a separate assignment, such an assignment may be given to the attorney handling the appeal of the underlying conviction.

Commission Comment: The procedures for utilizing the statewide roster which are outlined in this section reflect a number of significant policy decisions. Foremost is the legislature's rejection of the ad hoc system of appointing counsel. This method, which involves the random selection by trial judges of attorneys who happen to be available, has been universally criticized for offering no control over the quality of representation, no basis for organizing and training a private defense bar, and no barriers to reliance on patronage or discrimination as selection criteria. See, for instance, ABA Standards, 5-2.1. MCL 780.711-780.719 meets these

criticisms by requiring the selection of counsel from a roster of attorneys screened for eligibility and willingness to serve.

One incident of the ad hoc system which has been particularly troublesome in the appellate context is the practice of having the trial judge in the case select the defendant's representative on appeal. Since claims on appeal frequently allege legal error or abuse of discretion on the part of the trial judge, assigned counsel are put in the delicate position of having to criticize their "employer." Trial judges face the temptation of choosing attorneys willing to be uncritical. Defendants naturally question whether their interests are being vigorously protected. For detailed critiques see ABA Standards, 5-1.3; NLADA, p 142; *Report of the Defense Services Committee*, recommendation 9a, p 260.

MCL 780.712(6); MSA 28.1114(102)(6) states: "The appointment of criminal appellate defense services for indigents shall be made by the trial court from the roster provided by the commission or shall be referred to the office of the state appellate defender." The commission concluded that a significant difference exists between "appointment by the trial court" and "selection by the trial judge." It therefore suggested a system whereby selection of appellate attorneys from the roster would be made by nonjudicial personnel according to standardized procedures. Once designated, the attorney would still be appointed by the trial court, as opposed, for instance, to an appellate court. This method conforms to the legislative framework while avoiding potential conflicts for lawyers and judges alike. It has the added advantage of efficiency. Delegation of the selection process to a single designating authority in each circuit or in voluntarily combined circuits will relieve judges of what should be a largely ministerial task and will provide a centralized means of using the roster in multi-judge circuits.

Separate use by each circuit of the entire roster obviously would be cumbersome. Moreover, lawyers and judges would presumably be dissatisfied with a system that regularly matched attorneys and courts which are hundreds of miles apart. On the other hand, subdividing the roster into arbitrary geographical sections would preclude an attorney from seeking assignments in any circuit he or she chose. These competing concerns are both met by having shorter local lists drawn from the statewide roster in a manner which leaves to the attorney the choice of which and how many lists include his or her name. The commission assumed that normal laws of supply and demand would assure an adequate distribution of eligible counsel among the circuits. See ABA Standards, 5-2.2; NLADA, pp 239-240.

Simplicity and evenhandedness in the allocation of cases to private counsel is assured by automatically rotating the local list with limited exceptions for cause. The commission's rotation scheme parallels those suggested in numerous published reports. ABA Standards, 5-2.3; NLADA, p 241; *Guide to Establishing a Defender System,* pp 82-83. Rotation has the inherent side effect of limiting the number of assignments available to any one attorney, and the commission chose not to adopt any additional measures for controlling caseload size. Any numerical limitation on the number of appellate assignments would be difficult to enforce and would be inevitably arbitrary since it could not account for the remainder of a private attorney's practice.

Exceptions to strict rotation were limited to those enumerated in order to avoid reintroducing the kind of discretionary decision-making rotation is meant to eliminate. Two of these exceptions bear special mention. In general, trial counsel should not represent defendants on appeal since, like the trial judges, their performance is subject to review. While continuous

representation by trial counsel may be preferred by some defendants and be desirable in some cases, it is presumptively disfavored unless the defendant makes an intelligent waiver of the right to a new attorney. Defendants considering such a waiver should therefore be advised that an appellate attorney's role includes identifying errors to which trial counsel may have failed to object and errors made by trial counsel in the first instance. If such errors exist, trial counsel may find it difficult to perceive them or to assert them most effectively on appeal. This view comports with those expressed in *Report of the Defense Services Committee*, recommendation 9b, p 260, and NLADA, p 352.

Another exception is meant to allow consideration of a defendant's preference for particular appellate counsel. While the desired attorney would have to be otherwise willing and eligible to accept the assignment, there is no reason not to accommodate the defendant's choice when possible. But for their indigency the defendants involved would have complete freedom in selecting their own attorney. Minimizing to the extent possible disparities among defendants which result from differences in financial status is a concern which has also been addressed by other groups. See *Report of the Defense Services Committee*, recommendation 2, alternative F, p 245, and NLADA, pp 477, 481-484.

SECTION 4. ATTORNEY ELIGIBILITY FOR ASSIGNMENTS.

(1) Attorneys who wish to be considered for appointment as appellate counsel for indigent defendants shall file an application with the assigned counsel administrator. Based on the information contained in the application, eligible attorneys will be identified in the statewide roster as qualified for assignments at either Level I or Level II.

(2) All applicants who are members in good standing of the State Bar of Michigan and who:

(a) have been counsel of record in at least six or more appeals of felony convictions in Michigan or federal courts during the three years immediately preceding the date of application, or

(b) in exceptional circumstances, have acquired comparable experience as determined in the discretion of the Appellate Defender Commission, shall be designated as Level II and may accept appointments to represent indigent defendants convicted of any felony and juveniles appealing their waiver decisions regarding any felony.

(3) All applicants who are members in good standing of the State Bar of Michigan who have not been designated Level II attorneys shall be designated as Level I. A Level I attorney may not be appointed to represent a defendant on appeal if the crime of which the defendant was convicted carries a possible life sentence or a statutory maximum sentence exceeding 15 years or, similarly, on appeal of juvenile waiver decisions where the maximum possible sentence for the felony charged is a life sentence or a statutory maximum exceeding 15 years.

(4) A Level I attorney shall be designated as Level II if the attorney has been counsel of record in at least two appeals of felony convictions within an 18-month period.

(5) Attorneys who are employed full time by the State Appellate Defender Office at or above the status of assistant defender need not individually prove their qualifications as Level II attorneys in order to perform the duties of their employment and may not individually appear on the statewide roster as eligible for accepting assignments during the course of their employment at the State Appellate Defender Office.

(6) In addition to demonstrating eligibility for a particular level of practice, attorneys who wish to maintain their names on the roster shall, by the filing of an application, agree to comply with the following regulations:

(a) Each attorney shall meet and shall strive to exceed the Minimum Standards for Indigent Criminal Appellate Defense Services approved by the Supreme Court and adopted by the Appellate Defender Commission.

(b) Each Level II attorney shall demonstrate continued participation in the field of criminal appellate practice by appearing as counsel of record in two felony appeals during the two years immediately preceding each eligibility renewal statement.

(c) Each attorney, in each case to which he or she is assigned as appellate counsel, shall timely forward to the assigned counsel administrator copies of the following:

(i) all briefs and memorandums filed in the defendant's behalf,

(ii) his or her voucher for fees,

(iii) a completed case summary as described in § 2(6).

(d) Each attorney shall file an eligibility renewal statement as required by § 2(3) of these regulations within 30 days after receipt of the appropriate forms from the appellate assigned counsel administrator.

(e) Each attorney shall respond promptly to notice from the appellate assigned counsel administrator that defects in the attorney's eligibility exist or that complaints about the attorney's performance have been received. Deficiencies in eligibility must be corrected within 60 days subject to the grant in writing of one 60-day extension by the administrator for good cause shown.

(f) Each attorney shall complete an educational program in criminal appellate advocacy to be prepared by the administrator and approved by the Supreme Court.

(7) Pursuant to § 3(2)(a) and (b) each attorney on the statewide roster will automatically be placed on the local list of the circuit he or she has designated for primary practice and may, in addition, request placement on the local lists of his or her choice.

(8) The name of an attorney may be removed from the roster by the administrator for failure to comply with the preceding regulations. The administrator must give the affected attorney 60 days' notice that removal from the roster is contemplated. The attorney shall have a de novo appeal of right from the administrator's decision to the Appellate Defender Commission. If the right to appeal is exercised within the 60-day notice period, removal from the roster shall be

stayed pending decision by the commission. The administrator's recommendations to the commission and the commission's findings shall be in writing.

(9) Any attorney whose name is removed from the roster for a reason other than a finding of inadequate representation of a client shall complete his or her work on any cases pending at the time of removal and shall be entitled to voucher for fees in those cases in the usual manner. Where removal is predicated on a finding of inadequate representation of a client as defined in the Minimum Standards for Indigent Criminal Appellate Defense Services, the appellate assigned counsel administrator shall move the trial court for substitution of counsel, with notice to the defendant, in any pending case assigned to the attorney affected. If substitution of counsel is granted, the trial court shall determine the amount of compensation due the attorney being replaced. No attorney may accept criminal appellate defense assignments after such time as removal of his or her name from the roster has become final.

(10) Any attorney whose name has been involuntarily removed from the roster may apply for reinstatement at any time after a period of six months from the removal date has elapsed and shall be reinstated whenever renewed eligibility has been demonstrated to the satisfaction of the administrator. Refusals to reinstate by the administrator are appealable de novo to the commission. The reasons for the administrator's refusal and the commission's findings shall be in writing.

(11) Any attorney formerly eligible for assignments at Level II who has allowed his or her eligibility to lapse solely for failure to meet the continuing participation requirement of § 4(5)(b) may, on application, be reinstated at Level II if the administrator finds on review of the circumstances that reinstatement at Level I is not required to protect the quality of representation received by defendants.

Commission Comment: Establishing criteria for eligibility for the roster posed difficult and controversial questions. Criteria which were arbitrary, subjective or discriminatory in effect had to be avoided. Those which had no clear relationship to ability or which could prove misleading or unduly burdensome had to be identified. As a result, such indicators as years of membership in the bar, references, written examinations and a complicated point system were all considered and rejected. Criminal appellate experience was selected as the sole criterion which is both relevant and readily measurable.

The eligibility requirements accomplish the single but important purpose of preventing the least experienced attorneys from representing the defendants facing the most serious consequences. They serve only to prohibit attorneys with little or no criminal appellate experience from representing defendants convicted of crimes which carry an actual or potential maximum prison sentence in excess of 15 years. Attorneys who have handled a total of six felony appeals during the three years immediately preceding their initial application are automatically "grandfathered in" at Level II, i.e., they are eligible for assignment in any case. All other applicants are eligible for assignments only at Level I, i.e., to cases with actual or potential maximum sentences of 15 years or less. But the move to Level II may be made rapidly. A lawyer need only be counsel in two "Level I" appeals within an 18-month period to attain the designation "Level II."

Drawing the line dividing Levels I and II at 15 years is arbitrary and troublesome. It is not suggested that defendants with relatively lower maximum sentences are somehow less deserving of effective representation or that their appeals necessarily raise less complex legal issues. The 15-year breakpoint was selected for purely practical reasons. The most common offenses tend to divide between those which carry maximum sentences of 15 years or less, and those which have "floating" maximums (life or any term of years). While the desire to safeguard defendants is the paramount object of the entire regulatory scheme, if a sufficient number of cases is not defined as Level I, attorneys may be denied the opportunity to gain the experience required for Level II. If movement from Level I to Level II were thus systematically discouraged, the number of Level II attorneys available for appointment could become inadequate and defendants, as well as lawyers, would suffer. The 15-year demarcation is meant to ensure a large enough pool of Level I appeals while still limiting the assignment of cases involving the most serious offenses and longest sentences to the more experienced appellate counsel.

Subsection (5) exempts staff attorneys employed by the State Appellate Defender Office from having to prove their qualifications as Level II attorneys for two reasons. First, they are by definition not private assigned counsel subject to the operation of the roster. They are prohibited by MCL 780.711-780.719 from accepting outside employment and therefore cannot appear on the roster as individuals. The courts' appointments in the cases they handle are made to the State Appellate Defender Office as an entity, not to them personally. Second, the State Appellate Defender Office has internal hiring and promotional procedures which provide far greater quality control than the assigned counsel system is designed to afford. Pursuant to the statute, assistant defenders must, of course, conform to the minimum standards of performance.

Having achieved eligibility for the roster, an attorney must meet certain minimal requirements in order to remain eligible. Level II attorneys are required to handle at least two felony appeals (assigned or retained) during the two years immediately preceding each eligibility renewal statement. All participating attorneys are expected to complete a course in criminal appellate advocacy. They are also expected to perform those tasks necessary to maintain the assigned counsel system as a whole, e.g., completing case summaries and renewal applications and contributing to the brief bank. Finally, they must continue to represent their clients in conformity with the minimum standards.

Failure to maintain eligibility obviously has significant consequences to the affected attorneys. Due process safeguards are built into the administrative design through the mechanisms of written notices and findings of fact and de novo appeals to the Appellate Defender Commission. It must be remembered, however, that the potential consequences are limited to the attorney's eligibility for criminal appellate assignments. Civil work, criminal trial work, and even retained criminal appeals are not implicated. The ability of the state to set conditions on eligibility for appellate assignments stems from both the state's right to select and pay for attorneys in appointed cases and its responsibility to ensure the effectiveness of counsel it selects to represent indigent defendants. The eligibility criteria and continuing participation requirements selected by the commission are in accord with the recommendations of its predecessor groups. See ABA Standards, 5-2.2; NLADA, pp 239-241; *Report of the Defense Services Committee*, recommendation 10, pp 260-261.

The approved minimum standards for indigent criminal appellate defense services, together with the commentary of the Appellate Defender Commission, are as follows:

1. Counsel shall, to the best of his or her ability, act as the defendant's counselor and advocate, undeflected by conflicting interests and subject to the applicable law and rules of professional conduct.

Commission Comment: The standard was adapted from the ABA Standards for Criminal Justice (2d ed, 1980), 4-1.1(b) and 4-1.1(c) (ABA Standards). It is meant to remind counsel of their ethical and professional responsibilities as the defendant's representative in an adversary system. The United States Supreme Court has emphasized that appellate defense counsel's task is to be an advocate, not amicus curiae. *Anders v California,* 386 US 738, 744; 87 S Ct 1396; 18 L Ed 2d 493 (1967). Speaking for a majority of the Michigan Supreme Court, Justice WILLIAMS has stated: "We hold as a fundamental precept that a lawyer's duty to his client in a criminal case is judged by the same standard regardless of the fact that his client may be indigent. * * * The application of our Code of Professional Responsibility and Canons is not dependent upon the size of the retainer which an attorney receives." *Holt v State Bar Grievance Board,* 388 Mich 50, 60 (1972).

2. Counsel shall not represent more than one of multiple codefendants on appeal regardless of whether the codefendants were jointly or separately tried, unless the codefendants express a preference for joint representation and there is no apparent conflict of interest.

Commission Comment: This standard parallels GCR 1963, 785.4(4), which is intended to avoid conflicts of interest arising from the joint representation of codefendants at trial. Appellate counsel, like trial counsel, must scrupulously avoid being placed in a position where promoting the interests of one client requires minimizing or violating the interests of another client. See *State Appellate Defender v Saginaw Circuit Judge,* 91 Mich App 606 (1979). Just as at trial, arguments about the relative culpability of codefendants may be relevant to claims about the sufficiency of the evidence or the propriety of a sentence. If conflicts of interest are not investigated adequately in advance, defendants may have to face the difficulty of receiving substitute counsel weeks or months after a claim of appeal has been filed. The disrupted attorney-client relationship then must be replaced and substantial time may be added to the appellate process.

3. Except in extraordinary circumstances, counsel shall interview the defendant in person on at least one occasion during the initial stages of representation.

Commission Comment: Client interviews serve numerous purposes. They may reveal significant facts not on the record or even the fact that parts of the record are missing. They may confirm or eliminate claims of error. Interviews serve to alert counsel to circumstances which make dismissing the appeal the defendant's wisest choice. They afford the defendant the opportunity to meet the person upon whose performance his or her future depends. Personal interviews are crucial to establishing the trust and rapport which are the essence of a successful attorney-client relationship. Meeting one's client for a discussion of the case seems on its face to be a fundamental aspect of professional conduct. The commission felt strongly that attorneys must be prepared to visit their clients wherever they may be incarcerated. Compensation for travel expenses must be considered a basic cost of providing assigned appellate counsel. Court of

Appeals judges who responded to a questionnaire also felt that client interviews are important to effective representation on appeal.

4. Counsel shall fully apprise the defendant of the reasonably foreseeable consequences of pursuing an appeal in the particular case under consideration.

Commission Comment: The decision whether or not to appeal belongs to the defendant, but it is a decision that can only be made intelligently with the advice of counsel. In certain circumstances, success on appeal may expose a defendant to the risk of a longer sentence or conviction on higher or additional charges. An attorney who obtains reversal of a client's conviction but fails to foresee that the client will be worse off as a result does not "conscientiously protect his client's interest." *Beasley v United States,* 491 F2d 687, 696 (CA 6, 1974). To help the defendant make a realistic choice about appealing, counsel must explain the nature of the appellate process, the average time involved, the kind of remedies which may result, and the potential disadvantages such remedies may present. In accord see: ABA Standards, 4-8.2; *Stewart v Wainwright,* 309 F Supp 1023 (MD Fla, 1969); *Smotherman v Beto,* 276 F Supp 579, 585 (ND Tex, 1967).

5. In any appeal of right, counsel shall comply with the applicable court rules regarding the timely and proper filing of claims of appeal and shall take any other steps which may be necessary to protect the defendant's right to review.

Commission Comment: Once a defendant chooses to exercise his state constitutional right to appeal, counsel's first duty must be to take the procedural steps necessary to protect the continued existence of that right. Despite their general reluctance to find counsel ineffective, appellate courts have not hesitated to do so when a lawyer's negligence has caused a defendant to lose even the opportunity for an appellate review provided by law. See Const 1963, art 1, §20; GCR 1963, 803; ABA Standards, 4-8.2(b) and 4-8.4(a); *Boyd v Cowan,* 494 F2d 338 (CA 6, 1974); *Chapman v United States,* 469 F2d 634 (CA 5, 1972).

6. Counsel shall promptly request and review all transcripts and lower court records.

Commission Comment: While the necessity to review the record in order to perfect an appeal is self-evident, this standard reminds counsel of two additional points. First, promptness in obtaining and reviewing the record is necessary if all issues are to be researched and all facts clarified in time to prepare a thorough brief. Second, the record includes more than the bare transcript of the trial or guilty plea. Such items as docket entries, charging documents, search warrants, competency and sanity evaluations, judicial orders and presentence reports may reveal or support claims of error. Familiarity with the total record is therefore crucial to effective appellate representation. See GCR 1963, 812, and *Entsminger v Iowa,* 386 US 748; 87 S Ct 1402; 18 L Ed 2d 501 (1967).

7. Counsel shall investigate potentially meritorious claims of error not reflected in the trial court record when he or she is informed or has reason to believe that facts in support of such claims exist.

Commission Comment: Some attorneys feel that appellate representation is bound by the four corners of the record and that there is no place for factual investigation on appeal. Such a

view is belied by GCR 1963, 817.6, which establishes the procedure for developing a record for appeal when the existing record is inadequate to support a claim of error. Information provided by the defendant or trial counsel or unanswered questions raised by the existing record may lead conscientious appellate counsel to the identification of potentially reversible error. This standard does not place on counsel the duty to actively search for every off-record claim that might conceivably be developed. It does, however, require counsel to be alert to the possibility of off-record claims, to verify facts which would be significant if proven, and to investigate circumstances which a criminal lawyer would recognize as potentially prejudicial to his or her client. Ignoring nonrecord claims on appeal when a procedure exists for asserting them is the equivalent of failing to "investigate all apparently substantial defenses" at trial. *Beasley v United States, supra.* See also ABA Standards, 4-4.1.

8. Counsel shall move for and conduct such evidentiary hearings as may be required to create or supplement a record for review of any claim of error not adequately supported by existing records which he or she believes to be meritorious.

Commission Comment: This standard is a necessary corollary to the preceding one. If investigation reveals facts off the record which would support a claim on appeal, it then becomes appellate counsel's duty to develop a testimonial record for review as GCR 1963, 817.6 provides. See *People v Ginther,* 390 Mich 436, 443-444 (1973).

9. Counsel should assert claims of error which are supported by facts of record, which will benefit the defendant if successful, which possess arguable legal merit, and which should be recognizable by a practitioner familiar with criminal law and procedure who engages in diligent legal research.

Commission Comment: The fundamental purpose served by providing counsel on appeal is to interpose between client and court the judgment of a professional familiar with the criminal law, who has assessed the facts and brought to the court's attention any errors which might entitle the defendant to relief. Competent exercise of this professional judgment is the crucial duty owed by appellate counsel to the defendant. The standard does not require that every innovative issue conceivable be raised in every case. It is addressed to the level of competence which can reasonably be expected of a conscientious criminal appellate practitioner who is not a full-time specialist. It does, however, stress the assertion of all arguably meritorious claims rather than the preselection by counsel of the one or two issues which in counsel's own opinion will in fact be successful. The "reasonableness" test of *Beasley v United States, supra,* was expressly adopted by the Michigan Supreme Court in *People v Garcia,* 398 Mich 250, 266 (1976). Although *Beasley* specifically addresses the conduct of trial counsel, its references to the assertion of "all apparently substantial defenses" and to "strategy and tactics which lawyers of ordinary training and skill would not consider competent" are useful and have been applied to appellate counsel. See *Rook v Cupp,* 18 Or App 608; 526 P2d 605 (1974).

Before enunciation of the *Beasley* standard, the Michigan Supreme Court remanded for consideration by the State Bar Grievance Board a defendant's complaint against his assigned appellate counsel. The lawyer had failed to assert as error a claim identical to one then pending consideration by the Supreme Court, even though the defendant himself had pointed out the problem. Emphasizing the need for "proper legal research," the Court found "substantial evidence that suggests the defendant may have been inadequately represented." *Holt v State Bar Grievance*

Board, supra, 62. The California Supreme Court requires appellate counsel to raise "all issues that are arguable." *People v Feggans,* 67 Cal 2d 444, 447; 62 Cal Rptr 419; 432 P2d 21 (1967). The United States Supreme Court has said that indigent defendants must be afforded counsel to argue on appeal "any of the legal points arguable on their merits." *Anders v California, supra.*

10. Counsel should not hesitate to assert claims which may be complex, unique, or controversial in nature, such as issues of first impression, challenges to the effectiveness of other defense counsel, or arguments for change in the existing law.

Commission Comment: This standard complements the preceding one. While recognition of unique or complex issues cannot be required, assertion of such issues when recognized is encouraged. The attorney who, through expertise or inspiration, identifies a claim which may be conceptually difficult or controversial is obligated to pursue it in the defendant's behalf. This standard also specifically cautions appellate lawyers against avoiding legitimate ineffective assistance of counsel claims out of undue deference to their peers. In accord, see ABA Standards, 4-8.6(a) and 4-8.6(b).

11. When a defendant insists that a particular claim be raised on appeal against the advice of counsel, counsel shall inform the defendant that he or she has the right to present that claim to the appellate court *in propria persona*. Should the defendant choose to proceed in such manner, counsel shall provide procedural advice and such clerical assistance as may be required to conform the defendant's pleadings for acceptability to the court.

Commission Comment: This standard is the product of three strongly felt concerns. One is that the case belongs to the defendant and clients should not be foreclosed from the opportunity to act upon disagreements with their professional representatives. Nonindigent defendants who wish to have particular claims asserted are able to select retained counsel based upon the lawyer's willingness to comply with their wishes. Indigent defendants should at least be provided the aid minimally necessary to present such claims by themselves. The second concern is that in every dispute between defendants and lawyers about the merits of a claim, the defendant is not necessarily wrong. *Holt v State Bar Grievance Board, supra,* is a case on point. This standard is intended to protect not only the defendant's dignity, but his or her right to prevent meritorious claims from being buried by an attorney's mistake. On the other hand, the attorney's role is to exercise professional judgment, and appellate counsel cannot be required to pursue claims which he or she had in good faith rejected as lacking any arguable merit. Counsel is only expected to provide such assistance as an indigent client, particularly one who is incarcerated, may reasonably need to place such claims before the court. The commission anticipates that compliance with other standards, particularly those that serve to promote trust and rapport between attorney and client, will result in this standard being implemented infrequently.

12. Assigned counsel shall not take any steps towards dismissing an appeal for lack of arguably meritorious issues without first obtaining the defendant's informed written consent.

Commission Comment: This standard addresses the situation where, based on the advice of counsel that no arguable grounds for relief exist, the defendant agrees to dismiss his or her appeal. Unlike cases in which an *Anders* brief is filed or a brief raising some but not all potential claims is submitted, a stipulation dismissing an appeal results in no judicial review on the merits. Nor does it result in substitution of counsel. The defendant's right to appeal is simply abandoned.

The decision to dismiss, like the decision to proceed, is ultimately the client's. Thus, counsel is prohibited from taking any unilateral action to dismiss. Counsel is obligated to be certain that the defendant understands what dismissal means and why it is being recommended. All relevant legal and factual considerations should be explored. The defendant's questions about any aspect of the proceedings which led to conviction should be answered. The practice of obtaining written consent protects the lawyer as well as the client. See ABA Standards, 4-8.2(a) and 4-8.3.

13. Counsel should seek to utilize publicly funded support services designed to enhance their capacity to present the law and facts to the extent that such services are available and may significantly improve the representation they can provide.

Commission Comment: This standard encourages counsel to avail themselves of publicly funded defense support services, *e.g.*, the Legal Resources Project, investigative services, expert witness files. To the extent that services are provided at state expense in order to equalize the opportunities of indigent and nonindigent defendants, clients should not be denied the benefits of these services by the ignorance or negligence of attorneys who have also been provided at public expense.

14. Counsel shall be accurate in referring to the record and the authorities relied on in both written and oral presentations to the court.

Commission Comment: Accuracy is, of course, required by both court rule and professional ethics. Counsel's personal reputation for accuracy may also affect the credence given by the court to defendants' cases. Court of Appeals judges responding to a questionnaire ranked accurate representation of the facts as the most crucial aspect of appellate representation and accurate representation of the law as only marginally less crucial. See also GCR 1963, 813, and ABA Standards, 4-8.4(b).

15. Counsel shall comply with all applicable court rules regarding the timely filing of pleadings and with such other timing requirements as may be specified by the court in a particular case.

Commission Comment: It is apparent that minimum performance must include compliance with court rules and orders specifying filing dates for pleadings, hearing dates, etc. Failure to comply can have consequences to the defendant ranging from loss of oral argument to dismissal of the appeal for lack of progress. See GCR 1963, 815-819.

16. Counsel should request and appear for oral argument. In preparation for oral argument counsel shall review the briefs of both parties, file supplemental pleadings as warranted, and update his or her legal research.

Commission Comment: While opinions vary about the extent to which oral arguments affect the outcome of most appeals, defendants are entitled to have their attorneys pursue every available avenue of persuasion. Argument provides the opportunity for counsel to present recent cases, counter the prosecution's position, and answer the court's questions. Utilizing this opportunity obviously depends upon preparation. At the other extreme, counsel's failure to appear

not only precludes these potential benefits but diminishes the apparent seriousness of claims which the defendant's own lawyer does not think worthy of argument.

17. Counsel shall keep the defendant apprised of the progress of the case and shall promptly forward to the defendant copies of pleadings filed in his or her behalf and orders and opinions issued by the court in his or her case.

Commission Comment: Assigned criminal appellate defense counsel represent poor clients who are usually in prison. It is an inherently unequal relationship, with the clients having little control over, and limited access to, their lawyers. It is easy for well-intentioned but busy attorneys to lose sight of the significance of a particular appeal to an individual defendant. Correspondence may be put off, phone calls unanswered, delays left unexplained. This standard reminds counsel that their clients are wholly dependent upon them for information and requires them to minimize their client's inevitable anxieties by providing such information as it becomes available. It also ensures that defendants will have the opportunity to assess the work being performed on their behalf and to express satisfaction or dissatisfaction at appropriate times on an informed basis. In accord see ABA Standards, 4-3.8, and NLADA, p 353.

18. Upon disposition of the case by the court, counsel shall promptly and accurately inform the defendant of the courses of action which may be pursued as a result of that disposition, and the scope of any further representation counsel will provide.

Commission Comment: This standard requires appellate attorneys to complete the tasks of the counselor as well as those of the advocate. It prohibits abrupt abandonment of the attorney-client relationship upon judicial disposition of the case without due regard to the defendant's need for information and guidance. It does not require counsel to provide legal representation beyond the scope of the original order of appointment. It does assume that the original order includes a responsibility to explain the consequences of the representation already provided. When appropriate, the means and advisability of pursuing such avenues as applications to the Supreme Court or habeas corpus petitions in federal court should be discussed. Clients who have had their convictions reversed and are awaiting retrial should be represented by appellate counsel until it is clear that no further appeals will occur and trial counsel has been obtained. The goal of the standard is to prevent defendants from losing potential sources of relief because they have been left ignorant of available procedures. See ABA Standards, 4-8.5

19. At whatever point in the postconviction proceedings counsel's representation terminates, counsel shall cooperate with the defendant and any successor counsel in the transmission of records and information.

Commission Comment: This standard merely reminds counsel that even after the attorney-client relationship has been terminated certain ethical obligations remain. To the extent that counsel possesses transcripts, documents or information which the defendant needs to pursue other avenues of relief, counsel has the duty to transmit them promptly and fully at the defendant's request.

20. Counsel shall not seek or accept fees from the defendant or from any other source on the defendant's behalf other than those authorized by the appointing authority.

Commission Comment: Throughout their discussions commission members expressed deep concern about the low rates at which assigned counsel are compensated. Individuals interested in a defendant's welfare occasionally approach appointed attorneys offering supplemental fees as an incentive to hard work. Recognizing the inevitable temptation such offers present, the commission believed that the obvious ethical point made by this standard was worthy of separate attention.

To provide adequate notice of the Court's approval of the minimum standards for indigent criminal defense services, the minimum standards will apply to all counsel appointed to represent indigents on appeal after February 1, 1982.

We repeat here that the implementation of the regulations governing the system for appointment of appellate counsel for indigents in criminal cases requires legislative appropriation of funds sufficient to operate the system. In such event, another administrative order will be promulgated implementing the system and requiring adherence to it.

We further note that the comments of the commission are not a construction by the Court. The comments represent the views of the commission.

AO No. 1983-2 — Construction, Remodeling, or Renovation of Court Facilities

[Entered March 2, 1983.]

The Court has received and reviewed the recommendation of the Courthouse Study Advisory Committee which urges the adoption of the Guidelines contained in *Volume I* of *The Michigan Courthouse Study,* pp 53-171. The Court finds that the guidelines reflect sound principles of court facility planning and design, application of which can greatly improve the functioning of Michigan's courts.

Accordingly, all courts and communities planning for and carrying out either construction, remodeling, or renovation of court facilities are urged to use the guidelines.

AO No. 1983-3 — [Rescinded] Sentencing Guidelines

[Entered March 28, 1983; rescinded February 6, 2007.]

AO No. 1983-7 — Additional Copy of the Order or Opinion In a Criminal Case

[Entered October 7, 1983.]

On order of the Court, effective immediately, the clerk of the Court of Appeals is directed to provide an additional copy of any order or opinion disposing of an appeal in a criminal case to the defendant's lawyer if the defendant was represented by counsel. Counsel shall thereupon forward the additional copy to the defendant.

AO No. 1985-3 — Appellate Assigned Counsel: Rules and Standards

[Entered February 8, 1985; superseded by AO 2017-3, entered November 15, 2017.]

On order of the Court, this Court having previously issued Administrative Order 1981-7 concerning regulations governing a system for appointment of appellate counsel for indigents in criminal cases and standards for indigent criminal appellate defense services and having indicated therein that a further administrative order would be ultimately forthcoming, Now therefore, on further consideration of this matter by the Court, it is hereby ordered that our prior approval of the standards for indigent criminal appellate defense services is affirmed. On the question of the regulations governing a system for appointment of appellate counsel for indigents in criminal cases, the Court is persuaded that 1978 PA 620 confides the development of such a system to the Appellate Defender Commission and not to this Court.

AO No. 1985-5 — Juvenile Court Standards and Administrative Guidelines for the Care of Children

[Entered April 30, 1985.]

On order of the Court, the *Juvenile Court Standards and Administrative Guidelines* for the Care of Children as recommended by the Michigan Probate and Juvenile Court Judges Association are adopted effective May 1, 1985, expiring May 1, 1987. The State Court Administrative Office is to assess the effect of these standards on the Juvenile Court and provide a report to the Supreme Court by December 30, 1986.

[Text as modified by AO No. 1988-3 on April 29, 1988, and by order of May 19, 2009, effective September 1, 2009.]

Pursuant to Administrative Order No. 1985-5, this Court adopted the *Juvenile Court Standards and Administrative Guidelines for the Care of Children,* as amended by Administrative Order No. 1988-3. We now order that the *Juvenile Court Standards and Administrative Guidelines* continue in effect, as modified below, until the further order of this Court:

Juvenile Court Standards and Administrative Guidelines for the Care of Children

I. Court administrators, supervisory personnel, county juvenile officers, probation officers, caseworkers, and personnel of court-operated child care facilities shall meet the following minimum standards in order to qualify for employment, unless the state court administrator grants an exception under I(G). *Desired standards are those preferred qualifications that extend beyond minimal standards but are not required to perform the job function.*

These standards shall apply only to new staff hired by the juvenile court on or after the effective date of these standards. A court employee who is currently in a position that was approved under regulations that preceded the implementation of these standards shall be deemed qualified for that position. A court-appointed person hired after the effective date of these standards shall meet the minimum qualification of these standards for that position.

A. *Court Administrator/Director*

The person in the juvenile court who is directly responsible to the chief or presiding probate judge and who is delegated administrative responsibilities for the operation of the court.

A court administrator, at the time of appointment, shall possess the following qualifications:

1. Education and Experience:

a. Desired Standards:

(1) Master's degree in social sciences, business or public administration, education, criminal justice, a related field that qualifies the person to manage or supervise the delivery of

juvenile services, or a law degree with a minimum of four years of supervisory experience with juvenile court staff.

b. Minimum Standards

(1) Master's degree in social sciences, business or public administration, education, criminal justice, a related field that qualifies the person to manage or supervise the delivery of juvenile services, or a law degree with a minimum of one year of experience working with juvenile court staff or related human service field.

(2) A bachelor's degree in those same areas and two years of supervisory experience working with juvenile court staff or related human services field. (Courts with only one level of supervision may use two years of casework experience in lieu of supervisory experience.)

c. Knowledge, Skills and Abilities

(1) Knowledge of the juvenile justice system and overall children's services programs.

(2) Knowledge of supervisory responsibilities and techniques.

(3) Knowledge of the principles of administrative management.

(4) Knowledge of programs and services provided by governmental agencies and the private sector.

(5) Knowledge of the principles and methods concerned with personal and social problem solving.

(6) Knowledge of the factors concerned in delinquency, neglect and abuse of children.

(7) Knowledge of labor relations and personnel practices.

(8) Ability to develop budgetary matters.

(9) Ability to organize, direct and monitor service delivery work units and coordinate activities with other sections or agencies.

(10) Ability to supervise professional and support staff, evaluate staff performance and assist in staff training.

(11) Ability to develop policy and procedural materials and funding proposals.

(12) Ability to analyze program data and recommend policy and procedural changes and program objectives.

(13) Ability to interpret and effectively communicate administrative and professional policies and procedures to staff, governmental agencies, community organizations, advisory committees and the public.

(14) Ability to speak and write effectively.

B. *Supervisory Personnel*

Those directly responsible for ongoing supervision of professional and support staff providing direct services to children, youth and their families.

A supervisor, at the time of appointment, shall possess the following qualifications:

1. Education and Experience

a. Desired Standards

(1) Master's degree in social work, education, a human service field, or a related field that qualifies the person to manage or supervise the delivery of juvenile services, with one year of professional experience in juvenile court work.

b. Minimum Standards

(1) A bachelor's degree in social sciences, education, a human service field, or a related field that qualifies the person to manage or supervise the delivery of juvenile services, with two years of professional experience with a juvenile court staff or in a child welfare agency.

c. Knowledge, Skills and Abilities

(1) Knowledge of supervisory responsibilities and techniques.

(2) Knowledge of principles, practices and techniques of child welfare work.

(3) Knowledge of family dynamics and the effects of social conditions on family functioning.

(4) Knowledge of factors concerned in delinquency, abuse and neglect of children.

(5) Knowledge of principles and methods concerned with personal and social problem solving.

(6) Knowledge of the juvenile justice system and overall children's services programs including related laws.

(7) Knowledge of labor relations and personnel practices.

(8) Knowledge of organizations, functions and treatment programs for children.

(9) Ability to supervise professional and support staff, evaluate staff performance and assist in staff training.

(10) Ability to speak and write effectively.

(11) Ability to develop child welfare programs with community organizations.

(12) Ability to apply social casework methods to child welfare services.

(13) Ability to interpret and effectively communicate administrative and professional policies and procedures to staff, governmental agencies, community organizations, advisory committees and the public.

C. *Direct Services: Probation Officers/Casework Staff*

The professional staff who work directly with children and their families and other relevant individuals and who are primarily responsible for the development, implementation and review of plans for children, youth and their families.

Each county shall provide for a minimum of one delinquency probation officer/casework staff person (but exclusive of clinical staff and detention home personnel) for every 6,000 (or major fraction thereof) children under 19 years of age in the county.

A probation officer/caseworker, at the time of appointment, shall possess the following qualifications:

1. Education and Experience

a. Desired Standards

(1) Bachelor's degree in social work, criminal justice, education, behavioral sciences, or a related field that qualifies the person to manage or supervise the delivery of juvenile services, with two years of casework experience in juvenile court or a related child welfare agency and must complete the Michigan Judicial Institute certification training for juvenile court staff within two years after date of employment.

b. Minimum Standards

(1) Bachelor's degree in social sciences, education, a related human service field, or a related field that qualifies the person to manage or supervise the delivery of juvenile services, and must complete the Michigan Judicial Institute certification training for juvenile court staff within two years after date of employment.

c. Knowledge, Skills and Abilities

(1) Knowledge of the principles and methods concerned with personal and social problem solving.

(2) Knowledge of factors concerned in delinquency, neglect and abuse of children.

(3) Knowledge of family dynamics and the effects of social conditions on family functioning.

(4) Knowledge of the juvenile justice system and children's services programs.

(5) Knowledge of the principles, procedures and techniques of child welfare work.

(6) Ability to apply social casework methods to child welfare services.

(7) Ability to develop child welfare programs with community organizations.

(8) Ability to relate effectively to the public and individuals on their caseload.

(9) Ability to speak and write effectively.

D. *Administrator of County Child Care Facility*

The person responsible to the chief or presiding probate judge or to the juvenile court administrator and to whom is delegated overall administrative responsibility for the day-to-day operation of county child care facilities operated by the court.

The administrator, at the time of appointment, shall possess the following qualifications:

1. Education and Experience

a. Desired Standards

(1) Master's degree in social work, sociology, psychology, guidance and counseling, education, business administration, criminal justice, public administration, or a related field that qualifies the person to manage or supervise the delivery of juvenile services, and two years of supervisory experience in a juvenile court, public or private child care facility.

b. Minimum Standards

(1) Same as above with a minimum of one year of supervisory experience in a juvenile court, public or private child care facility.

(2) Bachelor's degree in social science, education, human service field, or a related field that qualifies the person to manage or supervise the delivery of juvenile services, and two years of experience in a juvenile court, public or private child care facility.

c. Knowledge, Skills and Abilities

(1) Knowledge of supervisory responsibilities and techniques.

(2) Knowledge of principles and methods concerned with personal and social problem solving.

(3) Knowledge of factors concerned in delinquency, neglect and abuse of children.

(4) Knowledge of family dynamics and effects of social conditions on family functioning.

(5) Knowledge of the juvenile justice system and children's services programs.

(6) Knowledge of child welfare organizations, functions and treatment programs relevant to residential care of children.

(7) Knowledge of group treatment modalities.

(8) Knowledge of labor relations, personnel policies and practices.

(9) Ability to organize, direct and monitor service delivery work units and coordinate activities with other sections or agencies.

(10) Ability to direct, monitor and coordinate several functions of a residential program.

(11) Ability to supervise professional and support staff, evaluate staff performance, and assist in staff training.

(12) Ability to analyze program data and recommend policy and procedural changes and program objectives.

(13) Ability to analyze personal and social data and apply rehabilitative principles within the facility.

(14) Ability to interpret and effectively communicate administrative and professional policies and procedures to staff, governmental agencies, community organizations, advisory committees, and the public.

(15) Ability to speak and write effectively.

E. *Child Care Staff Supervisor*

The child care supervisor is directly responsible for supervision of child care workers in the facility.

The child care supervisor, at the time of appointment, shall possess the following qualifications:

1. Education and Experience

a. Desired Standards

(1)Bachelor's degree in social work, psychology, sociology, education, criminal justice, related human services field, or a related field that qualifies the person to manage or supervise the delivery of juvenile services, with two years of experience with a juvenile court or a public or private child care agency.

b. Minimum Standards

(1) Two years of college in a human services or education field or a related field that qualifies the person to manage or supervise the delivery of juvenile services, and two years of work experience in a child care institution.

c. Knowledge, Skills and Abilities

(1) Knowledge of supervisory responsibilities and techniques.

(2) Knowledge of the principles and methods concerned with personal and social problem solving.

(3) Knowledge of factors concerned in delinquency, abuse and neglect of children.

(4) Knowledge of family dynamics and the effects of social conditions on family functioning.

(5) Knowledge of the juvenile justice system and children's services.

(6) Knowledge of group treatment modalities.

(7) Ability to supervise staff, evaluate staff performance and assist in staff training activities.

(8) Ability to analyze personal and social data and apply rehabilitation principles in a practice setting.

(9) Ability to interpret administrative and professional policies and procedures to staff.

(10) Ability to apply social casework methods to child welfare activity.

(11) Ability to speak and write effectively.

(12) Basic knowledge of first aid and CPR training.

(13) Knowledge of labor relations and personnel practices.

F. *Child Care Worker*

The person who provides direct care of children in the facility.

A child care worker, at the time of appointment, shall possess the following qualifications:

1. Education and Experience

a. Desired Standards

(1) Bachelor’s degree in social sciences, human services, or a related field, that qualifies the person to work with juveniles.

b. Minimum Standards

(1) A high school diploma or its equivalent.

c. Knowledge, Skills and Abilities

(1) Knowledge of appropriate conduct and manners.

(2) Knowledge of potential facility management problems including behavior problems, food services.

(3) Knowledge of potential behavior problems of children and youth.

(4) Ability to provide role model for residents.

(5) Ability to gain the respect, confidence and cooperation of children and youth.

(6) Ability to teach children personal hygiene, proper conduct and household work.

(7) Ability to understand and relate to problem children in a positive manner.

(8) Ability to comprehend and follow oral and written directions.

(9) Basic knowledge of first aid and CPR training within six months after date of employment.

G. *Exceptions*

The state court administrator may authorize a court to hire an employee who does not meet the educational requirements established in these standards if the court provides a reasonable period within which the candidate must meet the educational standards.

H. A bachelor's degree or other post-secondary degree is a degree from a college or university that is accredited by an accrediting body of the Council for Higher Education Accreditation.

II. Contents of Juvenile Court Case Records

A. *Purpose*

A complete case record serves a range of purposes including, but not limited to, the following:

1. Provides an information base for planning and the delivery of services to a youth and family.

2. Provides documentation from which the worker can make appropriate recommendations for placement and services.

3. Provides an information base to assist in transfer of cases between workers and agencies.

B. *Case Record Contents for Youth Under Court Jurisdiction Placed in Their Own Home*

A separate case record shall be maintained for each youth or family under court supervision. Records shall be maintained in a uniform and organized manner and shall be protected against destruction (except as provided by court rule) and damage and shall be stored in a manner that safeguards confidentiality.

1. Records shall be typed or legibly handwritten and shall include as a minimum the following:

a. A report of the original complaint and/or petition and an appropriate social study.

b. Copies of orders of the court regarding the child and family.

c. Individual case plans with time frames where appropriate.

d. Youth record fact sheet containing the following information: child's full name; date and place of birth; sex; religion of parents and child; parents' full names including mother's maiden name; address, dates and place of marriage or divorce; if deceased, date, place and cause of death; names, addresses and birth dates of other children in the family; names and addresses of near relatives; appropriate medical records.

e. Dates of casework visits or contact with child and family. Summary reports of child's progress under care, completed at least semiannually.

f. School reports, including grades, progress reports, and social and psychological reports if available and appropriate.

g. Reports of psychological tests or psychiatric examinations and follow-up treatment, if available.

h. Family financial report where appropriate.

i. Discharge summary and order for discharge.

j. Correspondence.

C. *Case Record Contents for Youth Under Court Jurisdiction in Out-of-Home Placement*

Case records for youth in *out-of-home placements* shall include the *same items as indicated for youth placed in their own home* with the following additions:

1. Individual case plans shall, where appropriate, include:

a. Description of type and appropriateness of the placement.

b. Action steps and goals expected to be accomplished by the agency.

c. Action steps and goals expected to be accomplished by the parents.

d. Action steps and goals expected to be accomplished by the child.

e. Action steps and goals expected to be accomplished by the court worker.

f. Plan for assuring proper care (supervision; review).

g. Plan for regular and frequent visitation between child and parents unless such visits, even if supervised, would not be in the best interest of the child.

h. Time frames for accomplishing elements of the case plan.

2. Record of youth's placements. Name of place, beginning and ending dates of residence.

3. Documentation of emergency medical care authorization.

4. Health record, which includes:

a. Medical history.

b. Documentation of current and prior immunizations.

c. Dental information.

5. Medicaid approval.

6. Governmental benefits and parental support information.

7. Foster care termination summary or residential agency summary.

AO No. 1985-6 — [Rescinded] Court Funding

[Entered December 26, 1985; rescinded by AO No. 1997-6 on August 18, 1997.]

AO No. 1987-1 — Providing Access to Juror Personal History Questionnaires

[Entered February 3, 1987.]

This Court has amended MCR 2.510(C)(2), effective April 1, 1987, to direct the State Court Administrator to develop model procedures for providing attorneys and parties access to juror personal history questionnaires. Individual courts are directed to select and implement one of these procedures within two months after the State Court Administrator notifies the courts of the issuance of the model procedures.

AO No. 1987-2 — [Rescinded] Michigan Uniform System of Citation

[Entered February 6, 1987; effective February 10, 1987; rescinded by AO No. 2006-3, entered March 15, 2006, effective May 1, 2006.]

AO No. 1987-9 — [Rescinded] Selection of Mediators

[Entered December 7, 1987; rescinded February 23, 2006.]

AO No. 1988-2 — [Rescinded] Summary Jury Trials

[Entered April 19, 1988; rescinded February 23, 2006.]

AO No. 1988-3 — Juvenile Court Standards and Administrative Guidelines for the Care of Children

[Entered April 29, 1988. See AO No. 1985-5.]

AO No. 1988-4 — Sentencing Guidelines

[Entered June 7, 1988; rescinded by AO No. 1998-4, entered December 15, 1998, effective January 1, 1999, with respect to cases in which the offense is committed on or after January 1, 1999; text of AO No. 1988-4 as amended July 13, 2005. See also AO No. 1998-4.]

Administrative Order No. 1985-2, 420 Mich lxii, and Administrative Order No. 1984-1, 418 Mich lxxx, are rescinded as of October 1, 1988. The Sentencing Guidelines Advisory Committee is authorized to issue the second edition of the sentencing guidelines, to be effective October 1, 1988. Until further order of the Court, every judge of the circuit court must thereafter use the second edition of the sentencing guidelines when imposing a sentence for an offense that is included in the guidelines.

Whenever a judge of the circuit determines that a minimum sentence outside the recommended minimum range should be imposed, the judge may do so. When such a sentence is imposed, the judge must explain on the record the aspects of the case that have persuaded the judge to impose a sentence outside the recommended minimum range.

AO No. 1989-1 — Film or Electronic Media Coverage of Court Proceedings

[Entered January 13, 1989; effective March 1, 1989; text as amended by order of December 5, 2012, effective January 1, 2013.]

The following guidelines shall apply to film or electronic media coverage of proceedings in Michigan courts:

1. Definitions.

(a) "Film or electronic media coverage" means any recording or broadcasting of court proceedings by the media using television, radio, photographic, or recording equipment.

(b) "Media" or "media agency" means any person or organization engaging in news gathering or reporting and includes any newspaper, radio or television station or network, news service, magazine, trade paper, professional journal, or other news reporting or news gathering agency.

(c) "Judge" means the judge presiding over a proceeding in the trial court, the presiding judge of a panel in the Court of Appeals, or the Chief Justice of the Supreme Court.

2. Limitations.

(a) In the trial courts.

(i) Film or electronic media coverage shall be allowed upon request in all court proceedings. Requests by representatives of media agencies for such coverage must be made in writing to the clerk of the particular court not less than three business days before the proceeding is scheduled to begin. A judge has the discretion to honor a request that does not comply with the requirements of this subsection. The court shall provide that the parties be notified of a request for film or electronic media coverage.

(ii) A judge may terminate, suspend, limit, or exclude film or electronic media coverage at any time upon a finding, made and articulated on the record in the exercise of discretion, that the fair administration of justice requires such action, or that rules established under this order or additional rules imposed by the judge have been violated. The judge has sole discretion to exclude coverage of certain witnesses, including but not limited to the victims of sex crimes and their families, police informants, undercover agents, and relocated witnesses.

(iii) Film or electronic media coverage of the jurors or the jury selection process shall not be permitted.

(iv) A trial judge's decision to terminate, suspend, limit, or exclude film or electronic media coverage is not appealable, by right or by leave.

(b) In the Court of Appeals and the Supreme Court.

(i) Film or electronic media coverage shall be allowed upon request in all court proceedings except for good cause as determined under MCR 8.116(D)(1). Requests by representatives of media agencies for such coverage must be made in writing to the clerk of the particular court not less than three business days before the proceeding is scheduled to begin. A judge has the discretion to honor a request that does not comply with the requirements of this subsection. The court shall provide that the parties be notified of a request for film or electronic media coverage.

(ii) A judge may terminate, suspend, limit, or exclude film or electronic media coverage at any time upon a finding, made and articulated on the record, that good cause requires such action or that rules established under this order or additional rules imposed by the judge have been violated. If a court makes such a finding, it must issue an order that states with particularity the reasons for termination, suspension, limitation, or exclusion of film or electronic media coverage.

(iii) If a judge of the Court of Appeals terminates, suspends, limits, or excludes film or electronic media coverage, the person who requested permission to film or otherwise provide for electronic media coverage may appeal that decision to the Chief Judge of the Court of Appeals. If the Chief Judge affirms the judge's decision, the requester may appeal by leave to the Supreme Court.

3. Judicial Authority. Nothing in these guidelines shall be construed as altering the authority of the Chief Justice, the Chief Judge of the Court of Appeals, trial court chief judges, or trial judges to control proceedings in their courtrooms, and to ensure decorum and prevent distractions and to ensure the fair administration of justice in the pending cause.

4. Equipment and Personnel. Unless the judge orders otherwise, the following rules apply:

(a) Not more than two videotape or television cameras, operated by not more than one person each, shall be permitted in any courtroom.

(b) Not more than two still photographers, utilizing not more than two still cameras each with not more than two lenses for each camera, and related necessary equipment, shall be permitted in any courtroom.

(c) Not more than one audio system for radio and/or television recording purposes shall be permitted in any courtroom. If such an audio system is permanently in place in the courtroom, pickup shall be made from that system; if it is not, microphones and wires shall be placed as unobtrusively as possible.

(d) Media agency representatives shall make their own pooling arrangements without calling upon the court to mediate any dispute relating to those arrangements. In the absence of media agency agreement on procedures, personnel, and equipment, the judge shall not permit the use of film or electronic media coverage.

5. Sound and Light Criteria.

(a) Only television, photographic, and audio equipment which does not produce distracting sound or light shall be utilized to cover judicial proceedings. Courtroom lighting shall be supplemented only if the judge grants permission.

(b) Only still camera equipment which does not produce distracting sound or light shall be employed to cover judicial proceedings. No artificial lighting device of any kind shall be employed with a still camera.

(c) Media agency personnel must demonstrate in advance, to the satisfaction of the judge, that the equipment proposed for utilization will not detract from the proceedings.

6. Location of Equipment and Personnel.

(a) Television camera equipment and attendant personnel shall be positioned in such locations in the courtroom as shall be designated by the judge. Audio and video tape recording and amplification equipment which is not a component of a camera or microphone shall be located in a designated area remote from the courtroom.

(b) Still camera photographers shall be positioned in such locations in the courtroom as shall be designated by the judge. Still camera photographers shall assume fixed positions within the designated areas and shall not move about in any way that would detract from the proceedings.

(c) Photographic or audio equipment may be placed in, moved about in, or removed from, the courtroom only during a recess. Camera film and lenses may be changed in the courtroom only during a recess.

(d) Representatives of the media agencies are invited to submit suggested equipment positions to the judge for consideration.

7. Conferences. There shall be no audio pickup, broadcast or video closeup of conferences between an attorney and client, between co-counsel, between counsel and the judge held at the bench at trial, or between judges in an appellate proceeding.

8. Conduct of Media Agency Personnel. Persons assigned by media agencies to operate within the courtroom shall dress and deport themselves in ways that will not detract from the proceedings.

9. Nonexclusivity. These guidelines shall not preclude coverage of any judicial proceeding by news reporters or other persons who are employing more traditional means, such as taking notes or drawing pictures.

AO No. 1989-2 — [Rescinded] Videotaped Record of Court Proceedings

[Entered February 27, 1989; rescinded by AO No. 1990-7 on October 15, 1990. AO No. 1990-7 was itself later rescinded by order entered December 12, 2006.]

AO No. 1989-3 — *In re* the Appointment of Appellate Assigned Counsel

[Entered March 15, 1989; superseded by AO 2017-3, entered November 15, 2017.]

On order of the Court, 1978 PA 620 authorized the Appellate Defender Commission to develop a system of indigent appellate defense services to include services provided by the Office of the State Appellate Defender and locally appointed private counsel. This legislation also authorized the Commission to compile and keep current a statewide roster of attorneys eligible for and willing to accept appointment by an appropriate court to serve as criminal appellate defense counsel for indigents.

The Legislature provided that the appointment of criminal appellate defense attorneys for indigents was to be made by the trial court from the roster provided by the Commission or should be referred to the Office of the State Appellate Defender. Since that time the Appellate Defender Commission has adopted the Michigan Appellate Assigned Counsel System Regulations. We have examined those regulations, as adopted by the Appellate Defender Commission effective November 15, 1985 and as amended January 28, 1988, and, pursuant to our power of general superintending control over all courts under Const 1963, art 6, § 4, we order the judges of each circuit and of the Recorder's Court of the City of Detroit to comply with § 3 of those regulations. The text of § 3 follows:

(1) The judges of each circuit and of Recorder's Court shall appoint a local designating authority who may be responsible for the selection of assigned appellate counsel from the local list provided by the appellate assigned counsel administrator pursuant to § 2(2) of these regulations and who shall perform such other tasks in connection with the operation of the list as may be necessary at the trial court level.

(a) The designating authority may not be a judge, prosecutor or member of the prosecutor's staff, public defender or member of the public defender's staff, or any attorney in private practice who currently accepts trial or appellate criminal assignments within the jurisdiction.

(b) Circuits which have contracted with an attorney or group of attorneys to provide representation on appeal for indigent defendants shall comply with these regulations within one year after the statewide roster becomes operational.

(2) Appellate assignments shall be made by each trial court only from its local list or to the State Appellate Defender Office except pursuant to § 3(7) of these regulations or an order of an appellate court.

(a) Each trial bench shall review its local list and, within 56 days of an attorney's appearance on that list, shall notify the appellate assigned counsel administrator if it has actual knowledge that the attorney has, within the last three years, substantially violated the Minimum Standards for Indigent Criminal Appellate Defense Services or the Code of Professional Conduct. Each bench shall thereafter notify the administrator of such violations by attorneys on its list within 56 days of learning that a violation has occurred.

(b) Upon receiving notice from a trial court that an attorney has substantially violated the Minimum Standards or the Code of Professional Conduct, the administrator shall promptly review the allegations and take appropriate action. Any determination that an attorney should be removed from the roster shall be made in compliance with § 4(8) of these regulations.

(3) Appellate counsel shall be assigned within 14 days after a defendant submits a timely request.

(4) In each circuit and Recorder's Court, the chief judge shall determine whether appellate assigned counsel are to be selected by the chief judge or by the local designating authority.

(a) If the chief judge chooses to retain the discretion to select counsel, he or she shall personally exercise that discretion in all cases as described in § 3(5).

(b) If the chief judge chooses to delegate the selection of counsel, the local designating authority shall, in all cases, rotate the local list as described in § 3(6).

(5) The chief judge may exercise discretion in selecting counsel, subject to the following conditions:

(a) Pursuant to § 2(2)(d), every third, fourth, or fifth assignment, or such other number of assignments as the Appellate Defender Commission may determine, shall be made to the State Appellate Defender Office. That office may also be assigned out of sequence pursuant to § 3(13) or 3(15).

(b) All other assignments must be made to attorneys whose names appear on the trial court's local list.

(i) The attorney must be eligible for assignment to the particular case, pursuant to § 4(2).

(ii) Where a Level I attorney has received an even-numbered amount of assignments and any other Level I attorney has less than half that number, an assignment shall be offered to each of the latter attorneys before any additional assignments are offered to the former.

(iii) Where a Level II or Level III attorney has received an even-numbered amount of assignments and any other Level II or Level III attorney has less than half that number, an assignment shall be offered to each of the eligible latter attorneys before any additional assignments are offered to the former.

(iv) If an order of appointment is issued and the attorney selected refuses the appointment for any reason not constituting a pass for cause as defined in § 3(6)(c), the assignment shall be counted in the attorney's total.

(6) When directed to select counsel by the chief judge, the local designating authority shall select the attorney to be assigned in the following manner:

(a) The local designating authority shall first determine whether assignment is to be made to the State Appellate Defender Office, to a particular attorney on the local list pursuant to § 3(6)(f), 3(12), or 3(13), or by rotation of the local list.

(i) Pursuant to § 2(2)(d), every third, fourth, or fifth assignment, or such other number of assignments as the Appellate Defender Commission may determine, shall be made to the State Appellate Defender Office. That office may also be assigned out of sequence pursuant to § 3(13) or 3(15).

(ii) An attorney whose name appears on the local list may be selected out of sequence pursuant to § 3(6)(f), 3(12), or 3(13). That attorney's name shall then be rotated to the bottom of the list.

(iii) All other assignments shall be made by rotating the local list.

(b) Local lists shall be rotated in the following manner:

(i) The local designating authority shall identify the first attorney on the list who does not have to be passed for cause and shall obtain an order appointing that attorney from the appropriate trial judge.

(ii) The name of the attorney appointed shall be rotated to the bottom of the local list.

(iii) The names of any attorneys passed by the local designating authority for cause shall remain in place at the top of the list and shall be considered for the next available appointment.

(c) An attorney's name must be passed for cause in any of the following circumstances:

(i) the attorney is not qualified at the eligibility level appropriate to the offense as described in § 4(2). A Level II or III attorney may be assigned a Level I case only if no Level I attorney is available.

(ii) The attorney represented the defendant at trial or plea and no exception for continued representation as specified in § 3(12) is to be made.

(iii) Representation of the defendant would create a conflict of interest for the attorney. Conflicts of interest shall be deemed to exist between codefendants whether they were jointly or separately tried. Codefendants may, however, be represented by the same attorney if they express a preference for such representation under § 3(6)(f) of these regulations, provided that there is no apparent conflict of interest.

(d) An attorney's name may be passed for cause if the defendant has been sentenced only to probation or incarceration in the county jail, and the attorney's office is located more than 100 miles from the trial court.

(e) If the attorney selected thereafter declines appointment for reasons which constitute a pass for cause, the attorney's name shall be reinstated at the top of the list. If the attorney selected

declines the appointment for any other reason, his or her name shall remain at the point in the rotation order where it was placed when the order of appointment was issued.

(f) When the defendant expresses a preference for counsel whose name appears on the local list, and who is eligible and willing to accept the appointment, the local designating authority shall honor it.

(7) Where a complete review of the local list fails to produce the name of an attorney eligible and willing to accept appointment in a particular case, the local designating authority shall refer the case to the appellate assigned counsel administrator for selection of counsel to be assigned from the statewide roster.

(8) When an attorney has declined to accept three consecutive assignments for which the attorney was eligible under these regulations, the local designating authority may request the appellate assigned counsel administrator to remove the attorney's name from the jurisdiction's local list.

(9) The trial court shall maintain, on forms provided by the Appellate Assigned Counsel System, records which accurately reflect the basis on which all assignments have been made, whether by the chief judge or the local designating authority, and shall provide duplicates of those records to the Appellate Assigned Counsel System at regular intervals specified by the administrator.

(10) The local designating authority shall provide copies of each order appointing appellate counsel and written evidence of each defendant's request for counsel, including any waiver executed pursuant to § 3(12).

(11) All assignments other than those made to the State Appellate Defender Office shall be considered personal to the individual attorney named in the order of appointment and shall not be attributed to a partnership or firm.

(12) When the defendant specifically requests the appointment of his or her trial attorney for purposes of appeal and the trial attorney is otherwise eligible and willing to accept the assignment, the defendant shall be advised by the trial judge of the potential consequences of continuous representation. If the defendant thereafter maintains a preference for appellate representation by trial counsel, the advice given and the defendant's waiver of the opportunity to receive new counsel on appeal shall appear on a form signed by the defendant. Appropriate forms shall be supplied to the trial courts by the Appellate Assigned Counsel System.

Where counsel represents the defendant on a currently pending appeal of another conviction, or represented the defendant on appeal of a prior conviction for the same offense, the designating authority may select that attorney out of sequence to conduct a subsequent appeal on the defendant's behalf if that attorney is otherwise eligible and willing to accept the additional appointment.

(14) Where the trial judge determines that a Level I or II case is sufficiently more complex than the average case of its type to warrant appointment of an attorney classified at a higher level than required by § 4(2), the judge shall provide to the chief judge or the local designating

authority a written statement of the level believed to be appropriate and the reasons for that determination. The local designating authority shall, and the chief judge in his or her discretion may, select counsel accordingly.

(15) When, in exceptional circumstances, the complexity of the case or the economic hardship the appeal would cause the county makes the selection of private assigned counsel impractical, the State Appellate Defender Officer may, after confirmation of that office's ability to accept the assignment, be selected for appointment out of sequence. When such an out-of-sequence assignment is made, it shall be treated as a substitute for the next in-sequence assignment the State Appellate Defender Office would have otherwise received.

[Statement by BOYLE, J., appears at 432 Mich cxxvii.]

AO No. 1989-4 — Use of Facsimile Communication Equipment in Mental Health Proceedings

[Entered November 22, 1989.]

On order of the Court, the probate courts for the Counties of Calhoun, Kalamazoo and Oceana are authorized until further order of this Court, to conduct an experimental program which will utilize facsimile communication equipment to transmit petitions, physicians' certificates and other supporting documents from the Kalamazoo Regional Psychiatric Hospital for filing in the aforementioned courts. In all cases, the court will consider the documents filed when they are received by the facsimile equipment, and the court will initiate all notices so that the hearings are held within the time frames required by the Mental Health Code and Rules.

The facsimile documents shall be file-stamped when received and treated like an original, until the original documents are received by mail. If the original is not received within five days, the facsimile documents shall be copied on ordinary paper.

When the original documents are received by mail, the court shall file-stamp the originals with the date they were received and place them in the court file. A statement shall also be placed in the file, itemizing the documents received by facsimile, and indicating the date received. After comparing the facsimile documents with the original documents, the facsimile documents and any copies thereof shall be discarded.

The State Court Administrative Office shall provide assistance in the implementation of the pilot project and shall conduct an evaluation of the experimental program after the individual courts submit a report on the pilot project within 15 days after June 30,1990. The pilot courts shall cooperate with the State Court Administrative Office.

AO No. 1990-1 — [Rescinded] Video Arraignment

[Entered January 4, 1990; amended April 5 and June 27, 1990; rescinded by AO No. 2000-3 on July 18, 2000.]

AO No. 1990-2 — Interest on Lawyer Trust Accounts

[Entered February 21, 1990.]

On order of the Court, Administrative Order No. 1987-3 is vacated and this order replaces it. The provisions of this order are adopted February 21, 1990, effective immediately.

1. Lawyer Trust Account Program. The Board of Trustees of the Michigan State Bar Foundation has been designated and has agreed to organize and administer the Lawyer Trust Account Program.

2. Powers and Duties.

(A) The Board shall have general supervisory authority over the administration of the Lawyer Trust Account Program.

(B) The Board shall receive funds from lawyers' interest-bearing trust accounts established in accordance with MRPC 1.15 of the Code of Professional Conduct and shall make appropriate temporary investments of such funds pending disbursement of them.

(C) The Board shall, by grants and appropriations it deems appropriate, disburse funds as follows:

[See modification pursuant to AO No. 1994-8.]

(1) 10 percent of the net proceeds of the Lawyer Trust Account Program to support programs to promote improvements in the administration of justice, provided that one half of such disbursements shall be to the Michigan Supreme Court to support implementation, within the judiciary, of the recommendations of the Task Force on Gender Issues in the Courts and the Task Force on Racial/Ethnic Issues in the Courts;

(2) 45 percent of the net proceeds of the Lawyer Trust Account Program to support the delivery of civil legal services to the poor; and

(3) 45 percent of the net proceeds of the Lawyer Trust Account Program to fund the appointment of counsel for indigent persons in criminal cases in the following manner:

(a) 25 percent of the net proceeds to fund counsel for indigents in felony cases in circuit courts and the Recorder's Court of the City of Detroit to be distributed by the State Court Administrative Office in accordance with felony caseload statistics maintained by that office;

(b) 20 percent of the net proceeds to fund appointment of counsel to prepare, on behalf of indigent defendants in criminal cases, applications for leave to appeal to the Michigan Supreme Court pursuant to rules to be promulgated by the Court.

(D) The Board shall maintain proper books and records of all Program receipts and disbursements and shall have them audited annually by a certified public accountant. The Board

shall annually within 90 days after the close of its fiscal year cause to be presented an audited financial statement of its Program receipts and expenditures for the year. The statement shall be filed with the clerk of this Court and shall be published in the next available issue of the Michigan Bar Journal.

(E) The Board shall monitor the operation of the Lawyer Trust Account Program, propose to this Court changes in this order or in MRPC 1.15, and may, subject to approval by this Court, adopt and publish such instructions or guidelines not inconsistent with this order which it deems necessary to administer the Lawyer Trust Account Program.

3. Executive Director.

(A) The Board may appoint an executive director of the Lawyer Trust Account Program to serve on a full- or part-time basis at the pleasure of the Board. The executive director shall be paid such compensation as is fixed by the Board.

(B) The executive director shall be responsible and accountable to the Board for the proper administration of this Program.

(C) The executive director may employ persons or contract for services as the Board may approve.

4. Compensation and Expenses of the Board.

(A) The President and other members of the Board shall administer the Lawyer Trust Account Program without compensation, but shall be paid their reasonable and necessary expenses incurred in the performance of their duties.

(B) All expenses of the operation of the Lawyer Trust Account Program shall be paid from funds which the Board receives from the Program.

(C) The Board may borrow from the State Bar of Michigan or a commercial lender monies needed to finance the operation of the Lawyer Trust Account Program from the time it is constituted until the Program becomes operational. Any sum so borrowed shall be repaid, together with interest at prevailing market rates, as promptly as the initial receipts from the Program permit.

5. Disposition of Funds Upon Dissolution. If the Program or its administration by the Michigan State Bar Foundation is discontinued, any Program funds then on hand shall be transferred in accordance with the order of this Court terminating the Program or its administration by the Michigan State Bar Foundation.

AO No. 1990-3 — *In re* Recommendations of the Task Force on Gender Issues in the Courts and the Task Force on Racial/Ethnic Issues in the Courts

[Entered June 12, 1990.]

In September, 1987, the Michigan Supreme Court appointed two nineteen-member task forces to examine the court system and to recommend changes to assure equal treatment for men and women, free from race or gender bias. The task forces were the Task Force on Racial/Ethnic Issues in the Courts and the Task Force on Gender Issues in the Courts.

The task forces submitted their final reports to this Court in December, 1989. They made a total of 167 recommendations for eliminating bias in the courtroom and among court personnel, in professional organizations, and in legal education. Many of these proposals can be implemented fairly quickly. Others will require long-range planning. All merit serious consideration.

This Court is in the process of reviewing all of the recommendations in order to determine the appropriate steps to be taken. We are persuaded upon preliminary examination that several of the proposals ought to be acted upon immediately. Therefore, we direct:

That judges, employees of the judicial system, attorneys and other court officers commit themselves to the elimination of racial, ethnic and gender discrimination in the Michigan judicial system;

That the State Bar of Michigan review the process for this Court's appointment of members of the Board of Commissioners of the State Bar and recommend to this Court whether the process should be changed in order to assure full participation by women and minority lawyers;

That the State Bar of Michigan make recommendations to this Court with regard to the proposals by the task forces that the Rules of Professional Conduct and the Code of Judicial Conduct be amended to specifically prohibit sexual harassment and invidious discrimination;

That members of the State Bar of Michigan support the Michigan Minority Demonstration Project and the American Bar Association Minority Demonstration Project; and

That the Michigan Judicial Institute continue its efforts to eliminate gender and racial/ethnic bias in the court environment through the education of judges, court administrators and others.

This Court is committed to assuring the fair and equal application of the rule of law for all persons in the Michigan court system. To that end, we support the principles that underlie the 167 recommendations that have been made. We are indebted to the thirty-eight men and women who gave of their time and talents to serve on the two task forces, and commend them for their dedication.

AO No. 1990-4 — [Rescinded] Pilot Project for District Court Judges Accepting Guilty Pleas in Felony Cases

[Entered June 27, 1990; rescinded by order entered July 13, 2005, effective January 1, 2006.]

AO No. 1990-7 — [Rescinded] Videotape Record of Court Proceedings

[Entered October 15, 1990; rescinded by order entered December 12, 2006.]

AO No. 1990-8 — Use of Facsimile Communication Equipment in Mental Health Proceedings

[Entered October 22, 1990.]

Until further order of the court, the probate courts in the Kalamazoo Regional Psychiatric Hospital catchment area are authorized to utilize facsimile communication equipment to transmit petitions, physician's certificates and other supporting documents from the Kalamazoo Regional Psychiatric Hospital for filing in the courts.

Participation by the probate courts listed below shall be subject to the discretion of the Chief Judge of the probate court and with the approval of the State Court Administrator.

The probate courts in the Kalamazoo Regional Psychiatric Hospital catchment area are located in the following counties: Allegan, Barry, Benzie, Berrien, Calhoun, Cass, Gratiot, Ionia, Kalamazoo, Kent, Lake, Manistee, Mason, Mecosta, Montcalm, Muskegon, Newaygo, Oceana, Osceola, Ottawa, St. Joseph, and Van Buren.

In all cases, the court will consider the documents filed when they are received by the facsimile equipment, and the court will initiate all notices so that the hearings are held within the time frames required by the Mental Health Code and Rules.

The facsimile documents shall be file-stamped when received and treated like an original, until the original documents are received by mail. If the original is not received within five days, the facsimile documents shall be copied on ordinary paper.

When the original documents are received by mail, the court shall file-stamp the originals with the date they were received and place them in the court file. A statement shall also be placed in the file, itemizing the documents received by facsimile and indicating the date received. After comparing the facsimile documents with the original documents, the facsimile documents and any copies thereof shall be discarded.

The State Court Administrative Office shall assist in the implementation of the use of facsimile equipment in mental health proceedings for those courts electing to participate.

The State Court Administrative Office shall review the pilot projects after the participating courts submit a report within 15 days after November 1, 1991.

AO No. 1990-9 — [Rescinded] Voice and Facsimile Communication Equipment for the Transmission and Filing of Court Documents

[Entered October 22, 1990; rescinded by order entered September 30, 2003, effective January 1, 2004. See MCR 2.406.]

AO No. 1991-1 — Use of Facsimile Communication Equipment in Mental Health Proceedings

[Entered April 10, 1991.]

Until further order of the court, all Michigan probate courts are authorized to utilize facsimile communication equipment to transmit petitions, physician's certificates and other supporting documents from the state regional psychiatric hospitals for filing in the courts.

Participation by Michigan probate courts shall be subject to the discretion of the Chief Judge of the probate court and with the approval of the State Court Administrator.

In all cases, the probate court will consider the documents filed when they are received by the facsimile equipment, and the probate court will initiate all notices so that the hearings are held within the time frames required by the Mental Health Code and Court Rules.

The facsimile documents shall be file-stamped when received and treated like originals, until the original documents are received by mail. If the originals are not received within five days, the facsimile documents shall be copied on ordinary paper.

When the original documents are received by mail, the probate court shall file-stamp the originals with the date they are received and place them in the court file. A statement shall also be placed in the file itemizing the documents received by facsimile and indicating the date received. After comparing the facsimile documents with the original documents, the facsimile documents and any copies thereof shall be discarded.

The State Court Administrative Office shall assist in the implementation of the use of facsimile equipment in mental health proceedings for those courts electing to participate.

The State Court Administrative Office shall review the pilot project after the participating courts submit a report within 15 days after January 1, 1992.

AO No. 1991-2 — [Rescinded] Video Arraignment

[Entered April 30, 1991; rescinded by AO No. 2000-3 on July 18, 2000.]

AO No. 1991-4 — [Rescinded] Caseflow Management

[Entered June 11, 1991; rescinded by AO No. 2003-7, entered December 2, 2003, effective January 1, 2004.]

AO No. 1991-5 — [Rescinded] Pilot Projects for District Court Judges Accepting Guilty Pleas in Felony Cases

[Entered June 25, 1991; rescinded by order entered July 13, 2005, effective January 1, 2006.]

AO No. 1991-7 — Election Procedures for Judicial Members of the Judicial Tenure Commission

[Entered July 29, 1991.]

Administrative Order No. 1980-3 is hereby rescinded, and the following procedure is established for the election of judicial members of the Judicial Tenure Commission.

Each year in which the term of a commissioner selected by the judges of the courts of this state expires, the State Court Administrator shall send a notice to all judges eligible to vote for the commissioner position to be filled that they may nominate judges to fill the position. The notice, with a nominating petition, shall be mailed before July 17, with the instruction that, to be valid, nominating petitions must be filed at the office of the administrator in Lansing before September 1.

For a judge to be nominated petitions must be signed by at least ten judges eligible to vote for the nominee, except that a judge of the Court of Appeals may be nominated by petitions signed by five judges of that court. The administrator shall determine the validity of each nomination.

Before September 20, the administrator shall mail a ballot to every judge eligible to vote. A ballot will not be counted unless marked and returned in a sealed envelope addressed to the office of the administrator in Lansing with a postmark of not later than October 20.

In the event there is only one nominee, a ballot will not be mailed, and the nominee will be declared elected. The State Court Administrator will certify the declared election to the Chief Justice of the Supreme Court, Supreme Court Clerk and Executive Director of the Judicial Tenure Commission before December 15.

The administrator or designee, and three tellers appointed by the administrator, shall canvass the ballots and certify the count to the Supreme Court Clerk before November 1. The nominee receiving the highest number of votes will be declared elected. If there is a tie vote, the administrator shall mail a second ballot, consisting of those nominees receiving the highest count, by November 1.

The second ballot must be marked and returned in a sealed envelope addressed to the office of the administrator in Lansing with a postmark of not later than November 30. The four tellers shall canvass these second ballots and, if a tie vote still results, they shall determine the successful nominee by lot. They shall certify the count or the result of the selection by lot to the Supreme Court Clerk before December 15.

If a vacancy occurs or is impending, the judicial tenure commission shall notify the administrator promptly. The procedure set forth above shall be followed, except that time limits may be shortened to insure that the election occurs within 90 days, and the dates set forth above shall not be applicable.

AO No. 1991-8 — [Rescinded] State Judicial Council

[Entered July 29, 1991; rescinded by order entered February 23, 2006.]

AO No. 1992-1 — [Rescinded] Video Arraignment

[Entered January 17, 1992; rescinded by AO No. 2000-3 on July 18, 2000.]

AO No. 1992-2 — Court of Appeals Docketing Statement

[Entered January 22, 1992; effective April 1, 1992.]

On order of the Court, the Court of Appeals is authorized to require appellants in that Court to file a docketing statement in appeals of right. The Court of Appeals will supply the docketing statement form after the appeal has been filed. This requirement will govern appeals of right filed after April 1, 1992.

AO No. 1992-3 — [Rescinded] Use of Facsimile Equipment in Mental Health Proceedings

[Entered April 3, 1992; rescinded by order entered December 14, 2016, effective immediately.]

AO No. 1992-4 — [Rescinded] State Bar of Michigan Activities

[Entered June 10, 1992; rescinded by AO No. 1993-5, entered July 30, 1993, effective October 1, 1993.]

AO No. 1992-5 — [Rescinded] District Court Judges Accepting Pleas in Felony Cases

[Entered June 30, 1992; rescinded by order entered July 13, 2005, effective January 1, 2006.]

AO No. 1992-6 — Temporary Judges on Court of Appeals Panels

[Entered September 29, 1992.]

On order of the Court, Administrative Order No. 1991-9 is amended to read as follows:

For the purpose of addressing the serious problem of the volume of cases presently awaiting disposition in the Court of Appeals, it is hereby ordered that the provision of MCR 7.201(D) which requires that only one temporary judge may sit on a three-judge panel is suspended. This suspension is for the limited purpose of permitting the assignment of panels of former judges of the Court of Appeals and former justices of the Supreme Court. In all other respects the aforementioned provision of MCR 7.201(D) shall remain in effect. The suspension of MCR 7.201(D) for the limited purpose which is provided for in this order shall be effective until September 30, 1993.

AO No. 1993-1 — Video Arraignment

[Entered January 28, 1993; rescinded by AO No. 2000-3 on July 18, 2000.]

AO No. 1993-2 — *In re* Silicone Gel Implant Product Liability Litigation

[Entered March 31, 1993.]

On order of the Court, it appearing that a large number of actions have been filed alleging personal injuries due to silicone gel implant devices, and that coordination of pretrial proceedings in those cases will promote the economical and expeditious resolution of that litigation, pursuant to Const 1963, art 6, § 4, we direct all state courts to follow the procedures set forth in this administrative order.

1. This order applies to all pending and future personal injury silicone gel implant product liability actions pending or to be filed in Michigan courts other than the Third Judicial Circuit. For the purposes of this order, "silicone gel implant product liability actions" include all cases in which it is alleged that a party has suffered personal injury or economic loss caused by any silicone gel implant, regardless of the theory of recovery. Until the transfer of the action under paragraph 2 of this order, the parties to such an action shall include the words "Implant Case" on the top right-hand corner of the first page of any papers subsequently filed in this action.

2. Each court in which a silicone gel implant product liability action is pending shall enter an order changing venue of the action to the Third Judicial Circuit within 14 days of the date of this order. Upon the filing of a new silicone gel implant product liability action, the court shall enter an order changing venue to the Third Judicial Circuit within 14 days after the action is filed. The court shall send a copy of the order to the State Court Administrator. A party who objects to the transfer of an action under this paragraph may raise the objection by filing a motion in the Third Judicial Circuit. Such a motion must be filed within 14 days after the transfer of the action. Nothing in this order shall be construed as a finding that venue is proper in Wayne County.

3. Proceedings in each action transferred under this order shall be conducted in accordance with the Initial Case Management Order entered in Third Circuit Civil Action Number 93-302061 NP on February 8, 1993, and such further orders as may be entered by the Third Judicial Circuit. The Third Judicial Circuit shall cooperate with the State Court Administrator in monitoring the proceedings in the actions. Orders entered by the court in which the action was originally filed that are inconsistent with orders entered by the Third Judicial Circuit are superseded.

4. After the close of discovery, the Third Judicial Circuit shall conduct a settlement conference or conferences. If settlement is not reached as to all claims, the Third Judicial Circuit shall enter an order changing venue to the court in which the action was originally filed, or if appropriate to some other court, for further proceedings. A copy of the order shall be sent to the State Court Administrator.

5. Depositions taken in *In re Silicone Gel Breast Implants Products Liability Litigation* (MDL-926), Master File No. CV 92-P-10000-S (ND Ala) (hereinafter MDL), may be used in any actions governed by Third Judicial Circuit case management orders as provided in this paragraph notwithstanding that they were not taken in these actions. Such depositions may be used against a party in a Michigan state court action who is not also a party in an MDL proceeding only if the party proposing to use the MDL deposition gives written notice of that intention.

The notice shall specifically designate the portions of the MDL deposition to be used and the noticing party must provide a transcript of the testimony being offered and a copy of the videotape of the deposition, if any, to the party against whom the deposition is proposed to be offered. That party may file a motion for further examination of the MDL witness, specifying the subjects as to which further examination is sought. If the motion is granted, the further deposition of the MDL witness may cover only those subjects designated in the order. The judge of the Third Judicial Circuit shall specify the times within which notices and motions under this paragraph may be filed.

6. If discovery proceedings have been conducted in an action prior to a transfer under this order, those discovery materials remain part of the record in the action in which they were produced, and may be used in further proceedings where otherwise appropriate notwithstanding the transfer under this rule. The materials are not part of the record in other cases governed by Third Judicial Circuit case management orders.

7. MCR 2.222, MCR 2.223, and MCR 2.224 do not apply to changes of venue pursuant to this order.

AO No. 1993-3 — [Rescinded] Pilot Project to Implement the Recommendations of the Commission on Courts in the 21st Century

[Entered March 31, 1993; rescinded by AO No. 2004-2, entered April 28, 2004, effective August 1, 2004.]

AO No. 1993-5 — [Rescinded] State Bar of Michigan Activities

[Entered July 30, 1993; rescinded by AO No. 2004-1, entered February 3, 2004.]

AO No. 1994-2 — [Rescinded] Facsimile and Communication Equipment for the Filing and Transmission of Court Documents

[Entered February 3, 1994; rescinded by order entered September 30, 2003, effective January 1, 2004. See MCR 2.406.]

AO No. 1994-4 — [Rescinded] Resolution of Conflicts in Court of Appeals Decisions

[Entered April 27, 1994; repealed, effective September 1, 1997. See MCR 7.215(H).]

AO No. 1994-5 — [Rescinded] Probate Fee Schedule

[Entered June 6, 1994; effective July 1, 1994; rescinded by AO No. 1995-2, effective July 1, 1995.]

AO No. 1994-6 — Reductions in Trial Court Budgets by Funding Units

[Entered September 9, 1994; effective September 16, 1994.]

On order of the Court, it appearing that a number of court funding units have reduced their original appropriations for the courts for the current fiscal year, this administrative order, applicable to all trial courts as defined in MCR 8.110(A), is adopted effective September 16, 1994.

1. If a court is notified by its funding unit of a reduction of the original appropriation for the court for the current fiscal year, the court shall immediately file a copy of that notice with the State Court Administrative Office.

2. Within 10 days after filing the notice, the chief judge must provide the following to the State Court Administrative Office Regional Administrator:

a. A copy of the court's original budget.

b. A copy of a revised budget in light of the reduced appropriation.

c. A statement of the amount of the reduction in court revenue by source, and a statement of anticipated revenues for the remainder of this fiscal year by source.

d. A budget reduction plan to reduce court operations in light of anticipated reductions in revenue, and an impact statement describing,

i. Any anticipated reduction in the trial court work force that would be required.

ii. Any anticipated reduction in court hours that would be required.

iii. Any anticipated reductions in revenues that are anticipated, by source and by recipient.

iv. The impact on other entities that would occur, including at a minimum potential service reductions, work flow backlogs, and revenue shortfalls. Other entities to be reviewed should include, at a minimum, the youth home (if any), the local jail, the prosecuting attorney (county and municipal), local law enforcement agencies, community mental health agencies, and county clerk's office.

v. The schedule to be used for implementing reductions and for distributing notices to employees, other agencies, etc., and the date funds are estimated to be depleted under the revised budget plan.

e. An emergency services plan which outlines what services are essential and must be provided by the court. The emergency services plan should consider services which at a minimum will preserve rights guaranteed by the Michigan and U.S. Constitutions, and those guaranteed by statute.

If a copy of such a notice of reduction of appropriation has already been sent to the State Court Administrative Office, the additional information required by this section must be provided within 10 days of the effective date of this order. The State Court Administrative Office may grant an extension of time in its sole discretion.

3. After reviewing the revised budget and impact statement a designee of the State Court Administrator shall meet with the chief judge to discuss implementation of the plan and any anticipated need for assistance from other courts to assure provision of emergency services. Thereafter, the implementation of the plan shall begin immediately.

4. The State Court Administrative Office shall monitor the implementation of the plan. The chief judge shall notify the SCAO when budgeted funds are anticipated to be depleted and the date the emergency services plan filed pursuant to this order will be implemented.

5. The State Court Administrator shall reassign sitting judges as necessary to ensure as nearly as possible the maximum use of judicial resources in light of reduced operations, and to assist in the provision of emergency services to affected trial courts.

6. The procedures set forth in Administrative Order No. 1985-6 are not affected by this order and must be followed before the court may institute litigation against the funding unit.

AO No. 1994-8 — Allocation of Funds From Lawyer Trust Account Program

[Entered October 4, 1994; text as amended by orders entered on October 12 and 13, 1994.]

On order of the Court, effective October 4, 1994, until further order of the Court, Administrative Order No. 1990-2 is modified so as to provide that the funds to be distributed by the Board of Trustees of the Michigan State Bar Foundation shall be disbursed as follows:

1. 50 percent of the net proceeds of the Lawyer Trust Account Program to support the delivery of civil legal services to the poor;

2. 20 percent of the net proceeds of the Lawyer Trust Account Program for criminal indigent services and other purposes which the Supreme Court deems appropriate;

3. 15 percent of the net proceeds of the Lawyer Trust Account Program to support programs to promote improvements in the administration of justice;

4. 10 percent of the net proceeds of the Lawyer Trust Account Program to support implementation, within the judiciary, of the recommendations of the Task Force on Gender Issues in the Courts and the Task Force on Racial/Ethnic Issues in the Courts; and

5. 5 percent of the net proceeds of the Lawyer Trust Account Program to support the activities of the Michigan Supreme Court Historical Society.

Administrative Order No. 1991-10 is rescinded.

AO No. 1994-9 — Suspension of Interest on Delinquent Costs Imposed in Attorney Discipline Proceedings

[Entered November 16, 1994.]

The Attorney Discipline Board has proposed that a 60-day period be provided during which interest would not be assessed on costs paid by suspended or disbarred attorneys who are in default on their obligations to pay costs in connection with discipline proceedings. On order of the Court, we authorize the Attorney Discipline Board to notify persons delinquent in payment of costs that interest will not be assessed if the costs are paid within 60 days of the date of the notice.

AO No. 1994-10 — Discovery in Criminal Cases

[Entered November 16, 1994; effective January 1, 1995.]

On May 4, 1994, the Governor signed House Bill 4227, concerning discovery by the prosecution of certain information known to the defendant in a criminal case. 1994 PA 113, MCL 767.94a; MSA 28.1023(194a). On November 16, 1994, this Court promulgated MCR 6.201, which is a comprehensive treatment of the subject of discovery in criminal cases.

On order of the Court, effective January 1, 1995, discovery in criminal cases heard in the courts of this state is governed by MCR 6.201 and not by MCL 767.94a; MSA 28.1023(194a). Const 1963, art 6, § 5; MCR 1.104.

AO No. 1994-11 — Summary Jury Trial

[Entered December 21, 1994.]

On order of the Court, the provisions of Administrative Order No. 1988-2, regarding a summary jury trial procedure, are continued in effect until June 30, 1995.

AO No. 1995-1 — Temporary Judges on Court of Appeals Panels

[Entered January 31, 1995.]

On order of the Court, the terms and conditions of Administrative Order No. 1992-6 are continued in effect until October 1, 1995. This Court will, in the near future, appoint a committee to examine the continuing need for use of judges, other than sitting Court of Appeals judges, to assist the Court of Appeals in processing its caseload. The committee will be asked to report its findings to this Court no later than June 1, 1995.

AO No. 1995-2 — [Rescinded] Probate Court Fee Schedule

[Entered June 7, 1995; effective July 1, 1995; rescinded by order entered March 23, 2004.]

AO No. 1995-3 — Summary Jury Trial

[Entered June 30, 1995.]

On order of the Court, the provisions of Administrative Order No. 1988-2, regarding a summary jury trial procedure, are continued in effect until June 30, 1997.

AO No. 1995-4 — Temporary Judges on Court of Appeals Panels

[Entered August 18, 1995.]

On order of the Court, the terms and conditions of Administrative Order No. 1992-6 are continued in effect until December 31, 1995.

AO No. 1995-5 — Reciprocal Visiting Judge Assignments for Judges of the Third Judicial Circuit and Recorder's Court of the City of Detroit

[Entered October 10, 1995.]

On order of the Court, Administrative Order No. 1986-1 is rescinded, effective immediately. In addition, Joint Administrative Order No. 1986-1 for the Third Judicial Circuit Court and the Recorder's Court for the City of Detroit and Joint Local Court Rule 6.102 for the Third Judicial Circuit and Recorder's Court for the City of Detroit are vacated effective immediately.

AO No. 1995-6 — Temporary Judges on Court of Appeals Panels

[Entered November 3, 1995.]

On order of the Court, the terms and conditions of Administrative Order No. 1992-6 are extended until March 31, 1996.

AO No. 1996-1 — [Rescinded] Authorization of Demonstration Projects to Study Court Consolidation

[Entered March 20, 1996; effective January 1, 1996; rescinded by AO No. 2004-2, entered April 28, 2004, effective August 1, 2004.]

AO No. 1996-2 — [Rescinded] Authorization of Demonstration Projects to Study Court Consolidation

[Entered March 20, 1996; effective January 1, 1996; rescinded by AO No. 2004-2, entered April 28, 2004, effective August 1, 2004.]

AO No. 1996-3 — Temporary Judges on Court of Appeals Panels

[Entered March 22, 1996.]

On order of the Court, the terms and conditions of Administrative Order No. 1992-6 are extended until September 30, 1996.

RILEY, J., would not extend the terms and conditions of Administrative Order No. 1992-6.

AO No. 1996-4 — Resolution of Conflicts in Court of Appeals Decisions

[Entered April 23, 1996.]

On order of the Court, the terms and conditions of Administrative Order No. 1994-4 are continued in effect until the further order of this Court.

AO No. 1996-5 — [Rescinded] Authorization of Demonstration Projects to Study Court Consolidation

[Entered April 25, 1996; effective January 1, 1996; rescinded by AO No. 2004-2, entered April 28, 2004, effective August 1, 2004.]

AO No. 1996-6 — [Rescinded] Authorization of Demonstration Projects to Study Court Consolidation

[Entered May 2, 1996; effective January 1, 1996; rescinded by AO No. 2004-2, entered April 28, 2004, effective August 1, 2004.]

AO No. 1996-7 — [Rescinded] Authorization of Demonstration Projects to Study Court Consolidation

[Entered May 6, 1996; effective January 1, 1996; rescinded by AO No. 2004-2, entered April 28, 2004, effective August 1, 2004.]

AO No. 1996-8 — Election of Members of the State Bar Board of Commissioners and the Representative Assembly

[Entered May 14, 1996.]

On order of the Court, for the purpose of the 1996 election of members of the State Bar Board of Commissioners and the Representative Assembly, the deadlines expressed in State Bar Rules 5, § 4 and 6, § 4 are extended as follows: Petitions are to be filed by May 31, 1996; ballots are to be mailed to everyone entitled to vote by June 17, 1996; ballots are to be returned bearing a postmark date not later than July 1, 1996. This administrative order governs the 1996 election only.

AO No. 1996-9 — [Rescinded] Authorization of Demonstration Projects to Study Court Consolidation

[Entered May 31, 1996; effective January 1, 1996; rescinded by AO No. 2004-2, entered April 28, 2004, effective August 1, 2004.]

AO No. 1996-10 — Temporary Judges on Court of Appeals Panels

[Entered August 22, 1996.]

On order of the Court, the terms and conditions of Administrative Order No. 1992-6 are extended until March 31, 1997.

AO No. 1996-11 — [Rescinded] Hiring of Relatives by Courts

[Entered November 8, 1996; effective December 1, 1996; rescinded by AO No. 2016-5, entered December 7, 2016, effective January 1, 2017.]

AO No. 1997-1 — [Rescinded] Implementation of the Family Division of the Circuit Court

[Entered February 25, 1997; rescinded by AO No. 2003-2, entered January 28, 2003.]

AO No. 1997-2 — Suspension of License to Practice Law

[Entered April 1, 1997.]

On order of the Court, in light of 1996 PA 236, 1996 PA 238 and 1996 PA 239, we authorize circuit courts to issue suspensions of licenses to practice law subject to the conditions specified in the above-mentioned legislative enactments. The order shall be effective upon entry by the circuit court. The Office of the Friend of the Court shall send a copy of the suspension order or rescission of a prior suspension order to the Clerk of the Supreme Court, the State Court Administrative Office, the State Bar of Michigan, the Attorney Grievance Commission, and the Attorney Discipline Board.

AO No. 1997-3 — [Rescinded] Assignment of Medical Support Enforcement Matters to the Third Circuit for Discovery Purposes

[Entered May 27, 1997; rescinded by AO No. 1999-1, entered January 21, 1999.]

AO No. 1997-4 — Appointment of Executive Chief Judge for Third Circuit Court and Recorder's Court; Establishment of Executive Committee

[Entered June 4, 1997.]

On order of the Court, it appearing that the administration of justice would be served by the appointment of an Executive Chief Judge to oversee the administration of the Third Circuit Court and Recorder's Court in order to facilitate the orderly transition to a single court; it is ordered that the Honorable Michael F. Sapala is appointed as Executive Chief Judge of the Third Circuit and Recorder's Courts, effective immediately.

The Executive Chief Judge of the Third Circuit Court and Recorder's Court has all of the responsibility and authority of chief judge pursuant to Michigan Court Rule 8.110 and as otherwise indicated in the Michigan Court Rules.

The Chief Judge of the Recorders Court and Chief Judge of the Third Circuit Court shall continue to have responsibility for docket management, facilities and security, day to day management of personnel, budget and purchasing activity, and other responsibilities delegated by the Executive Chief Judge.

It is further ordered, that effective October 1, 1997, the Honorable Michael F. Sapala shall be the Chief Judge of the Third Circuit Court.

It is further ordered, effective immediately, that an executive committee of the Third Circuit Court and Recorder's Court is established to provide assistance to the Executive Chief Judge in developing administrative policy. The Chief Justice shall appoint members of the executive committee from the benches of the Third Circuit Court and Recorder's Court. Effective October 1, 1997, and until further order of this Court, the executive committee shall serve the Third Circuit Court, and shall provide assistance to the Chief Judge of the Third Circuit Court.

AO No. 1997-5 — [Rescinded] Defenders—Third Circuit Court

[Entered July 25, 1997; rescinded by order entered September 18, 2019.]

AO No. 1997-6 — [Rescinded] Chief Judge Responsibilities; Local Court Management Councils; Disputes between Courts and Their Funding Units or Local Court Management Councils

[Entered August 18, 1997; rescinded by AO No. 1998-5, entered December 28, 1998.]

AO No. 1997-7 — Establishment of Child Support Coordinating Council

[Entered October 23, 1997; for later history, see AO No. 2002-1, which reconstituted the Council. AO No. 2002-1 was later rescinded by Administrative Order 2011-2.]

On order of the Court, the following order is effective immediately.

As part of its adjudication of domestic relations and juvenile cases, the judicial branch of government plays an integral role in the delivery of programs affecting Michigan's families, including those involving child support. Recognizing the importance of the judiciary role in family matters, this Court has previously directed the issuance of requirements and guidelines for the implementation and operation of the family division of the circuit court.

The Court recognizes the importance of meeting its unique responsibilities toward Michigan's families in the most effective manner. Therefore, the Judiciary seeks to complement its independent adjudicative authority with the ability to provide seamless and cost effective service to the public through greater direct coordination with the executive branch of government concerning programs affecting families. To that end, we now direct, in partnership with the executive branch of government, that an interbranch council be formed to provide coordination regarding Michigan's child support program.

It is therefore ordered, concurrent with the Executive Order issued today by Governor John Engler, that the Child Support Coordinating Council is established.

The Council is advisory in nature and is charged with the following responsibilities:

1. To establish statewide program goals and objectives for the child support program.

2. To review and recommend child support program policy.

3. To share information on program issues.

4. To analyze and recommend state positions on pending and proposed changes in court rules and federal and state legislation.

The Council shall consist of ten (10) members, five (5) appointed by the Governor, one of whom shall be the Director of the Office of Child Support in the Family Independence Agency, and five (5) appointed by the Chief Justice, one of whom shall be the State Court Administrator. The Director of the Child Support Enforcement System shall be an ex-officio member.

The term of appointment is two years, except that of those first appointed, two appointees of the Governor and three appointees of the Chief Justice shall be appointed to a term of one year. Reappointment is at the discretion of the respective appointing authorities.

Chairmanship of the Council shall rotate in alternate calendar years. The Director of the Office of Child Support shall serve as chairperson in even-numbered years and the State Court

Administrator shall serve as chairperson in odd-numbered years. When not serving as Chair of the Council, the Director or Administrator shall serve as Vice-Chair of the Council.

The Council shall meet quarterly or more frequently as the Council deems necessary. The Chair shall organize the time and location of meetings and facilitate the conduct of the meetings. The Chair will develop an agenda for each meeting to which the Vice-Chair may contribute.

By-laws for the operation of the Council shall be developed and approved by the membership.

Policy changes due to federal or state law changes will be brought to the Council by either the Office of Child Support or by the State Court Administrative Office or submitted to the Chair or Vice-Chair from other sources. The Council shall develop a format for presentation and discussion of issues which shall include an opportunity for issues to be raised through information sharing during regular meetings or to be placed on the agenda through the Chair or the Vice-Chair.

In developing recommendations or in drafting proposed legislation or rules, the members may seek comment where appropriate through a process determined by the members.

If the Council cannot reach agreement on an issue requiring its recommendation, the alternative positions shall be documented in writing for decision by the Governor and Chief Justice.

AO No. 1997-8 — Establishment of Court Data Standards

[Entered November 12, 1997.]

In order to ensure effective administration of trial court information systems and facilitate the efficient exchange of trial court case information, it is ordered that the State Court Administrator establish court data standards. Chief judges shall take necessary action to ensure their courts' information systems comply with data standards established by the State Court Administrator.

The State Court Administrator shall provide reasonable time frames for compliance with court data standards. Not less than two years will be provided for compliance with data standards initially established pursuant to this order.

AO No. 1997-9 — Allocation of Funds from Lawyer Trust Account Program

[Entered November 14, 1997.]

On order of the Court, effective November 14, 1997, until further order of the Court, Administrative Order No. 1994-8, which modified Administrative Order No. 1990-2, is modified so as to provide that the funds to be distributed by the Board of Trustees of the Michigan State Bar Foundation shall be disbursed as follows:

1. Seventy percent of the net proceeds of the Lawyer Trust Account Program to support the delivery of civil legal services to the poor;

2. Fifteen percent of the net proceeds of the Lawyer Trust Account Program to support programs to promote improvements in the administration of justice;

3. Ten percent of the proceeds of the Lawyer Trust Account Program to support implementation, within the judiciary, of the recommendations of the Task Force on Gender Issues in the Courts and the Task Force on Racial/Ethnic Issues in the Courts; and

4. Five percent of the net proceeds of the Lawyer Trust Account Program to support the activities of the Michigan Supreme Court Historical Society.

AO No. 1997-10 — Access to Judicial Branch Administrative Information

[Entered December 9, 1997; effective February 1, 1998; text as amended by order of March 14, 2007, effective May 1, 2007.]

On order of the Court, the following order is effective February 1, 1998. The Court invites public comment on ways in which the objectives of the policy expressed in this order| an informed public and an accountable judicial branch might be achieved most effectively and efficiently, consistent with the exercise of the constitutional responsibilities of the judicial branch. Comments should be sent to the Supreme Court Clerk by January 31, 1998.

(A) Scope, Coverage, and Definitions

(1) This order does not apply to the adjudicative function of the judicial branch. It neither broadens nor restricts the availability of information relating to a court's adjudicative records.

(2) Solely as used in this order:

(a) "Adjudicative record" means any writing of any nature, and information in any form, that is filed with a court in connection with a matter to be adjudicated, and any writing prepared in the performance of an adjudicative function of the judicial branch.

(b) "Administrative function" means the nonfinancial, managerial work that a court does, outside the context of any particular case.

(c) "Administrative record" means a writing, other than a financial record or an employee record, prepared in the performance of an administrative function of the judicial branch.

(d) "Employee record" means information concerning an employee of the Supreme Court, State Court Administrative Office, Michigan Judicial Institute, and Board of Law Examiners.

(e) "Financial record" means the proposed budget, enacted budget, judicial salary information, and annual revenues and expenditures of a court.

(f) "Judge" means a justice of the Supreme Court or a judge of the Court of Appeals, circuit court, probate court, district court, or municipal court.

(g) "Person" means any individual or entity, except an individual incarcerated in a local, state, or federal correctional facility of any kind.

(h) "Supreme Court administrative agency" means the State Court Administrative Office, the Office of the Clerk, the Office of the Chief Justice, the Supreme Court Finance Department, and the Public Information Office.

(B) Access to Information Regarding Supreme Court Administrative, Financial, and Employee Records.

(1) Upon a written request that describes an administrative record, an employee record, or a financial record sufficiently to enable the Supreme Court administrative agency to find the record, a person has a right to examine, copy, or receive copies of the record, except as provided in this order.

(2) Requests for an administrative or employee record of a Supreme Court administrative agency must be directed to the administrative agency or to the Public Information Office. Requests for a financial record must be directed to the Supreme Court Finance Department. An administrative record, employee record, or financial record must be available for examination during regular business hours.

(3) A Supreme Court administrative agency may make reasonable rules to protect its records and to prevent unreasonable interference with its functions.

(4) This order does not require the creation of a new administrative record, employee record, or financial record.

(5) A reasonable fee may be charged for providing a copy of an administrative record, employee record, or financial record. The fee must be limited to the actual marginal cost of providing the copy, including materials and the time required to find the record and delete any exempt material. A person requesting voluminous records may be required to submit a deposit representing no more than half the estimated fee.

(6) A copyrighted administrative record is a public record that may not be re-published without proper authorization.

(7) The following are exempt from disclosure:

(a) Personal information if public disclosure would be an unwarranted invasion of an individual's privacy. Such information includes, but is not limited to:

(i) The home address, home telephone number, social security account number, financial institution record, electronic transfer fund number, deferred compensation, savings bonds, W-2 and W-4 forms, and any court-enforced judgment of a judge or employee.

(ii) The benefit selection of a judge or employee.

(iii) Detail in a telephone bill, including the telephone number and name of the person or entity called.

(iv) Telephone logs and messages.

(v) Unemployment compensation records and worker's disability compensation records.

(b) Information that would endanger the safety or well-being of an individual.

(c) Information that, if disclosed, would undermine the discharge of a constitutional or statutory responsibility.

(d) Records or information exempted from disclosure by a statutory or common law privilege.

(e) An administrative record or financial record that is to a substantial degree advisory in nature and preliminary to a final administrative decision, rather than to a substantial degree factual in nature.

(f) Investigative records compiled by the State Court Administrative Office pursuant to MCR 8.113.

(g) An administrative record or financial record relating to recommendations for appointments to court positions, court-sponsored committees, or evaluation of persons for appointment to court positions or court-sponsored committees.

(h) Trade secrets, bids, or other commercial information if public disclosure would give or deny a commercial benefit to an individual or commercial entity.

(i) Examination materials that would affect the integrity of a testing process.

(j) Material exempt from disclosure under MCL 15.243; MSA 4.1801(13).

(k) The identity of judges assigned to or participating in the preparation of a written decision or opinion.

(l) Correspondence between individuals and judges. Such correspondence may be made accessible to the public by the sender or the recipient, unless the subject matter of the correspondence is otherwise protected from disclosure.

(m) Reports filed pursuant to MCR 8.110(C)(5), and information compiled by the Supreme Court exclusively for purposes of evaluating judicial and court performance, pursuant to MCL 600.238; MSA 27A.238. Such information shall be made accessible to the public as directed by separate AO.

(n) An administrative record, employee record, or financial record in draft form.

(o) The work product of an attorney or law clerk employed by or representing the judicial branch in the regular course of business or representation of the judicial branch.

(p) Correspondence with the Judicial Tenure Commission regarding any judge or judicial officer, or materials received from the Judicial Tenure Commission regarding any judge or judicial officer.

(q) Correspondence with the Attorney Grievance Commission or Attorney Discipline Board regarding any attorney, judge, or judicial officer, or materials received from the Attorney Grievance Commission or Attorney Discipline Board regarding any attorney, judge, or judicial officer.

(8) A request for a record may be denied if the custodian of the record determines that

(a) compliance with the request would create an undue financial burden on court operations because of the amount of equipment, materials, staff time, or other resources required to satisfy the request.

(b) compliance with the request would substantially interfere with the constitutionally or statutorily mandated functions of the court.

(c) the request is made for the purpose of harassing or substantially interfering with the routine operations of the court.

(d) the request is submitted within one month following the date of the denial of a substantially identical request by the same requester, denied under substantially identical rules and circumstances.

(9) A person's request to examine, copy, or receive copies of an administrative record, employee record, or financial record must be granted, granted in part and denied in part, or denied, as promptly as practicable. A request must include sufficient information to reasonably identify what is being sought. The person requesting the information shall not be required to have detailed information about the court's filing system or procedures to submit a request. A Supreme Court administrative agency may require that a request be made in writing if the request is complex or involves a large number of records. Upon request, a partial or complete denial must be accompanied by a written explanation. A partial or complete denial is not subject to an appeal.

(10) Employee records are not open to public access, except for the following information:

(a) The full name of the employee.

(b) The date of employment.

(c) The current and previous job titles and descriptions within the judicial branch, and effective dates of employment for previous employment within the judicial branch.

(d) The name, location, and telephone number of the court or agency of the employee.

(e) The name of the employee's current supervisor.

(f) Any information authorized by the employee to be released to the public or to a named individual, unless otherwise prohibited by law.

(g) The current salary of the employee. A request for salary information pursuant to this order must be in writing. The individual who provides the information must immediately notify the employee that a request for salary information has been made, and that the information has been provided.

(11) The design and operation of all future automated record management systems must incorporate processing features and procedures that maximize the availability of administrative records or financial records maintained electronically. Automated systems development policies

must require the identification and segregation of confidential data elements from database sections that are accessible to the public. Whenever feasible, any major enhancements or upgrades to existing systems are to include modifications that segregate confidential information from publicly accessed databases.

AO No. 1997-11 — Access to Judicial Branch Administrative Decision Making

[Entered December 9, 1997; effective February 1, 1998.]

On order of the Court, the following order is effective February 1, 1998. The Court invites public comment on ways in which the objectives of the policy expressed in this order—an informed public and an accountable judicial branch—might be achieved most effectively and efficiently, consistent with the exercise of the constitutional responsibilities of the judicial branch. Comments should be sent to the Supreme Court Clerk by January 31, 1998.

(A) Scope, Coverage, and Definitions.

This order neither broadens nor restricts the extent to which court proceedings are conducted in public.

(B) Supreme Court Administrative Public Hearings.

(1) At least three times annually the Supreme Court will conduct an administrative public hearing on rules or administrative orders significantly affecting the delivery of justice proposed for adoption or amendment. An agenda of an administrative public hearing will be published not less than 28 days before the hearing in the manner most likely to come to the attention of interested persons. Public notice of any amendments to the agenda after publication will be made in the most effective manner practicable under the circumstances. Persons who notify the clerk of the Supreme Court in writing not less than 7 days before the hearing of their desire to address the Court at the hearing will be afforded the opportunity to do so.

(2) Unless immediate action is required, the adoption or amendment of rules or administrative orders that will significantly affect the administration of justice will be preceded by an administrative public hearing under subsection (1). If no public hearing has been held before a rule is adopted or amended, the matter will be placed on the agenda of the next public hearing, at which time the Supreme Court will hear public comment regarding whether the rule should be retained or amended.

(3) The adoption or amendment of a court rule or administrative order by the Supreme Court shall be by a recorded vote, and shall be available upon request from the Supreme Court Clerk.

(C) State Court Administrative Office; Administrative Public Hearings.

(1) Task forces, commissions, and working groups created at the direction of the Supreme Court and convened to advise the State Court Administrative Office and the Michigan Supreme Court on matters significantly affecting the delivery of justice must provide an opportunity for public attendance at one or more meetings.

(2) Notice of a meeting that is open to the public pursuant to this order must be provided in a manner reasonably likely to come to the attention of interested persons.

(3) A meeting held pursuant to this section must be held at a reasonably convenient time and in a handicap accessible setting.

(4) Persons interested in making a public comment at a meeting held pursuant to this section must be afforded the opportunity for public comment to the extent practicable. If the business of the meeting precludes the opportunity for public comment by any person wishing to comment, the person must be allowed to speak at a subsequent meeting or, if no future meeting will be held, be given the opportunity to have a written public comment recorded in the minutes and distributed to members of the task force, commission, or working group.

AO No. 1997-12 — [Rescinded] Authorization of Demonstration Projects to Study Court Consolidation

[Entered December 19, 1997; rescinded by AO No. 2004-2, entered April 28, 2004, effective August 1, 2004.]

AO No. 1998-1 — Reassignment of Circuit Court Actions to District Judges

[Entered June 16, 1998; text as amended by order on November 7, 2006.]

In 1996 PA 374 the Legislature repealed former MCL 600.641; MSA 27A.641, which authorized the removal of actions from circuit court to district court on the ground that the amount of damages sustained may be less than the jurisdictional limitation as to the amount in controversy applicable to the district court. In accordance with that legislation, we repealed former MCR 4.003, the court rule implementing that procedure. It appearing that some courts have been improperly using transfers of actions under MCR 2.227 as a substitute for the former removal procedure, and that some procedure for utilizing district judges to try actions filed in circuit court would promote the efficient administration of justice, we adopt this administrative order, effective immediately, to apply to actions filed after January 1, 1997.

A circuit court may not transfer an action to district court under MCR 2.227 based on the amount in controversy unless: (1) The parties stipulate to the transfer and to an appropriate amendment of the complaint, see MCR 2.111(B)(2); or (2) From the allegations of the complaint, it appears to a legal certainty that the amount in controversy is not greater than the applicable jurisdictional limit of the district court.

Circuit courts and the district courts within their geographic jurisdictions are strongly urged to enter into agreements, to be implemented by joint local administrative orders, to provide that certain actions pending in circuit court will be reassigned to district judges for further proceedings. An action designated for such reassignment shall remain pending as a circuit court action, and the circuit court shall request the State Court Administrator assign the district judge to the circuit court for the purpose of conducting proceedings. Such administrative orders may specify the categories of cases that are appropriate or inappropriate for such reassignment, and shall include a procedure for resolution of disputes between circuit and district courts as to whether a case was properly reassigned to a district judge.

Because this order was entered without having been considered at a public hearing under Administrative Order No. 1997-11, the question whether to retain or amend the order will be placed on the agenda for the next administrative public hearing, currently scheduled for September 24, 1998.

AO No. 1998-3 — Family Division of the Circuit Court; Support Payments

[Entered November 24, 1998.]

The family division of the circuit court is responsible for the receipt and disbursement of child and spousal support payments. Those transactions require substantial public resources in order to ensure that the funds are properly receipted and disbursed on a timely basis for the benefit of those who receive the funds. Michigan circuit courts have an exemplary record for the rapid and efficient receipt and disbursement of support payments.

The implementation of electronic funds transfer processes for receipt and disbursement of funds provides the opportunity for more timely processing of support payments, and the opportunity for reducing the cost of such transactions. Furthermore, it is apparent that the implementation of electronic funds transfers for support payments will facilitate the implementation of central distribution processes required by the federal Personal Responsibility and Work Opportunity Act of 1996.

Therefore, it is ordered that circuit courts, in receiving and disbursing support payments, shall use electronic funds transfer to the fullest extent possible.

In implementing electronic funds transfers, circuit courts will follow guidelines established by the State Court Administrator for that purpose.

AO No. 1998-4 — Sentencing Guidelines

[Entered December 15, 1998; effective January 1, 1999.]

On order of the Court, Administrative Order 1998-2, 459 Mich CLxxiii (1998), is vacated.

The sentencing guidelines promulgated by the Supreme Court in Administrative Order No. 1988-4, 430 Mich ci (1988), are rescinded, effective January 1, 1999, for all cases in which the offense is committed on or after January 1, 1999. The sentencing guidelines promulgated in Administrative Order No. 1988-4, as governed by the appellate case law concerning those guidelines, remain in effect for applicable offenses committed before January 1, 1999.

AO No. 1998-5 — Chief Judge Responsibilities; Local Intergovernmental Relations

[Entered December 28, 1998; amended by order of September 18, 2007, effective October 1, 2007; amended again by order of January 29, 2014; text as amended again by order entered on June 4, 2014.]

I. APPLICABILITY

This administrative order applies to all trial courts as defined in MCR 8.110(A).

II. COURT BUDGETING

If the local funding unit requests that a proposed court budget be submitted in line-item detail, the chief judge must comply with the request. If a court budget has been appropriated in line-item detail, without prior approval of the funding unit, a court may not transfer between line-item accounts to: (a) create new personnel positions or to supplement existing wage scales or benefits, except to implement across the board increases that were granted to employees of the funding unit after the adoption of the court's budget at the same rate, or (b) reclassify an employee to a higher level of an existing category. A chief judge may not enter into a multiple-year commitment concerning any personnel economic issue unless: (1) the funding unit agrees, or (2) the agreement does not exceed the percentage increase or the duration of a multiple-year contract that the funding unit has negotiated for its employees. Courts must notify the funding unit or a local court management council of transfers between lines within 10 business days of the transfer. The requirements shall not be construed to restrict implementation of collective bargaining agreements.

III. FUNDING DISPUTES; MEDIATION AND LEGAL ACTION

If, after the local funding unit has made its appropriations (including, for purposes of this section, amendments of existing appropriations or enforcement of existing appropriations), a court concludes that the funds provided for its operations by its local funding unit are insufficient to enable the court to properly perform its duties and that legal action is necessary, the procedures set forth in this order must be followed.

1. The chief judge of the court shall notify the State Court Administrator that a dispute exists regarding court funding that the court and the local funding unit have been unable to resolve. The notice must be accompanied by a written communication indicating that the chief judge of the court has approved the commencement of legal proceedings. With the notice, the court must supply the State Court Administrator with all facts relevant to the funding dispute. The State Court Administrator must attempt to aid the court and the local funding unit to resolve the dispute. If requested by the court and the local funding unit, the State Court Administrator must appoint a person or entity to serve as mediator within five business days. Any mediation that occurs as a result of the appointment of a mediator under this paragraph is intended to be the mediation referred to in MCL 141.438(6) and (8) and MCL 141.436(9).

2. If the court concludes that a civil action to compel funding is necessary, a civil action may be commenced by the chief judge, consistent with MCL 141.436 and MCL 141.438, if applicable. [The statutory provisions referred to in this paragraph relate to funding disputes between courts and their county funding unit(s). Third class district courts and municipal courts are not subject to the referenced statutory provisions.] If not applicable, a civil action may be commenced by the court, and the State Court Administrator is authorized to assign a disinterested judge to preside over the action.

3. Chief judges or representatives of funding units may request the assistance of the State Court Administrative Office to mediate situations involving potential disputes at any time, before differences escalate to the level of a formal funding dispute.

IV. LOCAL COURT MANAGEMENT COUNCIL OPTION

Where a local court management council has been created by a funding unit, the chief judge of a trial court for which the council operates as a local court management council, or the chief judge's designee, may serve as a member of the council. Unless the local court management council adopts the bylaws described below, without the agreement of the chief judge, the council serves solely in an advisory role with respect to decisions concerning trial court management otherwise reserved exclusively to the chief judge of the trial court pursuant to court order and administrative order of the Supreme Court.

A chief judge, or the chief judge's designee, must serve as a member of a council whose nonjudicial members agree to the adoption of the following bylaws:

1) Council membership includes the chief judge of each court for which the council operates as a local court management council.

2) Funding unit membership does not exceed judicial membership by more than one vote. Funding unit membership is determined by the local funding unit; judicial membership is determined by the chief judge or chief judges. Judicial membership may not be an even number.

3) Any action of the council requires an affirmative vote by a majority of the funding unit representatives on the council and a majority vote of the judicial representatives on the council.

4) Once a council has been formed, dissolution of the council requires the majority vote of the funding unit representatives and the judicial representatives of the council.

5) Meetings of the council must comply with the Open Meetings Act. [MCL 15.261 *et seq*.; MSA 4.1800(11) *et seq*.] Records of the council are subject to the Freedom of Information Act. [MCL 15.231 *et seq*.; MSA 4.1801(1) *et seq*.]

If such bylaws have been adopted, a chief judge shall implement any personnel policies agreed upon by the council concerning compensation, fringe benefits, and pensions of court employees, and shall not take any action inconsistent with policies of the local court management council concerning those matters. Management policies concerning the following are to be established by the chief judge, but must be consistent with the written employment policies of the local funding unit except to the extent that conformity with those policies would impair the

operation of the court: holidays, leave, work schedules, discipline, grievance process, probation, classification, personnel records, and employee compensation for closure of court business due to weather conditions.

As a member of a local court management council that has adopted the bylaws described above, a chief judge or the chief judge's designee must not act in a manner that frustrates or impedes the collective bargaining process. If an impasse occurs in a local court management council concerning issues affecting the collective bargaining process, the chief judge or judges of the council must immediately notify the State Court Administrator, who will initiate action to aid the local court management council in resolving the impasse.

It is expected that before and during the collective bargaining process, the local court management council will agree on bargaining strategy and a proposed dollar value for personnel costs. Should a local court management council fail to agree on strategy or be unable to develop an offer for presentation to employees for response, the chief judge must notify the State Court Administrator. The State Court Administrator must work to break the impasse and cause to be developed for presentation to employees a series of proposals on which negotiations must be held.

V. PARTICIPATION BY FUNDING UNIT IN NEGOTIATING PROCESS

If a court does not have a local court management council, the chief judge, in establishing personnel policies concerning compensation, fringe benefits, pensions, holidays, or leave, must consult regularly with the local funding unit and must permit a representative of the local funding unit to attend and participate in negotiating sessions with court employees, if desired by the local funding unit. The chief judge shall inform the funding unit at least 72 hours in advance of any negotiating session. The chief judge may permit the funding unit to act on the chief judge's behalf as negotiating agent.

VI. CONSISTENCY WITH FUNDING UNIT PERSONNEL POLICIES

To the extent possible, consistent with the effective operation of the court, the chief judge must adopt personnel policies consistent with the written employment policies of the local funding unit. Effective operation of the court to best serve the public in multicounty circuits and districts, and in third class district courts with multiple funding units may require a single, uniform personnel policy that does not wholly conform with specific personnel policies of any of the court's funding units.

1. *Unscheduled Court Closing Due to Weather Emergency*. If a chief judge opts to close a court and dismiss court employees because of a weather emergency, the dismissed court employees must use accumulated leave time or take unpaid leave if the funding unit has employees in the same facility who are not dismissed by the funding unit. If a collective bargaining agreement with court staff does not allow the use of accumulated leave time or unpaid leave in the event of court closure due to weather conditions, the chief judge shall not close the court unless the funding unit also dismisses its employees working at the same facility as the court.

Within 90 days of the issuance of this order, a chief judge shall develop and submit to the State Court Administrative Office a local administrative order detailing the process for unscheduled court closing in the event of bad weather. In preparing the order, the chief judge shall consult with the court's funding unit. The policy must be consistent with any collective bargaining agreements in effect for employees working in the court.

2. *Court Staff Hours.* The standard working hours of court staff, including when they begin and end work, shall be consistent with the standard working hours of the funding unit. Any deviation from the standard working hours of the funding unit must be reflected in a local administrative order, as required by the chief judge rule, and be submitted for review and comment to the funding unit before it is submitted to the SCAO for approval.

VII. TRAINING PROGRAMS

The Supreme Court will direct the development and implementation of ongoing training seminars of judges and funding unit representatives on judicial/legislative relations, court budgeting, expenditures, collective bargaining, and employee management issues.

VIII. COLLECTIVE BARGAINING

For purposes of collective bargaining pursuant to 1947 PA 336, a chief judge or a designee of the chief judge shall bargain and sign contracts with employees of the court. Notwithstanding the primary role of the chief judge concerning court personnel pursuant to MCR 8.110, to the extent that such action is consistent with the effective and efficient operation of the court, a chief judge of a trial court may designate a representative of a local funding unit or a local court management council to act on the court's behalf for purposes of collective bargaining pursuant to 1947 PA 336 only, and, as a member of a local court management council, may vote in the affirmative to designate a local court management council to act on the court's behalf for purposes of collective bargaining only.

IX. EFFECT ON EXISTING AGREEMENTS

This order shall not be construed to impair existing collective bargaining agreements. Nothing in this order shall be construed to amend or abrogate agreements between chief judges and local funding units in effect on the date of this order. Any existing collective bargaining agreements that expire within 90 days may be extended for up to 12 months.

If the implementation of 1996 PA 374 pursuant to this order requires a transfer of court employees or a change of employers, all employees of the former court employer shall be transferred to, and appointed as employees of, the appropriate employer, subject to all rights and benefits they held with the former court employer. The employer shall assume and be bound by any existing collective bargaining agreement held by the former court employer and, except where the existing collective bargaining agreement may otherwise permit, shall retain the employees covered by that collective bargaining agreement.

A transfer of court employees shall not adversely affect any existing rights and obligations contained in the existing collective bargaining agreement. An employee who is transferred shall not, by reason of the transfer, be placed in any worse position with respect to worker's

compensation, pension, seniority, wages, sick leave, vacation, health and welfare insurance, or any other terms and conditions of employment that the employee enjoyed as an employee of the former court employer. The rights and benefits thus protected may be altered by a future collective bargaining agreement.

X. REQUESTS FOR ASSISTANCE

The chief judge or a representative of the funding unit may request the assistance of the State Court Administrative Office to facilitate effective communication between the court and the funding unit.

AO No. 1999-1 — Assignment of Medical Support Enforcement Matters to the Third Circuit for Discovery Purposes

[Entered January 21, 1999.]

Administrative Order No. 1997-3 is rescinded. On order of the Court, it appears that the administration of justice would be served in matters pending in circuit courts relating to support of minor children; any sitting judge of the Third Circuit Court assigned to the family division of the Third Circuit Court may act in proceedings involving the financial and medical support of minor children in jurisdictions other than the Third Circuit Court according to the following procedures:

1. This order applies to all pending and future actions involving the enforcement of financial or medical support of minor children filed in jurisdictions other than the Third Circuit Court.

2. In actions where the circuit court, office of the friend of the court, requires the discovery of information relating to the availability of health or medical care insurance coverage to the parents of children subject to orders of support pending in that court, the chief circuit judge may refer those actions by writing or through electronic means to the Third Circuit Court Friend of the Court Office for assistance in the discovery of such information.

3.Upon acceptance of the referral under section 2 by the Chief Judge of the Third Circuit or his or her designee, a judge of the Family Division of the Third Circuit Court designated by the Chief Judge of the Third Circuit Court may issue appropriate orders in that action for the purpose of discovery of information related to the availability of medical or health care insurance to the parents of minor children who are the subjects of that action. The judge(s) so assigned may by subpoena or other lawful means require the production of information for that purpose through single orders which apply to all cases referred from all jurisdictions making referrals under section 2.

4. The State Court Administrative Office shall be responsible to oversee the administration of this order and shall report to the Supreme Court as needed regarding administration of this order.

AO No. 1999-2 — [Rescinded] Authorization of Additional Demonstration Project to Study Court Consolidation

[Entered January 21, 1999; effective February 1, 1999; rescinded by AO No. 2005-1, entered on May 17, 2005, effective September 1, 2005.]

AO No. 1999-3 — Discovery in Misdemeanor Cases

[Entered April 30, 1999.]

On order of the Court, in the case of *People v Sheldon*, 234 Mich App 68; 592 NW2d 121 (1999) (COA Docket No. 204254), the Court of Appeals ruled that MCR 6.201, which provides for discovery in criminal felony cases, also applies to criminal misdemeanor cases. That ruling was premised on an erroneous interpretation of our Administrative Order No. 1994-10. By virtue of this administrative order, we wish to inform the bench and bar that MCR 6.201 applies only to criminal felony cases. Administrative Order No. 1994-10 does not enlarge the scope of applicability of MCR 6.201. See MCR 6.001(A) and (B).

AO No. 1999-4 — Establishment of Michigan Trial Court Case File Management Standards

[Entered November 30, 1999.]

In order to improve the administration of justice; to improve the service to the public, other agencies, and the judiciary; to improve the performance and efficiency of Michigan trial court operations; and to enhance the trial courts' ability to preserve an accurate record of the trial courts' proceedings, decisions, orders, and judgments pursuant to statute and court rule, *it is ordered* that the State Court Administrator establish Michigan Trial Court Case File Management Standards and that trial courts conform to those standards. The State Court Administrative Office shall enforce the standards and assist courts in adopting practices to conform to those standards.

AO No. 2000-1 — [Rescinded] Establishment of Council of Chief Judges

[Entered January 27, 2000; rescinded by order entered February 23, 2006.]

AO No. 2000-2 — [Rescinded] *In re* Microsoft Corporation Litigation

[Entered May 16, 2000; rescinded by AO No. 2000-5, entered on August 8, 2000.]

AO No. 2000-3 — Video Proceedings (Circuit and District Courts)

[Entered July 18, 2000.]

On order of the Court, Administrative Orders 1990-1, 1991-2, 1992-1, and 1993-1 are rescinded.

AO No. 2000-4 — [Rescinded] Video Proceedings (Family Division of Circuit Court and Probate Court)

[Entered July 18, 2000; rescinded by AO No. 2001-4, entered on June 1, 2001.]

AO No. 2000-5 — *In re* Microsoft Antitrust Litigation

[Entered August 8, 2000.]

On order of the Court, it appearing that a number of actions have been filed alleging violation of the Michigan Antitrust Reform Act (MARA) [MCL 445.771 *et seq*.; MSA 28.70(1) *et seq*.] by Microsoft Corporation, and that coordination of pretrial and trial proceedings in those cases will promote the economical and expeditious resolution of that litigation, pursuant to Const 1963, art 6, § 4, we direct all state courts to follow the procedures set forth in this administrative order.

1. This order applies to all pending and future Microsoft MARA actions pending or to be filed in Michigan courts other than the Third Judicial Circuit, including any Microsoft MARA cases remanded by a federal court to a Michigan court other than the Third Judicial Circuit. For purposes of this order, "Microsoft MARA actions" include all cases in which it is alleged that a party has suffered harm due to violations of the MARA by Microsoft Corporation.

2. Any orders in place in Michigan courts staying proceedings in a Microsoft MARA action as a result of Administrative Order No. 2000-2 may now be rescinded. Administrative Order No. 2000-2 is rescinded.

3. Each court in which a Microsoft MARA action is pending shall enter an order changing venue of the action to the Third Judicial Circuit within 14 days of the date of this order. Upon the filing of a new Microsoft MARA action, the court shall enter an order changing venue to the Third Judicial Circuit within 14 days after the action is filed. The court shall send a copy of the order to the State Court Administrator. A party who objects to the transfer of an action under this paragraph may raise the objection by filing a motion in the Third Judicial Circuit. Such a motion must be filed within 14 days after the transfer of the action. Nothing in this order shall be construed as a finding that venue is proper in Wayne County.

4. Until the transfer of an action under paragraph 3, the parties to the action shall include the words "Microsoft MARA case" on the top right-hand corner of the first page of any papers subsequently filed in this action.

5. The Third Judicial Circuit shall cooperate with the State Court Administrator in monitoring the proceedings in the actions.

6. MCR 2.222 and MCR 2.223 do not apply to changes of venue pursuant to this order.

AO No. 2001-1 — Security Policies for Court Facilities

[Entered March 27, 2001.]

It appearing that the orderly administration of justice would be best served by prompt action, the following order is given immediate effect. The Court invites public comment regarding the merits of the order. Comments may be submitted in writing or electronically to the Supreme Court Clerk by June 1, 2001. P.O. Box 30052, Lansing, MI 48909, or MSC_clerk@jud.state.mi.us. When submitting a comment, please refer to File No. 01-15.

This matter will be considered by the Court at a public hearing to be held June 14, 2001, in Kalamazoo. Persons interested in addressing this issue at the hearing should notify the Clerk by June 12, 2001. Further information about the hearing will be posted on the Court's website, www.supremecourt.state.mi.us. When requesting time to speak at the hearing, please refer to File No. 01-15.

The issue of courthouse safety is important not only to the judicial employees of this state, but also to all those who are summoned to Michigan courtrooms or who visit for professional or personal reasons. Accordingly, the Supreme Court today issues the following declaration regarding the presence of weapons in court facilities.

It is ordered that weapons are not permitted in any courtroom, office, or other space used for official court business or by judicial employees unless the chief judge or other person designated by the chief judge has given prior approval consistent with the court's written policy.

Each court is directed to submit a written policy conforming with this order to the State Court Administrator for approval, as soon as is practicable. In developing a policy, courts are encouraged to collaborate with other entities in shared facilities and, where appropriate, to work with local funding units. Such a policy may be part of a general security program or it may be a separate plan.

AO No. 2001-2 — Uniform Effective Dates For Court Rule Amendments

[Entered April 5, 2001.]

On the basis of a request from the Appellate Practice Section of the State Bar of Michigan, the Supreme Court published for comment a proposed amendment of Rule 1.201 of the Michigan Court Rules. File No. 00-11. 463 Mich 1219 (2000). The matter also was on the agenda of the public hearing held March 29, 2001, in Lansing. The proposal provided that an amendment of the court rules would not take effect until at least two months after its adoption, and that the effective date would be either April 1 or October 1, absent the need for immediate action.

The Court understands the concerns expressed by those who submitted written comments and those who addressed this proposal at the public hearing. After careful consideration, however, the Court is persuaded that the best approach to more uniformity in the rulemaking process is not a court rule amendment, but rather an administrative order that provides for three effective dates during the year.

Accordingly, on order of the Court, unless there is a need for immediate action, amendments of the Michigan Court Rules will take effect on January 1, May 1, or September 1.

AO No. 2001-3 — Security Policy for the Michigan Supreme Court

[Entered May 25, 2001.]

In accordance with Article 6, sections 1, 4, and 5 of the Michigan Constitution, and Administrative Order No. 2001-1, the following policy is adopted for the Supreme Court.

It is ordered that

1. No weapons are allowed in the courtroom of the Supreme Court or in other facilities used for official business of the Court. This prohibition does not apply to security personnel of the Court in the performance of their official duties, or to law enforcement officers in the performance of their official duties, if the officer is in uniform (or otherwise properly identified) and is not a party to a matter then before the Court. The Chief Justice may authorize additional exceptions under appropriate circumstances.

2. All persons and objects are subject to screening by Court security personnel, for the purpose of keeping weapons from entering Court facilities.

3. Notice shall be posted that "No weapons are permitted in this Court facility."

4. Persons in violation of this order may be held in contempt of Court.

AO No. 2001-4 — [Rescinded] Video Proceedings (Family Division of Circuit Court and Probate Court)

[Entered June 1, 2001; rescinded by order entered February 14, 2007, effective May 1, 2007. See also AO No. 2007-1.]

AO No. 2001-6 — Committee on Model Civil Jury Instructions

[Entered December 18, 2001.]

Forty years ago, in response to a resolution of the Michigan Judicial Conference, the Supreme Court appointed a committee to prepare jury instructions for use in civil cases. In 1970, the Court amended former Rule 516 of the General Court Rules to authorize the use of these instructions by trial courts. Later that year, the Court approved general instructions and instructions governing personal injury actions. In 1975, at the request of the committee that had developed the instructions, the Court appointed a new Committee on Standard Jury Instructions to oversee the task of maintaining the accuracy of existing model instructions and developing new instructions. Five years later, the Court amended the court rules to give the committee express standing authority to propose and modify standard instructions.

The Court has reconstituted the Committee on Standard Jury Instructions from time to time to provide for new members and to make permanent the status of the committee's reporter. But the committee has until now operated without a defined structure and without a fixed number of members.

The Court is appreciative of the faithful and distinguished service that has been rendered over the years by members of the current and predecessor committees. Many of the present members have given long and selfless service, and their contributions have greatly enhanced the administration of justice. As part of an effort to regularize all the working groups that the Court has established, and to ensure continuity, we are persuaded that it now would be beneficial to develop a formal structure and membership for this committee. In addition, we are renaming the committee to clarify that the instructions apply to civil cases and that they are model instructions.

Therefore, on order of the Court, a new Committee on Model Civil Jury Instructions is established. The committee shall consist of 21 persons to be appointed by the Supreme Court. The Supreme Court will designate one member to serve as the chairperson of the committee. Generally members will be appointed for three-year terms and may be reappointed for two additional terms. However, to facilitate the transition and the staggering of terms, some initial appointments will be for abbreviated terms and those appointees who are members of the current Committee on Standard Jury Instructions will not be eligible for reappointment.

Effective January 1, 2002, the following persons are appointed to the new Committee on Model Civil Jury Instructions:

<u>For terms ending December 31, 2002</u>
Honorable Susan D. Borman
Peter L. Dunlap
R. Emmet Hannick
Honorable Harold Hood
Honorable Robert M. Ransom
George T. Sinas
Sheldon J. Stark

For terms ending December 31, 2003
David C. Coey
Honorable Pat M. Donofrio
Honorable Bruce A. Newman
Honorable Wendy L. Potts
Michael B. Rizik, Jr.
Valerie P. Simmons
Susan H. Zitterman

For terms ending December 31, 2004
Thomas Blaske
Honorable William J. Giovan
Mark R. Granzotto
Maurice G. Jenkins
Steven W. Martineau
Honorable Susan Bieke Neilson
Mary Massaron Ross

Judge Hood is designated as chairperson for the duration of his term, after which Judge Giovan shall assume that position. Sharon M. Brown is appointed reporter for the committee.

It shall be the duty of the committee to ensure that the Model Civil Jury Instructions accurately state applicable law, and that the instructions are concise, understandable, conversational, unslanted, and not argumentative. In this regard, the committee shall have the authority to amend or repeal existing instructions and, when necessary, to adopt new instructions. Before doing so, the committee shall provide a text of the proposal to the secretary of the State Bar and the state court administrator, who shall give the notice specified in Rule 1.201 of the Michigan Court Rules. The notice shall state the time and method for commenting on the proposal. Following the comment period and any public hearing that the committee may hold on the matter, the committee shall provide notice of its decision in the same manner in which it provided notice of proposed instructions.

AO No. 2002-1 — [Rescinded] Child Support Leadership Council

[Entered April 11, 2002; rescinded by AO No. 2011-2, entered June 30, 2011.]

AO No. 2002-2 — Facsimile Transmission of Documents in the Court of Appeals

[Entered April 23, 2002; effective September 1, 2002.]

On order of the Court, the Court of Appeals is authorized, beginning September 1, 2002, and until further order of the Supreme Court, to accept the facsimile transmission of documents in the following circumstances:

(1) The Court of Appeals shall accept the filing of the following documents by facsimile (fax) transmission:

(a) answers to motions filed under MCR 7.211(B)(2)(e);

(b) answers to pleadings that were accompanied by a motion for immediate consideration under MCR 7.211(C)(6).

(2) The Court of Appeals may expand or restrict the other types of filings accepted by fax upon notice published in its Internal Operating Procedures.

(3) Allowable fax filings will be received by the Court of Appeals at any time. However, fax filings received on weekends, designated Court of Appeals holidays, or after 4:00 p.m. Eastern Time will be considered filed on the next business day. The time of receipt will be the time the cover sheet is received by the Court of Appeals, except if less than the entire document is received through no fault of the Court of Appeals or its facsimile equipment. If less than the entire document is received through no fault of the Court of Appeals or its facsimile equipment, there is no filing.

(4) A cover sheet provided by the Court of Appeals must accompany every transmission. The following information must be included on the cover sheet:

(a) case name and Court of Appeals docket number (or applicable case names and docket numbers of cases consolidated by the Court of Appeals to which the faxed filing applies);

(b) county of case origin;

(c) title of document being filed;

(d) name, attorney P-number (if applicable), telephone number, and fax number of the attorney or party sending the fax;

(e) if fees have not already been paid, the credit card number, expiration date, and authorized signature of the cardholder;

(f) number of pages in the transmission, including the cover sheet.

(5) All fax filings must be on 8½" x 11" paper, in at least 12-point type. Every page must be numbered consecutively, and the background and print must contrast sufficiently to be easily readable.

(6) The fax filing shall be considered the document filed in the Court of Appeals. The attorney or party filing the document shall retain the original document, to be produced only at the request of the Court of Appeals. No further copies should be mailed to the Court of Appeals unless requested.

(7) Attachments to a filing must be labeled in the format of "Attachment X" on the lower right-hand corner of either a separate page or the first page of the attachment.

(8) All other requirements of the court rules apply to fax filings, including the signature, page limitations, filing fees, and service on other parties.

(9) A service fee shall be charged for the receipt of each fax transmission in the amount published in the Internal Operating Procedures. Fax filings in multiple Court of Appeals docket numbers must be transmitted separately under separate cover sheets unless the cases have already been consolidated by the Court of Appeals.

(10) Service fees and filing fees must be paid, or permission to charge the fees to an authorized credit card must be allowed by the filing party on the cover sheet, at the same time the fax filing is sent. A credit card transaction must be approved by the issuing financial institution before the document will be accepted as filed by the Court of Appeals.

AO No. 2002-3 — Family Violence Indicator (Family Division of Circuit Court and Probate Court)

[Entered May 2, 2002; effective September 1, 2002.]

On order of the Court, the need for immediate action having been found, the Court adopts the following requirements for friends of the court, to be effective upon implementation of an automated child support enforcement system within the Family Independence Agency, MCL 400.231 *et seq*., and the availability of necessary programming. The provisions of this order will be considered further by the Court at a public hearing. Notice of future public hearings will be provided by the Court and posted at the Court's website, www.courts.michigan.gov/supremecourt.

The friends of the court shall adhere to the following rules in managing their files and records:

(1) When the Family Violence Indicator is set in the statewide automated child support enforcement system for an individual in an action, that individual's address shall be considered confidential under MCR 3.218(A)(3)(f).

(2) Friend of the court offices shall cause a Family Violence Indicator to be set in the statewide automated child support enforcement system on all the files and records in an action involving an individual when:

(a) a personal protection order has been entered protecting that individual,

(b) the friend of the court becomes aware of an order of any Michigan court that provides for confidentiality of the individual's address, or denies access to the individual's address,

(c) an individual files a sworn statement with the office setting forth specific incidents or threats of domestic violence or child abuse, or

(d) the friend of the court becomes aware that a determination has been made in another state that a disclosure risk comparable to any of the above risk indicators exists for the individual.

(3) When the Family Violence Indicator has been set for an individual in any action, the Family Violence Indicator shall be set in all other actions within the statewide automated child support enforcement system concerning that same individual.

(4) When the Family Violence Indicator has been set for a custodial parent in any action, the Family Violence Indicator shall also be set for all minors for which the individual is a custodial parent. When the Family Violence Indicator has been set for any minor in an action, the Family Violence Indicator shall also be set for the minor's custodian.

(5) The friend of the court office shall cause the Family Violence Indicator to be removed:

(a) by order of the circuit court,

(b) at the request of the protected party, when the protected party files a sworn statement with the office that the threats of violence or child abuse no longer exist, unless a protective order or other order of any Michigan court is in effect providing for confidentiality of an individual's address, or

(c) at the request of a state that had previously determined that a disclosure risk comparable to the risks in paragraph two existed for the individual.

(6) When the Family Violence Indicator has been removed for an individual in any action, the Family Violence Indicator that was set automatically for other persons and cases associated with that individual shall also be removed.

AO No. 2002-4 — Cases Involving Children Absent From Court-Ordered Placement Without Legal Permission

[Entered November 19, 2002.]

In Michigan, the family division of the circuit court is entrusted with protecting the welfare of children who are under its jurisdiction. This includes thousands of victims of abuse or neglect who are placed by court order in a variety of environments, such as foster care, to ensure their safety.

Recently, there have been reports of several hundred children in Michigan who are absent from court-ordered placements without permission from the court. In some situations, the child has run away. Other times, especially in the case of younger children, there has been an abduction, often by a family member. Regardless of the reason, there can be no justification for the unauthorized disappearance from court-ordered placement of even one child.

The Legislature has given the Family Independence Agency the responsibility of supervising children who are under court jurisdiction because of abuse or neglect. Any effort to locate children who are absent from court-ordered placements thus must include both the agency and the courts. Accordingly, on order of the Court, each circuit court must develop a plan for reviewing cases involving children who are absent from court-ordered placements without permission from the court. Such plans must include the establishment of a special docket or other expedited process for review of such cases, either through the dispositional review hearings that are required by statute and court rule in all child-protective proceedings, or through formal status conferences or emergency status reviews. In addition, the plans should:

A. identify the judge who has responsibility for ensuring compliance with the plan;

B. address the coordination of the efforts of the Family Independence Agency and the court to locate absent children;

C. describe the process for reviewing such cases;

D.address any special problems that the court has identified;

E. describe the court's procedures for obtaining information regarding the whereabouts of absent children and for promptly scheduling hearings to determine their legal status; and

F. describe the court's procedures for giving priority to cases involving children ages 15 and younger, particularly if the child may have been abducted.

Each circuit court must submit a local administrative order to the State Court Administrative Office by February 1, 2003, describing its plan for reviewing cases involving children who are absent from court-ordered placements without permission from the court.

AO No. 2002-5 — Differentiated Case Scheduling At the Court of Appeals

[Entered December 23, 2002.]

The Court of Appeals is engaged in a delay-reduction initiative, with the goal of disposing of 95 percent of its cases within 18 months of filing beginning in October 2003. To assist in reaching that goal, the Supreme Court orders that the Court of Appeals may give precedence on the session calendar under Rule 7.213(C) of the Michigan Court Rules to any appeals that the Court of Appeals determines are appropriate for differentiated case management. Specifically, the Court of Appeals may schedule such cases on the session calendar as soon as the time for filing the briefs has elapsed, the record has been received, and the matter has been prepared for submission in accordance with internal procedure.

This order is effective immediately and will remain in effect until December 31, 2003, at which time the Court will decide whether to amend Rule 7.213(C) on a permanent basis, consistent with this administrative order. In the meantime, the Court will further consider this interim order at a public hearing. The schedule of future public hearings will be posted on the Court's website, www.courts.mi.gov/supremecourt. Please refer to Administrative File No. 2002-44 in any correspondence or inquiry.

CAVANAGH, J., states that he does not see the necessity for this order and agrees with Justice KELLY that at least a public hearing should precede its entry.

KELLY, J., would hold a public hearing before issuing this administrative order.

AO No. 2003-1 — Concurrent Jurisdiction

[Entered January 28, 2003; effective May 1, 2003.]

Pursuant to MCL 600.401 *et seq.*, as added by 2002 PA 678, courts may establish a plan of concurrent jurisdiction, subject to certain conditions and limitations, within a county or judicial circuit. Subject to approval by the Supreme Court, a plan of concurrent jurisdiction may be adopted by a majority vote of judges of the participating trial courts.

The plan shall provide for the assignment of cases to judges of the participating courts as necessary to implement the plan. Plans must address both judicial and administrative changes to court operations, including but not limited to the allocation of judicial resources, court governance, budget and fiscal management, personnel, record keeping, facilities, and information systems.

If a plan of concurrent jurisdiction submitted to the Supreme Court includes an agreement as to the allocation of court revenue pursuant to MCL 600.408(4), it must be accompanied by a copy of approving resolutions from each of the affected local funding units.

A plan of concurrent jurisdiction may include a family court plan filed pursuant to MCL 600.1011, as amended by 2002 PA 682, and Administrative Order No. 2003-2.

In developing a plan, courts shall seek the input of all the affected judges, court staff, and other persons and entities that provide court services or are affected by the court's operations. The plan must be submitted to the local funding unit for a review of the plan's financial implications at least 30 days before it is submitted to the State Court Administrative Office. The funding unit may submit a letter to the chief judges that indicates agreement with the plan or that outlines any financial concerns that should be taken into consideration before the plan is adopted. The chief judges shall submit a copy of any such letter to the State Court Administrative Office when the concurrent jurisdiction plan is filed.

A plan of concurrent jurisdiction will not take effect until at least 90 days after it is approved by the Supreme Court. Each plan shall be submitted to the Supreme Court in the format specified by the State Court Administrative Office.

AO No. 2003-2 — Family Court Plans

[Entered January 28, 2003; effective May 1, 2003.]

Pursuant to MCL 600.1011, as amended by 2002 PA 682, the chief circuit and chief probate judges in each judicial circuit shall enter into an agreement by July 1, 2003, that establishes a plan known as the "family court plan." The plan shall describe how the family division of the circuit court will operate in that circuit and how to coordinate and promote that which the Legislature has described as "more efficient and effective services to families and individuals."

In a probate court district that includes counties that are in different judicial circuits, the chief judge of each judicial circuit that includes such a probate court district and the chief probate judge shall enter into a family court plan for that circuit.

The chief circuit and chief probate judges shall file family court plans with the State Court Administrative Office no later than July 1, 2003. Chief circuit and chief probate judges shall seek the input of all the judges of the circuit and probate courts, staff of the circuit and probate courts, and other entities that provide services to families within that jurisdiction or that will be affected by the operation of the family division.

The county clerk must be afforded the opportunity to participate in the development of plans for the management of court records. The county clerk may submit a letter to the chief judge of the circuit court indicating either concurrence or disagreement with the plan for the management of court records. The chief judge shall submit a copy of the letter to the State Court Administrative Office when the family court plan is filed. Disagreements regarding the plans for the management of court records may be resolved through mediation at the direction of the Supreme Court.

A family court plan submitted for a judicial circuit shall be approved by the State Court Administrative Office for filing or returned to the chief circuit and chief probate judges for amendment in accordance with 2002 PA 682 and guidelines provided by the State Court Administrative Office.

A family court plan shall specifically identify all circuit and probate judges serving pursuant to the plan.

Any amendment to a family court plan must be filed with the State Court Administrative Office and accepted for filing before implementation of the amended provisions.

In any circuit court in which the chief circuit and chief probate judges are unable to agree upon a family court plan by July 1, 2003, the State Court Administrative Office will develop a family court plan for that circuit, subject to approval by the Supreme Court.

Administrative Order No. 1997-1 is rescinded.

AO No. 2003-3 — Appointment of Counsel for Indigent Criminal Defendants

[Entered April 1, 2003.]

In cases in which the defendant may lack the financial means to retain counsel and the Supreme Court is granting leave to appeal, an inquiry into the defendant's financial status may be necessary. Where the Court orders such an inquiry, it shall proceed in the manner outlined in this administrative order, effective immediately.

The defendant must file, on a form developed by the State Court Administrative Office, an affidavit concerning present financial status. The affidavit must be filed in the circuit court from which the case is being appealed. The circuit court must provide the prosecuting attorney with a copy of the defendant's affidavit within 7 days. The prosecuting attorney may challenge the defendant's asserted lack of financial means to retain counsel by filing an appropriate motion with the circuit court within 14 days after the prosecuting attorney receives the copy of the affidavit. The circuit court may question the asserted lack of financial means on its own motion. If such a motion is filed by the prosecuting attorney or if the issue is raised by the circuit court sua sponte, the circuit court must conduct a hearing on the matter within 21 days after the motion is filed or the issue is raised. The prosecuting attorney, the defendant, and an attorney appointed by the circuit court to represent the defendant must appear at the hearing.

If such a motion is filed or if the issue is raised by the circuit court, the circuit court must determine whether the defendant lacks the financial means to retain counsel on the basis of (1) the defendant's present assets, employment, earning capacity, and living expenses; (2) the defendant's outstanding debts and liabilities, both secured and unsecured; (3) whether the defendant has qualified for, and is receiving, any form of public assistance; (4) the availability and convertibility, without undue financial hardship to the defendant or the defendant's family, of real or personal property owned by the defendant; (5) whether the defendant is incarcerated; and (6) any other circumstances that would affect the defendant's ability to pay the fee that ordinarily would be required to retain competent counsel. If the defendant's lack of financial means appears to be temporary, the circuit court may order that the defendant repay, on appropriate terms, the expense of appointed counsel.

If, after such a challenge or question, the circuit court determines that the defendant lacks the financial means to retain counsel, the circuit court must appoint counsel or continue the appointment of previously appointed counsel within 14 days after the hearing. If there has not been such a challenge or question, the circuit court must appoint counsel or continue the appointment of previously appointed counsel within 28 days after the defendant files an affidavit concerning present financial status. The circuit court must promptly forward to the Clerk of the Supreme Court a copy of the appointment order and must promptly provide counsel with any portion of the record that counsel requires.

If the defendant does not file an affidavit concerning present financial status or if the circuit court determines that the defendant does not lack the financial means to retain counsel, the circuit court must promptly notify the Clerk of this Court.

Administrative Order No. 1972-4, 387 Mich xxx (1972), is rescinded.

AO No. 2003-4 — [Rescinded] Video Proceedings (Family Division of Circuit Court and Probate Court)

[Entered April 22, 2003; rescinded by order entered February 14, 2007, effective May 1, 2007. See also AO No. 2007-1.]

AO No. 2003-5 — Annual Dues Notice for the State Bar of Michigan

[Entered August 6, 2003.]

On order of the Court, the State Bar of Michigan shall include in the annual dues notice, beginning with the notice issued for fiscal year 2003-2004, a request for information regarding the following matters:

1. Other jurisdictions in which the member is or has been licensed to practice law, and whether the member has received any discipline in those jurisdictions.

2. The malpractice insurance covering the member.

3. Felony and misdemeanor convictions in any jurisdiction after the date the member received a license to practice law in any jurisdiction.

The member shall be required to provide the requested information and to verify that, to the best of the member's knowledge, the information is accurate.

On further order of the Court, the State Bar of Michigan also shall provide in the annual dues notice, beginning with the notice issued for fiscal year 2003-2004, an opportunity for members to make voluntary tax-deductible contributions of $5 or some other amount to benefit the Michigan Supreme Court Learning Center.

AO No. 2003-6 — Case Management at the Court of Appeals

[Entered November 4, 2003.]

On March 11, 2003, the Supreme Court published for comment proposed amendments of several provisions of subchapter 7.200 of the Michigan Court Rules that the Court of Appeals stated would aid its effort to dispose of 95 percent of its cases within 18 months of filing, beginning in October 2003. The proposals generated considerable comment both in writing and at the public hearing held on September 25, 2003.

Those who have participated in the significant debate concerning the processing of cases in the Court of Appeals, especially the Court of Appeals itself and the State Bar of Michigan, have proceeded with integrity and ultimate concern for the efficient and effective delivery of justice to the citizens of Michigan. We commend this cooperative approach and trust that such commitment will mark a continuing effort to improve our appellate system, even in this time of budgetary crisis.

Accordingly, on order of the Court, and building on the delay-reduction measures already implemented by the Court of Appeals, we direct the Court of Appeals to develop a plan for the management of civil cases that includes "just in time" briefing. In developing a plan that is in the best interests of the administration of justice and the participants in the appellate process, we encourage the Court of Appeals to continue to work with the State Bar of Michigan and other interested groups and individuals. The plan shall be submitted to this Court by February 1, 2004.

The amended proposal submitted by the Court of Appeals on August 29, 2003, remains under consideration and can be viewed in the list of proposed rule amendments at www.courts.michigan.gov/supremecourt/Resources/Administrative/index.htm.

AO No. 2003-7 — [Rescinded] Caseflow Management Guidelines

[Entered December 2, 2003; effective January 1, 2004; rescinded by order entered August 17, 2011, effective September 1, 2011. See also AO Nos. 2011-3 and 2013-12.]

AO No. 2004-1 — State Bar of Michigan Activities

[Entered February 3, 2004.]

Administrative Order No. 1993-5 is rescinded, effective immediately.

I. IDEOLOGICAL ACTIVITIES GENERALLY.

The State Bar of Michigan shall not, except as provided in this order, use the dues of its members to fund activities of an ideological nature that are not reasonably related to:

(A) the regulation and discipline of attorneys;

(B) the improvement of the functioning of the courts;

(C) the availability of legal services to society;

(D) the regulation of attorney trust accounts; and

(E) the regulation of the legal profession, including the education, the ethics, the competency, and the integrity of the profession.

The State Bar of Michigan shall permanently post on its website, and annually publish in the Michigan Bar Journal, a notice advising members of these limitations on the use of dues and the State Bar budget.

II. ACTIVITIES INTENDED TO INFLUENCE LEGISLATION.

(A) The State Bar of Michigan may use the mandatory dues of all members to review and analyze pending legislation.

(B) The State Bar of Michigan may use the mandatory dues of all members to provide content-neutral technical assistance to legislators, provided that:

(1) a legislator requests the assistance;

(2) the executive director, in consultation with the president of the State Bar of Michigan, approves the request in a letter to the legislator stating that providing technical assistance does not imply either support for or opposition to the legislation; and

(3) the executive director of the State Bar of Michigan annually prepares and publishes in the Michigan Bar Journal a report summarizing all technical assistance provided during the preceding year.

(C) No other activities intended to influence legislation may be funded with members' mandatory dues, unless the legislation in question is limited to matters within the scope of the ideological-activities requirements in Section I.

(D) Neither the State Bar of Michigan nor any person acting as its representative shall take any action to support or oppose legislation unless the position has been approved by a two-thirds vote of the Board of Commissioners or Representative Assembly taken after all members were advised, by notice posted on the State Bar website at least 2 weeks prior to the Board or Assembly meeting, that the proposed legislation might be discussed at the meeting. The posted notice shall include a brief summary of the legislation, a link to the text and status of the pending legislation on the Michigan Legislature website, and a statement that members may express their opinion to the State Bar of Michigan at the meeting, electronically, or by written or telephonic communication. The webpage on which the notice is posted shall provide an opportunity for members to respond electronically, and the comments of members who wish to have their comments made public shall be accessible on the same webpage.

(E) The results of all Board and Assembly votes on proposals to support or oppose legislation shall be posted on the State Bar website as soon as possible after the vote, and published in the next Michigan Bar Journal. When either body adopts a position on proposed legislation by a less-than-unanimous vote, a roll call vote shall be taken, and each commissioner's or assembly-person's vote shall be included in the published notice.

(F) Those sections of the State Bar of Michigan that are funded by the voluntary dues of their members are not subject to this order, and may engage in ideological activities on their own behalf. Whenever a section engages in ideological activities, it must include on the first page of each submission, before the text begins and in print larger than the statement's text, a disclosure indicating

(1) that the section is not the State Bar of Michigan but rather a section whose membership is voluntary,

(2) that the position expressed is that of the section only, and that the State Bar has no position on the matter, or, if the State Bar has a position on the matter, what that position is,

(3) the total membership of the section,

(4) the process used by the section to take an ideological position,

(5) the number of members in the decision- making body, and

(6) the number who voted in favor and opposed to the position.

If an ideological communication is made orally, the same information must be effectively communicated to the audience receiving the communication.

Although the bylaws of the State Bar of Michigan may not generally prohibit sections from engaging in ideological activity, for a violation of this administrative order or the State Bar of Michigan's bylaws, the State Bar of Michigan may revoke the authority of a section to engage in ideological activities, or to use State Bar facilities or personnel in any fashion, by a majority vote of the Board of Commissioners. If the Board determines a violation occurred, the section shall, at a minimum, withdraw its submission and communicate the withdrawal in the same

manner as the original communication occurred to the extent possible. The communication shall be at the section's own cost and shall acknowledge that the position was unauthorized.

III. Challenges Regarding State Bar Activities.

(A) A member who claims that the State Bar of Michigan is funding ideological activity in violation of this order may file a challenge by giving written notice, by e-mail or regular mail, to the executive director.

(1) A challenge involving legislative advocacy must be filed with the State Bar by e-mail or regular mail within 60 days of the posting of notice of adoption of the challenged position on the State Bar of Michigan website; a challenge sent by regular mail must be postmarked on or before the last day of the month following the month in which notice of adoption of that legislative position is published in the Michigan Bar Journal pursuant to section II(E).

(2) A challenge involving ideological activity appearing in the annual budget of the State Bar of Michigan must be postmarked or e-mailed on or before October 20 following the publication of the budget funding the challenged activity.

(3) A challenge involving any other ideological activity must be postmarked or e-mailed on or before the last day of the month following the month in which disclosure of that ideological activity is published in the Michigan Bar Journal.

Failure to challenge within the time allotted shall constitute a waiver.

(B) After a written challenge has been received, the executive director shall place the item on the agenda of the next meeting of the Board of Commissioners, and shall make a report and recommendation to the Board concerning disposition of the challenge. In considering the challenge, the Board shall direct the executive director to take one or more of the following actions:

(1) dismiss the challenge, with explanation;

(2) discontinue the challenged activity;

(3) revoke the challenged position, and publicize the revocation in the same manner and to the same extent as the position was communicated;

(4) arrange for reimbursement to the challenger of a pro rata share of the cost of the challenged activity; and

(5) arrange for reimbursement of all members requesting a pro rata share of the cost of the challenged activity in the next dues billing.

(C) A challenger or the State Bar of Michigan may seek review by this Court as to whether the challenged activity violates the limitations on State Bar ideological activities set forth in this order, and as to the appropriate remedy for a violation.

(D) A summary of the challenges filed under this section during a legislative term and their disposition shall be posted on the State Bar's website.

IV. OTHER STATE BAR ACTIVITIES.

The State Bar of Michigan shall:

(A) annually publish in the Michigan Bar Journal a notice informing members that, upon request, their names will be removed from the mailing list that is used for commercial mailings, and

(B) annually publish in the Michigan Bar Journal a notice informing members of the Young Lawyers Section that, upon request, their membership in that section will be terminated.

AO No. 2004-2 — Approval of the Adoption of Concurrent Jurisdiction Plans for Barry, Berrien, Isabella, Lake, and Washtenaw Counties, and for the 46th Circuit Consisting of Crawford, Kalkaska, and Otsego Counties

[Entered April 28, 2004; effective August 1, 2004.]

Administrative Order No. 2003-1 and MCL 600.401 *et seq.* authorize Michigan trial courts to adopt concurrent jurisdiction plans within a county or judicial circuit, subject to approval of the Court.

The Court hereby approves adoption of concurrent jurisdiction plans for the following trial courts effective August 1, 2004:

BARRY COUNTY
5th Circuit Court
56B District Court
Barry County Probate Court

BERRIEN COUNTY
2nd Circuit Court
5th District Court
Berrien County Probate Court

ISABELLA COUNTY
21st Circuit Court
76th District Court
Isabella County Probate Court

LAKE COUNTY
51st Circuit Court
79th District Court
Lake County Probate Court

WASHTENAW COUNTY
22nd Circuit Court
14A, 14B, & 15th District Courts
Washtenaw County Probate Court

CRAWFORD, KALKASKA, AND OTSEGO COUNTIES
46th Circuit Court
87th District Court
Crawford County Probate Court
Kalkaska County Probate Court
Otsego County Probate Court

The plans shall remain on file with the state court administrator.

Amendments to concurrent jurisdiction plans may be implemented by local administrative order pursuant to MCR 8.112. Plan amendments shall conform to the requirements of Administrative Order No. 2003-1 and MCL 600.401 *et seq.*

The Court also rescinds Administrative Order Nos. 1993-3, 1996-1, 1996-2, 1996-5, 1996-6, 1996-7, 1996-9, and 1997-12, effective August 1, 2004.

[Concurring statement by MARKMAN, J., appears at 470 Mich lxv (2004).]

AO No. 2004-3 — [Rescinded] Video Proceedings (Family Division of Circuit Court and Probate Court)

[Entered June 22, 2004; rescinded by order entered February 14, 2007, effective May 1, 2007. See also AO No. 2007-1.]

AO No. 2004-4 — Adoption of Concurrent Jurisdiction Plans for Genesee and Van Buren Counties

[Entered June 22, 2004; effective October 1, 2004; text as amended by order entered September 16, 2015.]

Administrative Order No. 2003-1 and MCL 600.401 *et seq*. authorize Michigan trial courts to adopt concurrent jurisdiction plans within a county or judicial circuit, subject to approval of the Court.

The Court hereby approves adoption of concurrent jurisdiction plans for the following trial courts effective October 1, 2004:

GENESEE COUNTY
7th Circuit Court
Genesee County Probate Court
67th District Court
68th District Court

VAN BUREN COUNTY
36th Circuit Court
Van Buren County Probate Court
7th District Court

The plans shall remain on file with the State Court Administrator.

Amendments to concurrent jurisdiction plans may be implemented by local administrative order pursuant to MCR 8.112. Plan amendments shall conform to the requirements of Administrative Order No. 2003-1 and MCL 600.401 *et seq.*

MARKMAN, J. (concurring). I wish to incorporate by reference the views that I expressed in concurring with Administrative Order No. 2004-2.

AO No. 2004-5 (Original) — Expedited Summary Disposition Docket in the Court of Appeals

[Entered October 5, 2004; effective January 1, 2005. See also Amended AO No. 2004-5, entered December 21, 2005, effective January 1, 2006; Second Amended AO No. 2004-5, entered November 9, 2006; and Third Amended AO No. 2007-2, entered May 2, 2007.]

On order of the Court, notice of the proposed expedited docket and an opportunity for comment in writing and at a public hearing having been provided, and consideration having been given to the comments received, the following proposal is adopted for a two-year period, effective January 1, 2005.

1. Applicability. This administrative order applies to appeals filed on or after January 1, 2005, arising solely from orders granting or denying motions for summary disposition under MCR 2.116. These appeals are to be placed on an expedited appeal track under which they shall generally be briefed, argued, and disposed of within six months of filing. A motion to remove is required to divert such appeals to the standard appeal track.

2. Time Requirements. Appeals by right or by leave in cases covered by this order must be taken within the time stated in MCR 7.204 or MCR 7.205. Claims of cross-appeal must be filed within 14 days after the claim of appeal is filed with the Court of Appeals or served on the cross-appellant, whichever is later, or within 14 days after the clerk certifies the order granting leave to appeal.

3. Trial Court Orders on Motions for Summary Disposition. If the trial court concludes that summary disposition is warranted under MCR 2.116(C), the court shall render judgment without delay in an order that specifies the subsection of MCR 2.116(C) under which the judgment is entered.

4. Claim of Appeal—Form of Filing. With the following exceptions, a claim of appeal filed under this order shall conform in all respects with the requirements of MCR 7.204.

(A) A docketing statement will not be required as long as the case proceeds on the summary disposition track.

(B) When the claim of appeal is filed, it shall be accompanied by:

(1) evidence that the transcript of the hearing(s) on the motion for summary disposition has been ordered, or

(2) a statement that there is no record to transcribe, or

(3) a statement that the transcript has been waived.

Failure to file one of the above three documents with the claim of appeal will *not* toll subsequent filing deadlines for transcripts or briefs. Sustained failure to provide the required

documentation may result in dismissal of the appeal under MCR 7.201(B)(3), as long as the Court of Appeals provides a minimum 7-day warning.

5. Application for Leave—Form of Filing. An application for leave to appeal filed under this administrative order shall conform in all pertinent respects with the requirements of MCR 7.205.

6. Claim of Cross-Appeal. A claim of cross-appeal filed under this administrative order shall conform in all pertinent respects with the requirements of MCR 7.207.

7. Removal from Summary Disposition Track. A party may file a motion to remove the case from the summary disposition track to the standard track.

(A) Time to File. Motions to remove by the appellant or the cross-appellant must be filed with the claim of appeal or claim of cross-appeal, respectively, or within 7 days after the date of certification of an order granting application for leave to appeal. Motions to remove by the appellee or cross-appellee must be filed no later than the time for filing of the appellee's brief.

(B) Form. Motions to remove shall concisely state the basis for removal, and must be in the form prescribed by the Court of Appeals. This form shall include a statement advising whether the appellee is expected to oppose the motion.

(C) Answer. An answer to a motion to remove must be filed within 7 days after service of the motion. The answer should state whether the appellee is expected to file a claim of cross-appeal.

(D) Disposition. Within 14 days after the filing of the motion to remove, the Court of Appeals shall issue an order disposing of the motion and setting the time for further filings in the case. The time for further filings in the case will commence on the date of certification of the order on the motion.

(E) Docketing Statement. If the case is removed from the summary disposition track, a docketing statement must be filed within 14 days after the date of certification of the order on the motion.

(F) The Court of Appeals may remove a case from the summary disposition track at any time, on its own motion, if it appears to the Court that the case is not an appropriate candidate for processing under this administrative order.

(G) Effect of Removal. If the Court of Appeals removes a case from the summary disposition track, the parties are entitled to file briefs in accordance with the time and page limitations set forth in MCR 7.212. The time for filing the briefs commences from the date of certification of the order removing the case from the summary disposition docket.

8. Transcript—Production for Purposes of Appeal.

(A) Appellant.

(1) The appellant may waive the transcript. See section 4(B)(3) above.

(2) If the appellant desires the transcript for the appeal, the appellant must order the transcript before or contemporaneously with the filing of the claim of appeal.

(3) If the transcript is not timely filed, the appellant must file one of the following motions with the Court of Appeals within 7 days after the transcript is due:

(a) a motion for an order for the court reporter or recorder to show cause, or

(b) a motion to extend time to file the transcript.

(4) The time for filing the appellant's brief will be tolled by the timely filing of one of the above motions. The order disposing of such motion shall state the time for filing the appellant's brief.

(5) If the ordered transcript is not timely filed, and if the appellant fails to file either of the above motions within the time prescribed, the time for filing the brief will commence on the date the transcript was due. In such event, the appellant's brief shall be filed within 56 days after the claim of appeal was filed or 28 days after certification of the order granting leave to appeal.

(B) Appellee.

(1) The appellee may order the transcript within 14 days after service of the claim of appeal and notice that the appellant has waived the transcript.

(2) The appellee's transcript order will not affect the time for filing the appellant's brief.

(3) If the transcript is not timely filed, the appellee must file one of the following motions with the Court of Appeals within 7 days after the transcript is due:

(a) a motion for an order for the court reporter or recorder to show cause, or

(b) a motion to extend the time to file the transcript.

(4) The time for filing the appellee's brief will be tolled by the timely filing of one of the above motions. The order disposing of such motion shall state the time for filing the appellee's brief.

(5) If the ordered transcript is not timely filed, and if the appellee fails to file either of the above motions within the time prescribed, the time for filing the brief will commence on the date the transcript was due.

(C) Court Reporter. The court reporter or recorder shall file the transcript with the trial court or tribunal within 28 days after it is ordered by either the appellant or the appellee. The court reporter or recorder shall conform in all other respects with the requirements of MCR 7.210.

(D) Transcript Fee. The court reporter or recorder shall be entitled to the sum of $3.00 per original page and 50 cents per page for each copy for transcripts ordered and timely filed in appeals processed under the expedited docket. If the court reporter or recorder does not timely file the transcript, the rate will remain $1.75 per original page and 30 cents per page for each transcript, as set by MCL 600.2543.

9. Briefs on Appeal.

(A) With the following exceptions, the parties' briefs shall conform to the requirements of MCR 7.212.

(B) Time For Filing.

(1) The appellant's brief shall be filed within 28 days after the claim of appeal is filed, the order granting leave is certified, or the timely ordered transcript is timely filed with the trial court, whichever is later, or as ordered by the Court. In appeals by leave, the appellant may rely on the application for leave to appeal rather than filing a separate brief by filing 5 copies of the application for leave to appeal with a cover letter indicating that the appellant is relying on the application in lieu of filing a brief on appeal.

(2) The appellee's brief shall be filed within 21 days after the appellant's brief is served on the appellee, or as ordered by the Court.

(3) Time for filing any party's brief may be extended for 14 days on motion for good cause shown. If the motion is filed by the appellant within the original 28 days brief filing period, the motion will toll the time for any sanctions for untimely briefs. A motion may include a statement from opposing counsel that counsel does not oppose the 14-day extension. A motion to extend the time for filing a brief will be submitted for disposition forthwith; opposing counsel need not file an answer.

(4) If the appellant's brief is not filed within 7 days after the date due, the Court of Appeals shall issue an order assessing costs and warning the appellant that the case will be dismissed if the brief is not filed within 14 days after the deadline. If the brief is not filed within that 14-day period, the Court of Appeals shall issue an order that dismisses the appeal and that may assess additional costs.

(C) Length and Form. Briefs filed under this administrative order are limited to 35 pages, double-spaced, exclusive of tables, indexes, and appendices.

(1) At the time each brief is filed, the filing party must provide the Court of Appeals with that party's trial court summary disposition motion or response, brief, and appendices. Failure to file these documents at the time of filing the appellant's brief will not extend the time to file the appellee's brief, however.

(2) The appellant may wish to include a copy of the transcript (if any) if it was completed after the lower court file was transmitted to the Court of Appeals.

(D) Reply briefs may be filed within 14 days of the filing of appellee's brief and are limited to 5 pages, double-spaced, exclusive of tables, indexes, and appendices.

10. Record on Appeal. The Court of Appeals shall request the record on appeal from the trial court or tribunal clerk as soon as jurisdiction has been confirmed and material filing deficiencies have been corrected. The trial court or tribunal clerk shall transmit the record as directed in MCR 7.210(G).

11. Notice of Cases. Within 7 days after the filing of the appellee's brief, or after the expiration of the time for filing the appellee's brief, the clerk shall notify the parties that the case will be submitted as a "calendar case" on the summary disposition track.

12. Decision of the Court. The opinion or order of the panel shall be issued no later than 35 days after submission of the case to, or oral argument before, a panel of judges for final disposition.

This order will remain in effect for two years from the date of its implementation, during which time the Court of Appeals Delay Reduction Work Group will monitor the expedited docket program. If, at any time during that monitoring process, it becomes apparent to the work group that procedural aspects of the program need to be modified, the group is encouraged to seek authorization from this Court to implement modifications. The work group will provide this Court with written updates on the pilot program before the one-year and eighteen-month anniversaries of the program's implementation. At the end of the two-year pilot period, this Court will evaluate expedited processing of summary disposition appeals to determine whether the procedure will be discontinued, changed, or continued.

AO No. 2004-5 (Amended) — Expedited Summary Disposition Docket in the Court of Appeals

[Entered December 21, 2005, effective January 1, 2006. See also Second Amended AO No. 2004-5, entered November 9, 2006; Third Amended AO No. 2007-2, entered May 2, 2007.]

Pursuant to Administrative Order No. 2004-5, this Court adopted an expedited summary disposition docket in the Court of Appeals to take effect on January 1, 2005, and to expire on December 31, 2006. We now order that the expedited summary disposition docket continue in effect, as modified *infra*, for a twelve-month period.

1. Applicability. This amended administrative order applies to appeals filed on or after January 1, 2006, arising solely from orders granting or denying motions for summary disposition under MCR 2.116. These appeals are to be placed on an expedited appeal track under which they shall generally be briefed, argued, and disposed of within six months of filing. A motion to remove is required to divert such appeals to the standard appeal track.

2. Time Requirements. Appeals by right or by leave in cases covered by this order must be taken within the time stated in MCR 7.204 or MCR 7.205. Claims of cross-appeal must be filed within 14 days after the claim of appeal is filed with the Court of Appeals or served on the cross-appellant, whichever is later, or within 14 days after the clerk certifies the order granting leave to appeal.

3. Trial Court Orders on Motions for Summary Disposition. If the trial court concludes that summary disposition is warranted under MCR 2.116(C), the court shall render judgment without delay in an order that specifies the subsection of MCR 2.116(C) under which the judgment is entered.

4. Claim of Appeal—Form of Filing. With the following exceptions, a claim of appeal filed under this order shall conform in all respects with the requirements of MCR 7.204.

(A) A docketing statement will not be required as long as the case proceeds on the summary disposition track.

(B) When the claim of appeal is filed, it shall be accompanied by:

(1) evidence that the transcript of the hearing(s) on the motion for summary disposition has been ordered, or

(2) a statement that there is no record to transcribe, or

(3) the stipulation of the parties that the transcript has been waived.

Failure to file one of the above three documents with the claim of appeal will not toll subsequent filing deadlines for transcripts or briefs. Sustained failure to provide the required documentation may result in dismissal of the appeal under MCR 7.201(B)(3), as long as the Court of Appeals provides a minimum 7-day warning.

5. Application for Leave—Form of Filing. An application for leave to appeal, or an answer to an application for leave to appeal, filed under this administrative order shall conform in all pertinent respects with the requirements of MCR 7.205. At the time an application or an answer is filed, the filing party must provide the Court of Appeals with 5 copies of that party's trial court summary disposition motion or response, brief, and appendices.

6. Claim of Cross-Appeal. Subject to the filing deadline contained in section 2, a claim of cross-appeal filed under this administrative order shall conform in all other pertinent respects with the requirements of MCR 7.207.

7. Removal from Summary Disposition Track. A party may file a motion to remove the case from the summary disposition track to the standard track.

(A) Time to File. A motion to remove may be filed by any party at any time. However, filing of the motion most closely in time to discovery of the basis for removal will maximize the likelihood that the motion will be granted.

(B) Form. Motions to remove shall concisely state the basis for removal, and must be in the form prescribed by the Court of Appeals. This form shall include a statement advising whether the appellee is expected to oppose the motion.

(C) Answer. An answer to a motion to remove must be filed within 7 days after service of the motion. If applicable, the answer should state whether the appellee is expected to file a claim of cross-appeal.

(D) Disposition. Within 14 days after the filing of the motion to remove, the Court of Appeals shall issue an order disposing of the motion and setting the time for further filings in the case. The time for further filings in the case will commence on the date of certification of the order on the motion.

(E) Docketing Statement. If the case is removed from the summary disposition track, a docketing statement must be filed within 14 days after the date of certification of the order on the motion.

(F) Administrative Removal. The Court of Appeals may remove a case from the summary disposition track at any time, on its own motion, if it appears to the Court that the case is not an appropriate candidate for processing under this administrative order.

(G) Effect of Removal. If the Court of Appeals removes a case from the summary disposition track, the order shall state whether, and the deadlines by which, the parties are entitled to file briefs in accordance with the time and page limitations set forth in MCR 7.212.

8. Transcript—Production for Purposes of Appeal.

(A) Appellant.

(1) The appellant must order the transcript of the hearing(s) on the motion for summary disposition before or contemporaneously with the filing of the claim of appeal or application for

leave to appeal, unless there is no record to transcribe or all parties to the appeal stipulate that the transcript is unnecessary.

(2) Evidence that the transcript was ordered must be filed with the claim of appeal or application for leave to appeal. Appropriate evidence of the ordering includes (but is not limited to) the following:

(a) a letter to the specific court reporter requesting the specific hearing dates and enclosing any required deposit; or

(b) an "Appeal Transcript, Demand, Order and Acknowledgment" form, or

(c) a court reporter or recorder's certificate.

(3) If the transcript is not timely filed, the appellant or an appellee may file an appropriate motion with the Court of Appeals at any time. Avoiding undue delay in filing the motion under the circumstances of the case, and concisely stating the specific basis for it, will maximize the likelihood that the motion will be granted.

(4) If an appropriate motion is filed, the order disposing of such motion shall state the time for filing any outstanding brief(s).

(5) Absent an order of the Court of Appeals that resets the time, and regardless of whether the ordered transcript is timely filed, the time for filing the appellant's brief will commence on the date the claim of appeal was filed or the order granting leave was certified. In such event, the appellant's brief shall be filed within 56 days after the claim of appeal was filed or 28 days after certification of the order granting leave to appeal. See section 9(B)(1).

(B) Appellee.

(1) If the transcript has been ordered by the appellant but is not filed by the time the appellant's brief is served on an appellee, the appellee may file an appropriate motion with the Court of Appeals. Avoiding undue delay in filing the motion under the circumstances of the case, and concisely stating the specific basis for it, will maximize the likelihood that the motion will be granted.

(2) If an appropriate motion is filed, the order shall state the time for filing any outstanding appellee briefs.

(C) Court Reporter. The court reporter or recorder shall file the transcript with the trial court or tribunal within 28 days after it is ordered by either the appellant or the appellee. The court reporter or recorder shall conform in all other respects with the requirements of MCR 7.210.

(D) Transcript Fee. The court reporter or recorder shall be entitled to the sum of $3.00 per original page and 50 cents per page for each copy for transcripts ordered in appeals processed under the expedited docket, if the transcript is filed within 28 days after it was ordered. If the court reporter or recorder does not file the transcript within 28 days after it was ordered, the rate

will remain $1.75 per original page and 30 cents per page for each transcript, as set by MCL 600.2543.

9. Briefs on Appeal.

(A) With the following exceptions, the parties' briefs shall conform to the requirements of MCR 7.212.

(B) Time For Filing.

(1) In appeals by right, the appellant's brief shall be filed within 56 days after the claim of appeal is filed, or as ordered by the Court. In appeals by leave, the appellant's brief shall be filed within 28 days after the order granting leave is certified, or as ordered by the Court. In appeals by leave, the appellant may rely on the application for leave to appeal rather than filing a separate brief by timely filing 5 copies of the application for leave to appeal with a new cover page indicating that the appellant is relying on the application in lieu of filing a brief on appeal. The cover page should indicate whether oral argument is requested or is not requested. MCR 7.212(C)(1).

(2) The appellee's brief shall be filed within 28 days after the appellant's brief is served on the appellee, or as ordered by the Court. In appeals by leave, the appellee may rely on the answer to the application for leave to appeal rather than filing a separate brief by timely filing 5 copies of the answer to the application for leave to appeal with a new cover page indicating that the appellee is relying on the answer to the application in lieu of filing a brief on appeal. The cover page should indicate whether oral argument is requested or is not requested. MCR 7.212(C)(1) and (D)(1).

(3) Time for filing any party's brief may be extended for 14 days on motion for good cause shown, filed within the original brief-filing period. If the motion is filed by the appellant within the original brief-filing period, the motion will toll the time for any sanctions for untimely briefs. A motion may include a statement from opposing counsel that counsel does not oppose the 14-day extension. A motion to extend the time for filing a brief will be submitted for disposition forthwith; opposing counsel need not file an answer.

(4) If the appellant's brief is not filed within 7 days after the date due, the Court of Appeals shall issue an order assessing costs and warning the appellant that the case will be dismissed if the brief is not filed within 14 days after the deadline. If the brief is not filed within that 14-day period, the Court of Appeals shall issue an order that dismisses the appeal and that may assess additional costs.

(C) Length and Form. Briefs filed under this administrative order are limited to 35 pages, double-spaced, exclusive of tables, indexes, and appendices. At the time each brief is filed, the filing party must provide the Court of Appeals with that party's trial court summary disposition motion or response, brief, and appendices. Failure to file these documents at the time of filing the appellant's brief will not extend the time to file the appellee's brief, however. Provided such omission is noted appropriately in the appellee's brief, the appellee may omit these appendices if they were included with the appellant's brief.

(D) A reply brief may be filed within 14 days after the appellee's brief is served on the appellant, and is limited to 5 pages, double-spaced, exclusive of tables, indexes, and appendices.

10. Record on Appeal. The Court of Appeals shall request the record on appeal from the trial court or tribunal clerk 28 days after jurisdiction has been confirmed and material filing deficiencies have been corrected. The trial court or tribunal clerk shall transmit the record as directed in MCR 7.210(G).

11. Notice of Cases. Within 7 days after the filing of the appellee's brief, or after the expiration of the time for filing the appellee's brief, the clerk shall notify the parties that the case will be submitted as a "calendar case" on the summary disposition track.

12. Decision of the Court. The opinion or order of the panel shall be issued no later than 35 days after submission of the case to, or oral argument before, a panel of judges for final disposition.

This amended order will remain in effect until December 31, 2006, during which time the Court of Appeals Work Group will monitor the expedited docket program. If, at any time during that monitoring process, it becomes apparent to the work group that procedural aspects of the program need to be modified, the group is encouraged to seek authorization from this Court to implement modifications. The work group will provide this Court with written updates on the pilot program before the one-year and eighteen-month anniversaries of the program's implementation. At the end of the two-year pilot period, this Court will evaluate expedited processing of summary disposition appeals to determine whether the procedure will be discontinued, changed, or continued.

AO No. 2004-5 (SECOND AMENDED) — Expedited Summary Disposition Docket in the Court of Appeals

[Entered November 9, 2006. See also Third Amended AO No. 2007-2, entered May 2, 2007.]

Pursuant to Administrative Order No. 2004-5, this Court adopted an expedited summary disposition docket in the Court of Appeals to take effect on January 1, 2005, and to expire on December 31, 2006. On December 21, 2005, Amended Administrative Order 2004-5 was adopted to take effect January 1, 2006. We now order that the expedited summary disposition docket continue in effect, as modified *infra*, for an additional one-year period to expire December 31, 2007.

Although the Court of Appeals has failed to meet the stated objectives for this pilot program during its existence, the Court is persuaded to approve the extension of the expedited summary disposition docket because the Court of Appeals Work Group (which consists of members of the Court of Appeals, Court of Appeals staff members, and members of the Appellate Practice Section) unanimously recommended the extension in anticipation that the newest recommended changes will permit the program to meet its goals. The Court of Appeals and members of the bar should not presume that this extension in any way signals the Court's intention to eventually make the program permanent, particularly if it does not meet its intended goal of reducing appellate delay in the Court of Appeal during this additional year of experimentation.

1. Applicability. This amended administrative order applies to appeals filed on or after January 1, 2007, arising solely from orders granting or denying motions for summary disposition under MCR 2.116. Unless otherwise removed by order of the Court of Appeals, these appeals shall be placed on an expedited appeal track under which they shall generally be briefed, argued, and disposed of within six months of filing. A motion to remove is required for a party to divert such appeals to the standard appeal track.

2. Time Requirements. Appeals by right or by leave in cases covered by this second amended order must be taken within the time stated in MCR 7.204 or MCR 7.205. Claims of cross-appeal must be filed within the time stated in MCR 7.207.

3. Trial Court Orders on Motions for Summary Disposition. If the trial court concludes that summary disposition is warranted under MCR 2.116(C), the court shall render judgment without delay in an order that specifies the subsection of MCR 2.116(C) under which the judgment is entered.

4. Claim of Appeal—Form of Filing. With the following exceptions, a claim of appeal filed under this order shall conform in all respects with the requirements of MCR 7.204.

(A) A docketing statement is not required unless the case is removed by order before the filing of the appellant's brief.

(B) When the claim of appeal is filed, it shall be accompanied by:

(1) evidence that the transcript of the hearing(s) on the motion for summary disposition has been ordered, or

(2) a statement that there is no record to transcribe, or

(3) the stipulation of the parties that the transcript has been waived.

Failure to file one of the above three documents with the claim of appeal will not toll subsequent filing deadlines for transcripts or briefs. Sustained failure to provide the required documentation may result in dismissal of the appeal under MCR 7.201(B)(3), as long as the Court of Appeals provides a minimum 7-day warning.

5. Application for Leave—Form of Filing. An application for leave to appeal, or an answer to an application for leave to appeal, filed under this second amended administrative order shall conform in all pertinent respects with the requirements of MCR 7.205. At the time an application or an answer is filed, the filing party must provide the Court of Appeals with 5 copies of that party's trial court summary disposition motion or response, brief, and appendices.

6. Claim of Cross-Appeal. A claim of cross-appeal filed under this second amended administrative order shall conform in all pertinent respects with the requirements of MCR 7.207. Upon the filing of a claim of cross-appeal in an appeal proceeding on the summary disposition track, the Court will remove the case from the track as provided in section 7, if it determines that the case is no longer appropriate for the track.

7. Removal from Summary Disposition Track. A party may file a motion, or the Court may act sua sponte to remove a case from the summary disposition track to the standard track.

(A) Time to File. A motion to remove may be filed by any party at any time.

(B) Form. Motions to remove shall concisely state the basis for removal, and must be in the form prescribed by the Court of Appeals. Factors that weigh in favor of removal include:

(1) the length of one or more briefs exceeds 25 pages; removal of the case from the summary disposition track becomes more likely as the briefs approach the 35-page limit under section 9(C),

(2) the lower court record consists of more than 3 moderately sized files and more than 100 pages of transcripts from the relevant hearing(s) and deposition(s),

(3) there are more than four issues to be decided, and

(4) one or more of the issues are matters of first impression, including the first interpretation of a statute, or are factually or legally complex.

(C) Fee. No fee is required for a motion to remove from the summary disposition track.

(D) Answer. An answer to a motion to remove must be filed within 7 days after service of the motion.

(E) Disposition. Motions to remove shall be liberally granted. Within 14 days after the filing of the motion to remove, the Court of Appeals shall issue an order disposing of the motion and setting the time for further filings, if any, in the case. The time for further filings in the case will commence on the date of certification of the order on the motion.

(F) Docketing Statement. If the case is removed from the summary disposition track before the filing of the appellant's brief, a docketing statement must be filed within 14 days after the date of certification of the order on the motion.

(G) Administrative Removal. The Court of Appeals will remove a case from the summary disposition track, on its own motion, if it appears to the Court that the case is not an appropriate candidate for processing under this second amended administrative order. Such administrative removal may be made at any time, even after the parties' briefs are filed.

(H) Effect of Removal. If the Court of Appeals removes a case from the summary disposition track before the filing of the appellant's brief, the parties are entitled to file briefs in accordance with time requirements and page limitations set forth in MCR 7.212. New or supplemental briefs shall not be permitted in cases removed from the summary disposition track after the filing of the parties' briefs except upon motion of a party and further order of the Court.

8. Transcript—Production for Purposes of Appeal.

(A) Appellant.

(1) The appellant must order the transcript of the hearing(s) on the motion for summary disposition before or contemporaneously with the filing of the claim of appeal or application for leave to appeal, unless there is no record to transcribe or all parties to the appeal stipulate that the transcript is unnecessary.

(2) Evidence that the transcript was ordered must be filed with the claim of appeal or application for leave to appeal. Appropriate evidence of the ordering includes (but is not limited to) the following:

(a) a letter to the specific court reporter requesting the specific hearing dates and enclosing any required deposit; or

(b) an "Appeal Transcript, Demand, Order and Acknowledgment" form, or

(c) a court reporter or recorder's certificate.

(3) If the transcript is not timely filed, the appellant or an appellee may file an appropriate motion with the Court of Appeals at any time. Avoiding undue delay in filing the motion under the circumstances of the case, and concisely stating the specific basis for it, will maximize the likelihood that the motion will be granted.

(4) If an appropriate motion is filed, the order disposing of such motion shall state the time for filing any outstanding brief(s).

(5) Absent an order of the Court of Appeals that resets the time, the appellant's brief will be due as provided in section 9(B)(1) regardless of whether the ordered transcript is timely filed.

(B) Appellee.

(1) If the transcript has been ordered by the appellant but is not filed by the time the appellant's brief is served on an appellee, the appellee may file an appropriate motion with the Court of Appeals. Avoiding undue delay in filing the motion under the circumstances of the case, and concisely stating the specific basis for it, will maximize the likelihood that the motion will be granted.

(2) If an appropriate motion is filed, the order shall state the time for filing any outstanding appellee briefs.

(C) Court Reporter. The court reporter or recorder shall file the transcript with the trial court or tribunal within 28 days after it is ordered by either the appellant or the appellee. The court reporter or recorder shall conform in all other respects with the requirements of MCR 7.210.

(D) Transcript Fee. The court reporter or recorder shall be entitled to the sum of $3.00 per original page and 50 cents per page for each copy for transcripts ordered in appeals processed under the expedited docket, if the transcript is filed within 28 days after it was ordered. If the court reporter or recorder does not file the transcript within 28 days after it was ordered, the rate will remain $1.75 per original page and 30 cents per page for each transcript, as set by MCL 600.2543.

9. Briefs on Appeal.

(A) With the following exceptions, the parties' briefs shall conform to the requirements of MCR 7.212.

(B) Time For Filing.

(1) In appeals by right, the appellant's brief shall be filed within 56 days after the claim of appeal is filed, or as ordered by the Court. In appeals by leave, the appellant's brief shall be filed within 28 days after the order granting leave is certified, or as ordered by the Court. In appeals by leave, the appellant may rely on the application for leave to appeal rather than filing a separate brief by timely filing 5 copies of the application for leave to appeal with a new cover page indicating that the appellant is relying on the application in lieu of filing a brief on appeal. The cover page should indicate whether oral argument is requested or is not requested. MCR 7.212(C)(1).

(2) The appellee's brief shall be filed within 28 days after the appellant's brief is served on the appellee, or as ordered by the Court. In appeals by leave, the appellee may rely on the answer to the application for leave to appeal rather than filing a separate brief by timely filing 5 copies of the answer to the application for leave to appeal with a new cover page indicating that the appellee is relying on the answer to the application in lieu of filing a brief on appeal. The cover page should indicate whether oral argument is requested or is not requested. MCR 7.212(C)(1) and (D)(1).

(3) Time for filing any party's brief may be extended for 14 days on motion for good cause shown. If the motion is filed by the appellant within the original brief-filing period, the motion will toll the time for any sanctions for untimely briefs. A motion may include a statement from opposing counsel that counsel does not oppose the 14-day extension. A motion to extend the time for filing a brief will be submitted for disposition forthwith; opposing counsel need not file an answer.

(4) If the appellant's brief is not filed within 7 days after the date due, the Court of Appeals shall issue an order assessing costs and warning the appellant that the case will be dismissed if the brief is not filed within 7 days after the clerk's certification of the order. If the brief is not filed within that 7-day period, the Court of Appeals shall issue an order that dismisses the appeal and that may assess additional costs.

(C) Length and Form. Briefs filed under this second amended administrative order are limited to 35 pages, double-spaced, exclusive of tables, indexes, and appendices. At the time each brief is filed, the filing party must provide the Court of Appeals with that party's trial court summary disposition motion or response, brief, and appendices. Failure to file these documents at the time of filing the appellant's brief will not extend the time to file the appellee's brief. If the appellant filed copies of the appellee's summary disposition response, brief, and appendices, the appellee may omit these documents provided that appellee notes the omission prominently on the title page of the appellee's brief.

(D) A reply brief may be filed within 14 days after the appellee's brief is served on the appellant, and is limited to 5 pages, double-spaced, exclusive of tables, indexes, and appendices.

10. Record on Appeal. The Court of Appeals shall request the record on appeal from the trial court or tribunal clerk 28 days after jurisdiction has been confirmed and material filing deficiencies have been corrected. The trial court or tribunal clerk shall transmit the record as directed in MCR 7.210(G).

11. Notice of Cases. Within 7 days after the filing of the appellee's brief, or after the expiration of the time for filing the appellee's brief, the clerk shall notify the parties that the case will be submitted as a "calendar case" on the summary disposition track.

12. Decision of the Court. The opinion or order of the panel shall be issued no later than 35 days after submission of the case to, or oral argument before, a panel of judges for final disposition.

This amended order will remain in effect until December 31, 2007, during which time the Court of Appeals Work Group will monitor the expedited docket program. If, at any time during that monitoring process, it becomes apparent to the work group that procedural aspects of the program need to be modified, the group is encouraged to seek authorization from this Court to implement modifications. The work group will provide this Court with a written report by November 1, 2007, for this Court's use in evaluating expedited processing of summary disposition appeals to determine whether the procedure will be discontinued, changed, or continued.

CAVANAGH, J., concurs in the extension.

AO No. 2004-6 — Minimum Standards for Indigent Criminal Appellate Defense Services

[Entered October 5, 2004; effective January 1, 2005.]

On order of the Court, this is to advise that the Court has considered revised minimum standards for indigent criminal appellate defense services proposed by the Appellate Defender Commission pursuant to 1978 PA 620, MCL 780.711 to 780.719. The Court approves the standards with some revisions replacing those adopted in administrative order No. 1981-7, effective January 1, 2005.

PREAMBLE:

The Michigan Legislature in MCL 780.712(5) requires the Appellate Defender Commission to develop minimum standards to which all criminal appellate defense services shall conform. Pursuant to this mandate, these standards are intended to serve as guidelines to help counsel achieve the goal of effective appellate and postjudgment representation. Criminal appellants are not constitutionally entitled to counsel's adherence to these guidelines. Hence, counsel's failure to comply with any standard does not of itself constitute grounds for either a claim of ineffective assistance of counsel or a violation of the Michigan Rules of Professional Conduct, and no failure to comply with one or more of these standards shall, unless it is independently a violation of a rule of professional conduct, serve as the basis for a request for investigation with the Attorney Grievance Commission.

STANDARD 1

Counsel shall promptly examine the trial court record and register of actions to determine the proceedings, in addition to trial, plea, and sentencing, for which transcripts or other documentation may be useful or necessary, and, in consultation with the defendant and, if possible, trial counsel, determine whether any relevant proceedings have been omitted from the register of actions, following which counsel shall request preparation and filing of such additional pertinent transcripts and review all transcripts and lower court records relevant to the appeal. Although the trial court is responsible for ordering the record pursuant to MCR 6.425(F)(2), appellate counsel is nonetheless responsible for ensuring that all useful and necessary portions of the transcript are ordered.

STANDARD 2

Before filing the initial postconviction or appellate motion or brief and after reviewing the relevant transcripts and lower court records, counsel must consult with the defendant about the proposed issues to be raised on appeal and advise of any foreseeable benefits or risks in pursuing the appeal generally or any particular issue specifically. At counsel's discretion, such confidential consultation may occur during an interview with the defendant in person or through an attorney agent, by a comparable video alternative, or by such other reasonable means as counsel deems sufficient, in light of all the circumstances.

STANDARD 3

Counsel should raise those issues, recognizable by a practitioner familiar with criminal law and procedures on a current basis and who engages in diligent legal research, which offer reasonable prospects of meaningful postconviction or appellate relief, in a form that protects where possible the defendant's option to pursue collateral attacks in state or federal courts. If a potentially meritorious issue involves a matter not reflected in the trial court record, counsel should move for and conduct such evidentiary hearings as may be required.

STANDARD 4

When a defendant insists that a particular claim or claims be raised on appeal against the advice of counsel, counsel shall inform the defendant of the right to present the claim or claims in propria persona. Defendant's filing shall consist of one brief filed with or without an appropriate accompanying motion. Counsel shall also provide such procedural advice and clerical assistance as may be required to conform the defendant's filing for acceptability to the court. The defendant's filing in propria persona must be received by the Court of Appeals within 84 days after the appellant's brief is filed by the attorney, but if the case is noticed for submission within that 84-day period, the filing must be received no later than 7 days before the date of submission, or within the 84-day period, whichever is earlier. The 84-day deadline may be extended only by the Court of Appeals on counsel's motion, upon a showing of good cause for the failure to file defendant's pleading within the 84-day deadline.

STANDARD 5

An appeal may never be abandoned by counsel; an appeal may be dismissed on the basis of the defendant's informed consent, or counsel may seek withdrawal pursuant to *Anders v California*, 386 US 738; 87 S Ct 1396; 18 L Ed 2d 493 (1967), and related constitutional principles.

STANDARD 6

Counsel should request oral argument, and preserve the right to oral argument by timely filing the defendant's brief on appeal. Oral argument may be waived if counsel subsequently concludes that the defendant's rights will be adequately protected by submission of the appeal on the briefs alone.

STANDARD 7

Counsel must keep the defendant apprised of the status of the appeal and promptly forward copies of pleadings filed and opinions or orders issued by a court.

STANDARD 8

Upon final disposition of the case by the court, counsel shall promptly and accurately inform the defendant of the courses of action that may be pursued as a result of that disposition, and the scope of any further representation counsel may provide. If counsel's representation terminates, counsel shall cooperate promptly and fully with the defendant and any successor counsel in the transmission of records and information.

STANDARD 9

Upon acceptance of the assignment, counsel is prohibited from seeking or accepting fees from the defendant or any other source beyond those authorized by the appointing authority.

[Dissenting statement by YOUNG, J., concurred with by CORRIGAN, C.J., appears at 471 Mich civ (2004).]

AO No. 2004-7 — Adoption of Concurrent Jurisdiction Plans for the Third Circuit of Wayne County, the 19th District Court, the 29th District Court, and the 35th District Court

[Entered December 8, 2004; effective May 1, 2005.]

Administrative Order No. 2003-1 and MCL 600.401 *et seq.* authorize Michigan trial courts to adopt concurrent jurisdiction plans within a county or judicial circuit, subject to approval of the Court.

The Court hereby approves adoption of the following concurrent jurisdiction plans effective May 1, 2005:

Third Circuit of Wayne County and the 19th District Court

Third Circuit of Wayne County and the 29th District Court

Third Circuit of Wayne County and the 35th District Court

The plans shall remain on file with the State Court Administrator.

Amendments of concurrent jurisdiction plans may be implemented by local administrative order pursuant to MCR 8.112. Plan amendments shall conform to the requirements of Administrative Order No. 2003-1 and MCL 600.401 *et seq.*

MARKMAN, J. (concurring). I wish to incorporate by reference the views that I expressed in concurring with Administrative Order No. 2004-2.

AO No. 2005-1 — [Rescinded] Adoption of Concurrent Jurisdiction Plan for the 41st Circuit Court, the 95B District Court, and the Iron County Probate Court

[Entered May 17, 2005; effective September 1, 2005; amended by order on August 26, 2014; rescinded by AO No. 2019-3 on August 14, 2019.]

AO No. 2005-2 — Clarification of Time for Filing Postjudgment Motions

[Entered October 18, 2005.]

On July 13, 2005, this Court entered an order, effective January 1, 2006, that reduced the time from 12 months to 6 months for filing postjudgment motions pursuant to MCR 6.310(C) (motion to withdraw plea), 6.419(B) (motion for directed verdict of acquittal), 6.429(B) (motion to correct invalid sentence), and 6.431(A) (motion for new trial). This amendment is not applicable to cases where the order appointing appellate counsel was entered on or before December 31, 2005. In cases where the order appointing appellate counsel was entered on or before December 31, 2005, such postjudgment motions shall be filed within 12 months of the date of the order appointing appellate counsel.

AO No. 2005-3 — Adoption of Concurrent Jurisdiction Plan for the 45th Circuit Court and the 3B District Court of St. Joseph County

[Entered November 30, 2005; effective March 1, 2006.]

Administrative Order No. 2003-1 and MCL 600.401 *et seq.* authorize Michigan trial courts to adopt concurrent jurisdiction plans within a county or judicial circuit, subject to approval of the Court.

The Court hereby approves adoption of the following concurrent jurisdiction plan effective March 1, 2006:

The 45th Circuit Court and the 3B District Court

The plans shall remain on file with the state court administrator.

Amendments of concurrent jurisdiction plans may be implemented by local administrative order pursuant to MCR 8.112. Plan amendments shall conform to the requirements of Administrative Order No. 2003-1 and MCL 600.401 *et seq.*

MARKMAN, J. (concurring). I wish to incorporate by reference the views that I expressed in concurring with Administrative Order No. 2004-2.

AO No. 2006-2 — Privacy Policy and Access to Court Records

[Entered February 10, 2006; effective March 1, 2006.]

The Social Security Number Privacy Act, 2004 PA 454, requires all persons who, in the ordinary course of business, obtain one or more social security numbers, to create a privacy policy in order to ensure the confidentiality of social security numbers, prohibit unlawful disclosure of such numbers, limit access to information or documents containing social security numbers, provide for proper disposal of documents containing social security numbers, and establish penalties for violation of the privacy policy.

The management of documents within court files is the responsibility of the judiciary. In the regular course of business, courts are charged with the duty to maintain information contained within public documents that is itself nonpublic, based upon statute, court rule, or court order. In carrying out its responsibility to maintain these documents, the judiciary must balance the need for openness with the delicate issue of personal privacy. In an effort to prevent the illegal or unethical use of information found within court files, the following privacy policy is provided for all court records, effective March 1, 2006, and to be implemented prospectively.

Accordingly, on order of the Court,

A. The State Court Administrative Office is directed to assist trial courts in implementing this privacy policy and to update case file management standards established pursuant to this order.

B. Trial courts are directed to:

1. limit the collection and use of a social security number for party and court file identification purposes on cases filed on or after March 1, 2006, to the last 4 digits;

2. implement updated case file management standards for nonpublic records;

3. eliminate the collection of social security numbers for purposes other than those required or allowed by statute, court rule, court order, or collection activity when it is required for purposes of identification;

4. establish minimum penalties for court employees and custodians of the records who breach this privacy policy; and

5. cooperate with the State Court Administrative Office in implementing the privacy policy established pursuant to this order.

On further order of the Court, the following policies for access to court records are established.

ACCESS TO PUBLIC COURT RECORDS

Access to court records is governed by MCR 8.119 and the Case File Management Standards.

ACCESS TO NONPUBLIC RECORDS

1. Maintenance of nonpublic records is governed by the Nonpublic and Limited Access Court Records Chart and the Case File Management Standards.

2. The parties to a case are allowed to view nonpublic records within their court file unless otherwise provided by statute or court rule.

3. If a request is made by a member of the public to inspect or copy a nonpublic record or a record that does not exist, court staff shall state, "No public record exists."

SOCIAL SECURITY NUMBERS AND NONPUBLIC RECORDS

1. The clerk of the court shall be allowed to maintain public files containing social security numbers on documents filed with the clerk subject to the requirements in this section.

2. No person shall file a document with the court that contains another person's social security number except when the number is required or allowed by statute, court rule, court order, or for purposes of collection activity when it is required for identification. A person who files a document with the court in violation of this directive is subject to punishment for contempt and is liable for costs and attorney fees related to protection of the social security number.

3. A person whose social security number is contained in a document filed with the clerk on or after March 1, 2006, may file a motion asking the court to direct the clerk to:

a. redact the number on any document that does not require or allow a social security number pursuant to statute, court rule, court order, or for purposes of collection activity when it is required for identification; or

b. file a document that requires or allows a social security number pursuant to statute, court rule, court order, or for purposes of collection activity when it is required for identification, in a separate nonpublic file.

The clerk shall comply with the court's order and file the request in the court file.

4. Dissemination of social security numbers is restricted to the purposes for which they were collected and for which their use is authorized by federal or state law. Upon receiving a request for copies of a public document filed on or after March 1, 2006, that contains a social security number pursuant to statute, court rule, court order, or for purposes of collection activity when it is required for identification, a court shall provide a copy of the document after redacting all social security numbers on the copy. This requirement does not apply to requests for certified copies or true copies when required by law or for requests to view or inspect files. This requirement does not apply to those uses for which the social security number was provided.

RETENTION AND DISPOSAL OF NONPUBLIC RECORDS

Retention and disposal of nonpublic records and information shall be governed by General Schedule 16 and the Michigan Trial Court Case File Management Standards.

AO No. 2006-3 — [Rescinded] Michigan Uniform System of Citation

[Entered March 15, 2006; effective May 1, 2006; rescinded by AO No. 2014-22, entered November 5, 2014.]

AO No. 2006-4 — Adoption of Concurrent Jurisdiction Plan for the 28th Circuit Court and the 84th District Court of Wexford County

[Entered April 5, 2006; effective August 1, 2006.]

Administrative Order No. 2003-1 and MCL 600.401 *et seq.* authorize Michigan trial courts to adopt concurrent jurisdiction plans within a county or judicial circuit, subject to approval of the Court.

The Court hereby approves adoption of the following concurrent jurisdiction plan effective August 1, 2006:

The 28th Circuit Court and the 84th District Court

The plan shall remain on file with the state court administrator.

Amendments of concurrent jurisdiction plans may be implemented by local administrative order pursuant to MCR 8.112. Plan amendments shall conform to the requirements of Administrative Order No. 2003-1 and MCL 600.401 *et seq*.

MARKMAN, J. (concurring). I wish to incorporate by reference the views that I expressed in concurring with Administrative Order No. 2004-2.

AO No. 2006-5 — Adoption of the Michigan Child Support Formula as Juvenile Court Reimbursement Guideline

[Entered May 30, 2006; effective July1, 2006.]

On order of the Court, notice of the proposed changes and an opportunity for comment in writing and at a public hearing having been provided, and consideration having been given to the comments received, the Court adopts the Michigan Child Support Formula Schedules Supplement from the Michigan Child Support Formula Manual to replace the July 30, 1990, Schedule of Payments in the Guideline for Court Ordered Reimbursement, effective July 1, 2006.

AO No. 2006-6 — Prohibition on "Bundling" Cases

[Entered August 9, 2006; effective immediately but subject to public comment; retained by order entered June 19, 2007.]

The Court has determined that trial courts should be precluded from "bundling" asbestos-related cases for settlement or trial. It is the opinion of the Court that each case should be decided on its own merits, and not in conjunction with other cases. Thus, no asbestos-related disease personal injury action shall be joined with any other such case for settlement or for any other purpose, with the exception of discovery. This order in no way precludes or diminishes the ability of a court to consolidate asbestos-related disease personal injury actions for discovery purposes only.

For purposes of this administrative order, "asbestos-related disease personal injury actions" include all cases in which it is alleged that a party has suffered personal injury caused by exposure to asbestos, regardless of the theory of recovery.

[Statements related to the entry of AO No. 2006-6 appear at 476 Mich xlv (2006). Statements related to the retention order appear at 478 Mich lvi (2007).]

AO No. 2006-7 — [Rescinded] Interactive Video Proceedings (Family Division of Circuit Court and Probate Court)

[Entered September 19, 2006; rescinded by order entered February 14, 2007, effective May 1, 2007. See also AO No. 2007-1.]

AO No. 2006-8 — Deliberative Privilege and Case Discussions in the Supreme Court

[Entered December 6, 2006.]

The following administrative order, supplemental to the provisions of Administrative Order No. 1997-10, is effective immediately.

All correspondence, memoranda and discussions regarding cases or controversies are confidential. This obligation to honor confidentiality does not expire when a case is decided. The only exception to this obligation is that a Justice may disclose any unethical, improper or criminal conduct to the JTC or proper authority.

[Dissenting statement by WEAVER, J., appears at 477 Mich clii (2006).]

AO No. 2006-9 — Adoption of Concurrent Jurisdiction Plan for the 28th Circuit Court, the 84th District Court, and the Probate Court of Missaukee County

[Entered December 27, 2006; effective April 1, 2007.]

Administrative Order No. 2003-1 and MCL 600.401 *et seq.* authorize Michigan trial courts to adopt concurrent jurisdiction plans within a county or judicial circuit, subject to approval of the Court.

The Court hereby approves the adoption of the following concurrent jurisdiction plan effective April 1, 2007:

The 28th Circuit Court, the 84th District Court, and the Probate Court of Missaukee County

The plan shall remain on file with the state court administrator.

Amendments to concurrent jurisdiction plans may be implemented by local administrative order pursuant to MCR 8.112. Plan amendments shall conform to the requirements of Administrative Order No. 2003-1 and MCL 600.401 *et seq*.

MARKMAN, J. (concurring). I wish to incorporate by reference the views that I expressed in concurring with Administrative Order No. 2004-2.

AO No. 2007-1 — [Rescinded] Expanded Use of Interactive Video Technology

[Entered February 14, 2007; effective May 1, 2007; rescinded by ordered entered November 26, 2014, effective January 1, 2015. The November 26, 2014 order further states, "Courts operating an approved expanded interactive video technology program under the terms of Administrative Order No. 2007-1 may continue the program in effect."]

Third Amended AO No. 2007-2 — Expedited Summary Disposition Docket in the Court of Appeals

[Entered May 2, 2007.]

Pursuant to Administrative Order No. 2004-5, this Court adopted an expedited summary disposition docket in the Court of Appeals to take effect on January 1, 2005, and to expire on December 31, 2006. On December 21, 2005, Amended Administrative Order No. 2004-5 was adopted to take effect January 1, 2006, and to expire December 31, 2007. At the request of Chief Judge William C. Whitbeck, we now order that the expedited summary disposition docket be suspended indefinitely effective May 7, 2007.

The Court of Appeals has indicated that as of May 7, 2007, all cases currently on the expedited summary disposition track will no longer be considered on an expedited basis and will proceed on the standard track. If any party believes this shift would create a hardship or a significant inequity, a party may file a motion for appropriate relief in conformity with MCR 7.211. Parties to cases that were filed under the expedited summary disposition docket need not file a docketing statement, as is required for cases that were not filed under the expedited summary disposition docket. If transcripts in an expedited summary disposition case have been ordered and are completed by the court reporter within the time limits established in Administrative Order No. 2004-5, the court reporter is entitled to charge the premium rate per page.

AO No. 2007-3 — [Rescinded] E-filing in Oakland County

[Entered June 19, 2007; amended October 20, 2011, May 22, 2013, June 19, 2013, June 17, 2015, September 16, 2015, December 23, 2015, and December 20, 2017; rescinded and replaced by AO No. 2019-4, entered October 23, 2019.]

AO No. 2007-4 — Adoption of Concurrent Jurisdiction Plan for the 49th Circuit Court, the 77th District Court, and Probate District 18 of Mecosta and Osceola Counties

[Entered December 18, 2007; effective April 1, 2008.]

Administrative Order No. 2003-1 and MCL 600.401 *et seq.* authorize Michigan trial courts to adopt concurrent jurisdiction plans within a county or judicial circuit, subject to approval of the Court.

The Court hereby approves the adoption of the following concurrent jurisdiction plan, effective April 1, 2008:

The 49th Circuit Court, the 77th District Court, and Probate District 18 of Mecosta and Osceola Counties

The plan shall remain on file with the state court administrator.

Amendments to concurrent jurisdiction plans may be implemented by local administrative order pursuant to MCR 8.112. Plan amendments shall conform to the requirements of Administrative Order No. 2003-1 and MCL 600.401 *et seq*.

MARKMAN, J. (concurring). I wish to incorporate by reference the views that I expressed in concurring with Administrative Order No. 2004-2.

AO No. 2008-1 — Pilot Project No. 1 17th Judicial Circuit Court (Expedited Process in the Resolution of the Low Conflict Docket of the Family Division)

[Entered April 8, 2008; continued through February 28, 2011, by AO No. 2009-2, entered January 14, 2009.]

On order of the Court, the 17th Judicial Circuit Court is authorized to implement a domestic relations pilot project. The pilot project will study the effectiveness of the use of pleadings that contain nonadversarial language, and the requirement that parents submit parenting time plans to encourage settlements and reduce postjudgment litigation.

The pilot project shall begin April 1, 2008, or as soon thereafter as is possible, and shall remain in effect until July 30, 2009, or until further order of this Court.

The 17th Judicial Circuit Court will track the degree of participation and the overall effectiveness of this pilot project and shall report to and provide information as requested by the State Court Administrative Office.

1. Purpose of the Pilot Project.

The purpose of the pilot project is to study the effectiveness of the use of nonadversarial language in pleadings, judgments, and orders, and the effectiveness of a proposed provision for inclusion of parenting time plans, particularly in relation to the just, speedy, and economical determination of the actions involved in the pilot project and the reduction of postjudgment litigation. Except for matters related to the form of pleadings and orders, requirements for parenting time plans, and the use of nonadversarial language during the pilot project, the Michigan Court Rules govern all other aspects of the cases involved in the pilot project.

2. Construction and Participation.

(a) The 17th Judicial Circuit Court shall determine a method by local administrative order that creates a pool of pilot-project cases and also a pool of control-group cases. The local administrative order shall specify the cases to be included in the pilot project by one of the following methods: the date an action is filed, a specific number of consecutive cases or actions filed, or by the assigned judge.

(b) Participation also shall include postjudgment proceedings in qualifying cases that were included in the pilot pool.

(c) This is a mandatory project. A self-represented party is not excused from the project merely because the individual does not have counsel.

3. Nonadversarial Terms.

The pilot project will incorporate the use of nonadversarial terms, such as “mother” or “parent” instead of “plaintiff” or “defendant.” However, the use of nonadversarial language will not change the roles of parents as custodians for purposes of any state or federal law for which

custody is required to be determined. Judgments and orders produced in the pilot project will clearly delineate how custody is to be determined for purposes of state and federal laws that require a person to be designated as a custodian.

4. Procedure.

When an attorney or a pro se parent files a complaint with the clerk's office, and the clerk's office determines that the new case meets the requirements of the pilot project, that parent will be given two informational pamphlets explaining the purpose of the project, as well as two sets of instructions for a parenting time plan and two blank forms for proposed parenting time plans. Each of these documents must be approved by the State Court Administrative Office before they are distributed by the court to the parent.

The parent's attorney or the pro se parent seeking the divorce will be responsible for serving the informational pamphlet regarding parenting time instructions and the proposed parenting time plan on the other parent. The parent's attorney must ensure that his or her client receives the informational pamphlet containing the parenting time instructions and the proposed parenting time plan.

Each parent must complete the proposed parenting time plan and file it with the court within 28 days of filing his or her initial pleadings. The parents must also serve the other parent's attorney, or the other parent if that parent is not represented, and the friend of the court with a copy of the proposed parenting time plan.

5. Amendment.

These processes may be amended upon the recommendation of the participating judges, approval of the chief judge, and authorization by the state court administrator.

6. Expiration.

Unless otherwise directed by the Michigan Supreme Court, this pilot program shall continue until July 30, 2009.

AO No. 2008-2 — Adoption of a Pilot Project to Study the Effects of the Jury Reform Proposal

[Entered July 11, 2008.]

On order of the Court, the judges listed below are authorized to implement a pilot project to study the effects of the jury-reform proposal that was published for comment by this Court in an order that entered July 11, 2006. The purposes of the pilot project are to determine whether, and in what way, the proposed jury-reform amendments support the goal of meaningful juror participation, and lead to greater confidence in the validity of the specific verdict and the overall jury system. In addition, the Court is interested in the effects of the proposed rules on court efficiency and the opinions of the attorneys and jurors who will operate under them. Courts that participate in the pilot project will operate under the following rules for the period of the pilot project, which will continue through December 31, 2010, or as otherwise ordered by the Court. At the Court's request, the participating courts will update the Court on the pilot program's status, and the judges' perceptions of the program's success. The Court anticipates that the pilot courts will apply these rules to the greatest extent possible as a way to test and assess all of the proposed ideas. The pilot project's success will be measured by the Court's evaluation of surveys that have been completed by the courts to determine the jurors', judges', and attorneys' responses to the various procedures being tested.

Participant judges include the following:

The Honorable Wendy L. Potts (6th Circuit Court)
The Honorable David Viviano (16th Circuit Court)
The Honorable Timothy G. Hicks (14th Circuit Court)
The Honorable Kenneth W. Schmidt and the
Honorable William J. Caprathe (18th Circuit Court)
The Honorable Richard J. Celello (41st Circuit Court)
The Honorable Paul E. Stutesman (45th Circuit Court)
The Honorable Beth Gibson (92nd District Court)
The Honorable Peter J. Wadel (79th District Court)
The Honorable Donald L. Sanderson (2B District Court)
The Honorable Thomas P. Boyd (55th District Court)
The Honorable Richard W. May (90th District Court)

RULE 2.512 INSTRUCTIONS TO JURY

(A) Request for Instructions.

(1) At a time the court reasonably directs, the parties must file written requests that the court instruct the jury on the law as stated in the requests. In the absence of a direction from the court, a party may file a written request for jury instructions at or before the close of the evidence.

(2) In addition to requests for instructions submitted under subrule (A)(1), after the close of the evidence, each party shall submit in writing to the court a statement of the issues and may

submit the party's theory of the case regarding each issue. The statement must be concise, be narrative in form, and set forth as issues only those disputed propositions of fact that are supported by the evidence. The theory may include those claims supported by the evidence or admitted.

(3) A copy of the requested instructions must be served on the adverse parties in accordance with MCR 2.107.

(4) The court shall inform the attorneys of its proposed action on the requests before their arguments to the jury.

(5) The court need not give the statements of issues or theories of the case in the form submitted if the court presents to the jury the material substance of the issues and theories of each party.

(B) Instructing the Jury.

(1) At any time during the trial, the court may, with or without request, instruct the jury on a point of law if the instruction will materially aid the jury in understanding the proceedings and arriving at a just verdict.

(2) Before or after arguments or at both times, as the court elects, the court shall instruct the jury on the applicable law, the issues presented by the case, and, if a party requests as provided in subrule (A)(2), that party's theory of the case.

(C) Objections. A party may assign as error the giving of or the failure to give an instruction only if the party objects on the record before the jury retires to consider the verdict (or, in the case of instructions given after deliberations have begun, before the jury resumes deliberations), stating specifically the matter to which the party objects and the grounds for the objection. Opportunity must be given to make the objection out of the hearing of the jury.

(D) Model Civil Jury Instructions.

(1) The Committee on Model Civil Jury Instructions appointed by the Supreme Court has the authority to adopt model civil jury instructions (M Civ JI) and to amend or repeal those instructions approved by the predecessor committee. Before adopting, amending, or repealing an instruction, the committee shall publish notice of the committee's intent, together with the text of the instruction to be adopted, or the amendment to be made, or a reference to the instruction to be repealed, in the manner provided in MCR 1.201. The notice shall specify the time and manner for commenting on the proposal. The committee shall thereafter publish notice of its final action on the proposed change, including, if appropriate, the effective date of the adoption, amendment, or repeal. A model civil jury instruction does not have the force and effect of a court rule.

(2) Pertinent portions of the instructions approved by the Committee on Model Civil Jury Instructions or its predecessor committee must be given in each action in which jury instructions are given if

(a) they are applicable,

(b) they accurately state the applicable law, and

(c) they are requested by a party.

(3) Whenever the committee recommends that no instruction be given on a particular matter, the court shall not give an instruction unless it specifically finds for reasons stated on the record that

(a) the instruction is necessary to state the applicable law accurately, and

(b) the matter is not adequately covered by other pertinent model civil jury instructions.

(4) This subrule does not limit the power of the court to give additional instructions on applicable law not covered by the model instructions. Additional instructions, when given, must be patterned as nearly as practicable after the style of the model instructions and must be concise, understandable, conversational, unslanted, and nonargumentative.

RULE 2.513 CONDUCT OF JURY TRIAL

(A) Preliminary Instructions. After the jury is sworn and before evidence is taken, the court shall provide the jury with pretrial instructions reasonably likely to assist in its consideration of the case. Such instructions, at a minimum, shall communicate the duties of the jury, trial procedure, and the law applicable to the case as are reasonably necessary to enable the jury to understand the proceedings and the evidence. The jury also shall be instructed about the elements of all civil claims or all charged offenses, as well as the legal presumptions and burdens of proof. The court shall provide each juror with a copy of such instructions. MCR 2.512(D)(2) does not apply to such preliminary instructions.

(B) Court's Responsibility. The trial court must control the proceedings during trial, limit the evidence and arguments to relevant and proper matters, and take appropriate steps to ensure that the jurors will not be exposed to information or influences that might affect their ability to render an impartial verdict on the evidence presented in court. The court may not communicate with the jury or any juror pertaining to the case without notifying the parties and permitting them to be present. The court must ensure that all communications pertaining to the case between the court and the jury or any juror are made a part of the record.

(C) Opening Statements. Unless the parties and the court agree otherwise, the plaintiff or the prosecutor, before presenting evidence, must make a full and fair statement of the case and the facts the plaintiff or the prosecutor intends to prove. Immediately thereafter, or immediately before presenting evidence, the defendant may make a similar statement. The court may impose reasonable time limits on the opening statements.

(D) Interim Commentary. Each party may, in the court's discretion, present interim commentary at appropriate junctures of the trial.

(E) Reference Documents. The court must encourage counsel in civil and criminal cases to provide the jurors with a reference document or notebook, the contents of which should include, but which is not limited to, witness lists, relevant statutory provisions, and, in cases

where the interpretation of a document is at issue, copies of the relevant document. The court and the parties may supplement the reference document during trial with copies of the preliminary jury instructions, admitted exhibits, and other appropriate information to assist jurors in their deliberations.

(F) Deposition Summaries. Where it appears likely that the contents of a deposition will be read to the jury, the court should encourage the parties to prepare concise, written summaries of depositions for reading at trial in lieu of the full deposition. Where a summary is prepared, the opposing party shall have the opportunity to object to its contents. Copies of the summaries should be provided to the jurors before they are read.

(G) Scheduling Expert Testimony. The court may, in its discretion, craft a procedure for the presentation of all expert testimony to assist the jurors in performing their duties. Such procedures may include, but are not limited to:

(1) Scheduling the presentation of the parties' expert witnesses sequentially; or

(2) allowing the opposing experts to be present during the other's testimony and to aid counsel in formulating questions to be asked of the testifying expert on cross-examination; or

(3) providing for a panel discussion by all experts on a subject after or in lieu of testifying. The panel discussion, moderated by a neutral expert or the trial judge, would allow the experts to question each other.

(H) Note Taking by Jurors. The court may permit the jurors to take notes regarding the evidence presented in court. If the court permits note taking, it must instruct the jurors that they need not take notes, and they should not permit note taking to interfere with their attentiveness. If the court allows jurors to take notes, jurors must be allowed to refer to their notes during deliberations, but the court must instruct the jurors to keep their notes confidential except as to other jurors during deliberations. The court shall ensure that all juror notes are collected and destroyed when the trial is concluded.

(I) Juror Questions. The court may permit the jurors to ask questions of witnesses. If the court permits jurors to ask questions, it must employ a procedure that ensures that such questions are addressed to the witnesses by the court itself, that inappropriate questions are not asked, and that the parties have an opportunity outside the hearing of the jury to object to the questions. The court shall inform the jurors of the procedures to be followed for submitting questions to witnesses.

(J) Jury View. On motion of either party, on its own initiative, or at the request of the jury, the court may order a jury view of property or of a place where a material event occurred. The parties are entitled to be present at the jury view. During the view, no person, other than an officer designated by the court, may speak to the jury concerning the subject connected with the trial. Any such communication must be recorded in some fashion.

(K) Juror Discussion. After informing the jurors that they are not to decide the case until they have heard all the evidence, instructions of law, and arguments of counsel, the court may instruct the jurors that they are permitted to discuss the evidence among themselves in the jury

room during trial recesses. The jurors should be instructed that such discussions may only take place when all jurors are present and that such discussions must be clearly understood as tentative pending final presentation of all evidence, instructions, and argument.

(L) Closing Arguments. After the close of all the evidence, the parties may make closing arguments. The plaintiff or the prosecutor is entitled to make the first closing argument. If the defendant makes an argument, the plaintiff or the prosecutor may offer a rebuttal limited to the issues raised in the defendant's argument. The court may impose reasonable time limits on the closing arguments.

(M) Comment on the Evidence. After the close of the evidence and arguments of counsel, the court may fairly and impartially sum up the evidence and comment to the jury about the weight of the evidence, if it also instructs the jury that it is to determine for itself the weight of the evidence and the credit to be given to the witnesses and that jurors are not bound by the court's summation or comment. The court shall not comment on the credibility of witnesses or state a conclusion on the ultimate issue of fact before the jury.

(N) Final Instructions to the Jury.

(1) Before closing arguments, the court must give the parties a reasonable opportunity to submit written requests for jury instructions. Each party must serve a copy of the written requests on all other parties. The court must inform the parties of its proposed action on the requests before their closing arguments. After closing arguments are made or waived, the court must instruct the jury as required and appropriate, but at the discretion of the court, and on notice to the parties, the court may instruct the jury before the parties make closing arguments. After jury deliberations begin, the court may give additional instructions that are appropriate.

(2) Solicit Questions about Final Instructions. As part of the final jury instructions, the court shall advise the jury that it may submit in a sealed envelope given to the bailiff any written questions about the jury instructions that arise during deliberations. Upon concluding the final instructions, the court shall invite the jurors to ask any questions in order to clarify the instructions before they retire to deliberate.

If questions arise, the court and the parties shall convene, in the courtroom or by other agreed-upon means. The question shall be read into the record, and the attorneys shall offer comments on an appropriate response. The court may, in its discretion, provide the jury with a specific response to the jury's question, but the court shall respond to all questions asked, even if the response consists of a directive for the jury to continue its deliberations.

(3) Copies of Final Instructions. The court shall provide each juror with a written copy of the final jury instructions to take into the jury room for deliberation. The court, in its discretion, also may provide the jury with a copy of electronically recorded instructions.

(4) Clarifying or Amplifying Final Instructions. When it appears that a deliberating jury has reached an impasse, or is otherwise in need of assistance, the court may invite the jurors to list the issues that divide or confuse them in the event that the judge can be of assistance in clarifying or amplifying the final instructions.

(O) Materials in the Jury Room. The court shall permit the jurors, on retiring to deliberate, to take into the jury room their notes and final instructions. The court may permit the jurors to take into the jury room the reference document, if one has been prepared, as well as any exhibits and writings admitted into evidence.

(P) Provide Testimony or Evidence. If, after beginning deliberation, the jury requests a review of certain testimony or evidence that has not been allowed into the jury room under subrule (O), the court must exercise its discretion to ensure fairness and to refuse unreasonable requests, but it may not refuse a reasonable request. The court may make a video or audio recording of witness testimony, or prepare an immediate transcript of such testimony, and such tape or transcript, or other testimony or evidence, may be made available to the jury for its consideration. The court may order the jury to deliberate further without the requested review, as long as the possibility of having the testimony or evidence reviewed at a later time is not foreclosed.

RULE 2.514 RENDERING VERDICT

(A) Majority Verdict; Stipulations Regarding Number of Jurors and Verdict. The parties may stipulate in writing or on the record that

(1) the jury will consist of any number less than 6,

(2) a verdict or a finding of a stated majority of the jurors will be taken as the verdict or finding of the jury, or

(3) if more than 6 jurors were impaneled, all the jurors may deliberate.

Except as provided in MCR 5.740(C), in the absence of such stipulation, a verdict in a civil action tried by 6 jurors will be received when 5 jurors agree.

(B) Return; Poll.

(1) The jury must return its verdict in open court.

(2) A party may require a poll to be taken by the court asking each juror if it is his or her verdict.

(3) If the number of jurors agreeing is less than required, the jury must be sent back for further deliberation; otherwise, the verdict is complete, and the court shall discharge the jury.

(C) Discharge From Action; New Jury. The court may discharge a jury from the action:

(1) because of an accident or calamity requiring it;

(2) by consent of all the parties;

(3) whenever an adjournment or mistrial is declared;

(4) whenever the jurors have deliberated and it appears that they cannot agree.

The court may order another jury to be drawn, and the same proceedings may be had before the new jury as might have been had before the jury that was discharged.

(D) Responsibility of Officers.

(1) All court officers, including trial attorneys, must attend during the trial of an action until the verdict of the jury is announced.

(2) A trial attorney may, on request, be released by the court from further attendance, or the attorney may designate an associate or other attorney to act for him or her during the deliberations of the jury.

RULE 2.515 SPECIAL VERDICTS

(A) Use of Special Verdicts; Form. The court may require the jury to return a special verdict in the form of a written finding on each issue of fact, rather than a general verdict. If a special verdict is required, the court shall, in advance of argument and in the absence of the jury, advise the attorneys of this fact and, on the record or in writing, settle the form of the verdict. The court may submit to the jury:

(1) written questions that may be answered categorically and briefly;

(2) written forms of the several special findings that might properly be made under the pleadings and evidence; or

(3) the issues by another method, and require the written findings it deems most appropriate.

The court shall give to the jury the necessary explanation and instruction concerning the matter submitted to enable the jury to make its findings on each issue.

(B) Judgment. After a special verdict is returned, the court shall enter judgment in accordance with the jury's findings.

(C) Failure to Submit Question; Waiver; Findings by Court. If the court omits from the special verdict form an issue of fact raised by the pleadings or the evidence, a party waives the right to a trial by jury of the issue omitted unless the party demands its submission to the jury before it retires for deliberations. The court may make a finding with respect to an issue omitted without a demand. If the court fails to do so, it is deemed to have made a finding in accord with the judgment on the special verdict.

RULE 2.516 MOTION FOR DIRECTED VERDICT

A party may move for a directed verdict at the close of the evidence offered by an opponent. The motion must state specific grounds in support of the motion. If the motion is not granted, the moving party may offer evidence without having reserved the right to do so, as if the

motion had not been made. A motion for a directed verdict that is not granted is not a waiver of trial by jury, even though all parties to the action have moved for directed verdicts.

[Statement by KELLY, J., appears at 482 Mich cix (2008).]

AO No. 2009-1 — [Rescinded] Extension and Expansion of E-Filing Pilot Project

[Entered January 20, 2009; rescinded by order entered October 20, 2011, which incorporated the relevant contents of AO No. 2009-1 and also amended AO No. 2007-3.]

AO No. 2009-2 — Pilot Project No. 1 17th Judicial Circuit Court (Expedited Process in the Resolution of the Low Conflict Docket of the Family Division)

[Entered January 14, 2009.]

On order of the Court, the provisions of the pilot project authorized in Administrative Order No. 2008-1, relating to the use of parenting time plans and nonadversarial language in domestic relations proceedings in the 17th Circuit Court, are continued in effect through February 28, 2011.

AO No. 2009-3 — Adoption of Concurrent Jurisdiction Plan for the 53rd Circuit Court of Cheboygan and Presque Isle Counties and the Presque Isle County Probate Court

[Entered March 10, 2009; effective July 1, 2009.]

Administrative Order No. 2003-1 and MCL 600.401 *et seq.* authorize Michigan trial courts to adopt concurrent jurisdiction plans within a county or judicial circuit, subject to approval of the Court.

The Court hereby approves adoption of the following concurrent jurisdiction plan effective July 1, 2009:

- The 53rd Circuit Court of Cheboygan and Presque Isle Counties and the Presque Isle County Probate Court.

The plan shall remain on file with the state court administrator.

Amendments of concurrent jurisdiction plans may be implemented by local administrative order pursuant to MCR 8.112. Plan amendments shall conform to the requirements of Administrative Order No. 2003-1 and MCL 600.401 *et seq.*

AO No. 2009-4 — E-filing Pilot Project in the 42nd Circuit Court

[Entered May 19, 2009; text as amended by order entered May 22, 2013.]

On order of the Court, the 42nd Circuit Court is authorized to implement an electronic filing pilot project to study, in asbestos cases, the effectiveness of electronically filing court documents in lieu of traditional paper filings. The pilot project shall begin May 19, 2009, or as soon thereafter as is possible, and shall remain in effect until July 30, 2013, or further order of this Court. The 42nd Circuit Court acknowledges that certain rules regarding electronic filing have been published for comment by this Court. If this Court adopts electronic-filing rules during the pendency of this pilot project, the 42nd Circuit Court will, within 60 days of the effective date of the rules, comply with the requirements of those rules.

The 42nd Circuit Court will track the participation in and effectiveness of this pilot project and shall report to and provide such information upon request by the State Court Administrative Office.

1. Construction

The purpose of the pilot project is to study the effectiveness of electronically filing court documents in connection with the just, speedy, and economical determination of the actions involved in the pilot project. This court may exercise its discretion to grant necessary relief to avoid the consequences of error so as not to affect the substantial rights of the parties. The Michigan Court Rules govern all other aspects of the cases involved in the pilot project, except for matters related to electronically filing documents during the pilot project.

2. Definitions

(a) "Clerk" means the Midland County Clerk.

(b) "E-filing" means any court pleading, motion, brief, response, list, order, judgment, notice, or other document filed electronically pursuant to the pilot project.

(c) "LAO" means all local administrative orders governing the 42nd Circuit Court.

(d) "MCR" means the Michigan Court Rules.

(e) "Pilot project" means the initiative by the 42nd Circuit Court, the Clerk, and the Midland County Information Systems Department in conjunction with Wiznet, Inc., CherryLAN Systems, Inc., and under the supervision of the State Court Administrative Office. This e-filing application facilitates the electronic filing of pleadings, motions, briefs, responses, lists, orders, judgments, notices, and other documents.

(f) "Asbestos" means the matters that the pilot project will test and are described as all pending cases identified as an "NP" Case Type based in whole or in part on a claim of injury as a result of exposure to asbestos.

(g) "Technical malfunction" means any hardware, software, or other malfunction that prevents a user from timely filing a complete e-filing or sending or receiving service of an e-filing.

3. Participation in the Pilot Project

(a) Participation in the pilot project shall be mandatory in all pending "Asbestos" type cases. Participation shall be assigned following the filing and service of the initial complaint or other initial filing and assignment of the case to the participating judge.

(b) This is a mandatory e-filing project. It is presumed that all documents will be filed electronically. However, the court recognizes that circumstances may arise that will prevent one from e-filing. To ensure that all parties retain access to the courts, parties that demonstrate good cause will be permitted to file their documents with the clerk, who will then file the documents electronically. Among the factors that the 42nd Circuit Court will consider in determining whether good cause exists to excuse a party from mandatory e-filing are a party's access to the Internet and indigency. A self-represented party is not excused from the pilot project merely because the individual does not have counsel.

4. E-filings Submission, Acceptance, and Time of Service with the Court; Signature

(a) In an effort to facilitate uniform service within the scope of this pilot project, the 42nd Circuit Court strongly recommends electronic service.

(b) Program participants must submit e-filings pursuant to these rules and the pilot project's technical requirements. The clerk may, in accordance with MCR 8.119(C), reject documents submitted for filing that do not comply with MCR 2.113(C)(1), are not accompanied by the proper fees, do not conform to the technical requirements of this pilot project, or are otherwise submitted in violation of a statute, an MCR, an LAO, or the program rules.

(c) E-filings may be submitted to the court at any time, but shall only be reviewed and accepted for filing by the Office of the Clerk during the normal business hours of 8:00 a.m. to 4:30 p.m. E-filings submitted after business hours shall be deemed filed on the business day the e-filing is accepted (usually the next business day). The clerk shall process e-filings on a first-in, first-out basis.

(d) E-filings shall be treated as if they were hand-delivered to the court for all purposes under statute, the MCR, and the LAO.

(e) A pleading, document, or instrument e-filed or electronically served under this rule shall be deemed to have been signed by the judge, court clerk, attorney, party, or declarant.

(i) Signatures submitted electronically shall use the following form: /s/ *John L. Smith*.

(ii) A document that requires a signature under penalty of perjury is deemed signed by the declarant if, before filing, the declarant has signed a printed form of the document.

(iii) An e-filed document that requires a signature of a notary public is deemed signed by the notary public if, before filing, the notary public has signed a printed form of the document.

(f) The original of a sworn or verified document that is an e-filing (e.g., a verified pleading) or part of an e-filing (e.g., an affidavit, notarization, or bill of costs) must be maintained by the filing attorney and made available upon reasonable request of the court, the signatory, or opposing party.

(g) Proposed orders shall be submitted to the court in accordance with the provisions of the pilot project. The court and the clerk shall exchange the documents for review and signature pursuant to MCR 2.602(B).

(h) By electronically filing the document, the electronic filer affirms compliance with these rules.

5. Time for Service and Filing of Pleadings, Documents, and Motions; Judge's Copies; Hearings on Motions; Fees

(a) All times for filing and serving e-filings shall be governed by the applicable statute, the MCR, and the LAO as if the e-filings were hand-delivered.

(b) The electronic submission of a motion and brief through this pilot project satisfies the requirements of filing a judge's copy under MCR 2.119(A)(2). A judge may require that one "courtesy copy" or "chambers copy" of any dispositive motion and all accompanying exhibits, as well as responses and replies, or any motion and brief in which the motion, brief, and attachments equal 40 pages or more be submitted directly to the judge's chamber in paper format. Any exhibits must be appropriately tabbed. Good practice requires that in appropriate cases, relevant portions of lengthy documents be highlighted. A printed copy of the e-filing transmission receipt must be attached to the front of the pleading. The requirement to provide a "courtesy copy" or "chambers copy" at a judge's request shall expire on May 22, 2018.

(c) Applicable fees, including e-filing fees and service fees, shall be paid electronically through procedures established by the clerk at the same time and in the same amount as required by statute, court rule, or administrative order.

(i) Each e-filing is subject to the following e-filing fees;

Type of Filing	**Fee**
EFO (e-filing only)	$5.00
EFS (e-filing with service)	$8.00
SO (service only)	$5.00

(ii) Users who use credit cards for payment are also responsible for a 3% user fee.

6. Service

(a) All parties shall provide the court and opposing parties with one e-mail address with the functionality required for the pilot project. All service shall originate from and be perfected upon this e-mail address.

(b) Unless otherwise agreed to by the court and the parties, all e-filings must be served electronically to the e-mail addresses of all parties. The subject matter line for the transmittal of document served by e-mail shall state: "Service of e-filing in case [insert caption of case]."

(c) The parties and the court may agree that, instead of e-mail service, e-filings may be served to the parties (but not the court) by facsimile or by traditional means. For those choosing to accept facsimile service:

(i) the parties shall provide the court and the opposing parties with one facsimile number with appropriate functionality,

(ii) the facsimile number shall serve as the number to which service may be made,

(iii) the sender of the facsimile should obtain a confirmation of delivery, and

(iv) parties shall comply with the requirements of MCR 2.406 on the use of facsimile communication equipment.

(d) Proof of service shall be submitted to the 42nd Circuit Court according to MCR 2.104 and this administrative order.

7. Format and Form of E-filing and Service

(a) A party may only e-file documents for one case in each transaction.

(b) All e-filings shall comply with MCR 1.109 and the technical requirements of the court's vendor.

(c) Any exhibit or attachment that is part of an e-filing must be clearly designated and identified as an exhibit or attachment.

(d) All e-filings, subject to subsection 6(c) above, shall be served on the parties in the same format and form as submitted to the court.

8. Pleadings, Motions, and Documents not to be E-filed

The following documents shall not be e-filed during the pilot project and must be filed by the traditional methods provided in the MCR and the LAO:

(a) documents to be filed under seal (pursuant to court order),

(b) initiating documents, and

(c) documents for case evaluation proceedings.

9. Official Court Record; Certified Copies

(a) For purposes of this pilot project, e-filings are the official court record. An appellate record shall be certified in accordance with MCR 7.210(A)(1).

(b) Certified or true copies of e-filed documents shall be issued in the conventional manner by the clerk in compliance with the Michigan Trial Court Case File Management Standards.

(c) At the conclusion of the pilot project, if the program does not continue as a pilot project or in some other format, the clerk shall convert all e-filings to paper form in accordance with MCR 8.119(D)(1)(d). Participating attorneys shall provide reasonable assistance in constructing the paper record.

(d) At the conclusion of the pilot project, if the program continues as a pilot project or in another format, the clerk shall provide for record retention and public access in a manner consistent with the instructions of the Court and the court rules.

10. Court Notices, Orders, and Judgments

At the court's discretion, the court may issue, file, and serve orders, judgments, and notices as e-filings. Pursuant to a stipulation and order, the parties may agree to accept service from the court via facsimile pursuant to the procedures set forth in Section 6(c) above.

11. Technical Malfunctions

(a) A party experiencing a technical malfunction with the party's equipment (such as format or conversion problems or inability to access the pilot sites), another party's equipment (such as an inoperable e-mail address), or an apparent technical malfunction of the court's pilot equipment, software, or server shall use reasonable efforts to timely file or receive service by traditional methods and shall provide prompt notice to the court and the parties of any such malfunction.

(b) If a technical malfunction has prevented a party from timely filing, responding to, or otherwise perfecting or receiving service of an e-filing, the affected party may petition the 42nd Circuit Court for relief. Such petition shall contain an adequate proof of the technical malfunction and set forth good cause for failure to use non-electronic means to timely file or serve a document. The court shall liberally consider proof of the technical malfunction and use its discretion in determining whether such relief is warranted.

12. Privacy Considerations

(a) With respect to any e-filing, the following requirements for personal information shall apply:

(i) Social Security Numbers. Pursuant to Administrative Order No. 2006-2, full social security numbers shall not be included in e-filings. If an individual's social security number must

be referenced in an e-filing, only the last four digits of that number may be used and the number specified in substantially the following format: XXX-XX-1234.

(ii) Names of Minor Children. Unless named as a party, the identity of a minor child shall not be included in e-filings. If a nonparty minor child must be mentioned, only the initials of that child's name may be used.

(iii) Dates of Birth. An individual's full birth date shall not be included in e-filings. If an individual's date of birth must be referenced in an e-filing, only the year may be used and the date specified in substantially the following format: XX/XX/1998.

(iv) Financial Account Numbers. Full financial account numbers shall not be included in e-filings unless required by statute, court rule, or other authority. If a financial account number must be referenced in an e-filing, only the last four digits of these numbers may be used and the number specified in substantially the following format: XXXXX1234.

(v) Driver's License Numbers and State-Issued Personal Identification Card Numbers. A person's full driver's license number and state-issued personal identification number shall not be included in e-filings. If an individual's driver's license number or state-issued personal identification card number must be referenced in an e-filing, only the last four digits of that number should be used and the number specified in substantially the following format: X-XXX-XXX-XX1-234.

(vi) Home Addresses. With the exception of a self-represented party, full home addresses shall not be included in e-filings. If an individual's home address must be referenced in an e-filing, only the city and state shall be used.

(b) Parties wishing to file a complete personal data identifier listed above may:

(i) Pursuant to and in accordance with the MCR and the LAO, file a motion to file a traditional paper version of the document under seal. The court, in granting the motion to file the document under seal, may still require that an e-filing that does not reveal the complete personal data identifier be filed for the public files, or

(ii) Pursuant to and in accordance with the applicable MCR and LAO, obtain a court order to file a traditional paper reference list under seal. The reference list shall contain the complete personal data identifiers and the redacted identifiers used in the e-filing. All references in the case to the redacted identifiers included in the reference list shall be construed to refer to the corresponding complete personal data identifiers. The reference list must be filed under seal, and may be amended as of right.

(c) Parties should exercise caution when filing papers that contain private or confidential information, including, but not limited to, the information covered above and listed below:

(i) Medical records, treatment and diagnosis;

(ii) Employment history;

(iii) Individual financial information;

(iv) Insurance information;

(v) Proprietary or trade secret information;

(vi) Information regarding an individual's cooperation with the government; and

(vii) Personal information regarding the victim of any criminal activity.

13. Records and Reports: Further, the 42nd Circuit Court shall file an annual report with the Supreme Court covering the project to date by January 1 of each year (or more frequently or on another date as specified by the Court) that outlines the following:

(a) Detailed financial data that show the total amount of money collected in fees for documents filed or served under the pilot project to date, the original projections for collections of fees, and whether the projections have been met or exceeded.

(b) Detailed financial information regarding the distribution or retention of collected fees, including the amount paid to Wiznet per document and in total for the subject period, the amount paid to CherryLAN in total for the subject period, the amount retained by the court per document and in total for the period, and whether the monies retained by the court are in a separate account or commingled with other monies.

(c) A detailed itemization of all costs attributed to the project to date and a statement of whether and when each cost will recur.

(d) A detailed itemization of all cost savings to the court whether by reduced personnel or otherwise and a statement of whether any cost savings to the court are reflected in the fee structure charged to the parties.

(e) Information regarding how the filing and service fees were calculated and whether it is anticipated that those fees will be necessary and continued after the conclusion of the pilot program.

(f) A statement of projections regarding anticipated e-filing and service-fee collections and expenditures for the upcoming periods.

14. Amendment

These rules may be amended upon the recommendation of the participating judges, the approval of the chief judge, and authorization by the state court administrator.

15. Expiration

Unless otherwise directed by the Michigan Supreme Court, this pilot project, requiring parties to electronically file documents in cases assigned to participating judges, shall continue until July 30, 2013.

AO No. 2009-5 — E-filing Pilot Project in the 56th Circuit Court (Eaton County)

[Entered July 21, 2009.]

On order of the Court, the 56th Circuit Court is authorized to implement an Electronic Document Filing Project. The pilot project is established to study the effectiveness of electronically filing court documents in lieu of traditional paper filings. The pilot project shall begin as soon as possible after approval by the Court, and shall remain in effect until July 1, 2011, or further order of this Court. The 56th Circuit Court is aware that rules regarding electronic filing have been published for comment by this Court. If this Court adopts electronic-filing rules during the pendency of the 56th Circuit Electronic Document Filing Pilot Project, the 56th Circuit Court will, within 60 days of the effective date of the rules, comply with the requirements of those rules.

The 56th Circuit Court will track the participation and effectiveness of this pilot program and shall report to, and make such findings available to, the Michigan Supreme Court.

1. Construction

The purpose of the pilot program is to study the effectiveness of electronically filing court documents in connection with the just, speedy, and economical determination of the actions involved in the pilot program. The 56th Circuit Court may exercise its discretion to grant necessary relief to avoid the consequences of error so as not to affect the substantial rights of the parties. Except for matters related to electronically filing documents during the pilot program, the Michigan Court Rules govern all other aspects of the cases involved in the pilot program.

2. Definitions

a. "Clerk" means the Eaton County Clerk.

b. "E-filing" means any court pleading, motion, brief, response, list, order, judgment, notice, or other document filed electronically pursuant to the pilot program.

c. "LAO" means all local administrative orders governing the 56th Judicial Circuit Court.

d. "MCR" means Michigan Court Rules.

e. "Pilot program" means the initiative by the 56th Judicial Circuit Court, the Eaton County Clerk, the Eaton County Department of Information Services, and the Judicial Information Systems division of the State Court Administrative Office in conjunction with Wiznet, Inc. This e-filing application facilitates the electronic filing of pleadings, motions, briefs, responses, lists, orders, judgments, notices, and other documents. The Eaton County pilot program will begin testing with "C," "N," and circuit court domestic cases wherein the case suffix begins with a "D." The court intends this pilot program to include all circuit and family division judges, including the probate judge sitting by assignment in the family division of the circuit court. A judge may exempt a case or cases from the pilot program. The pilot program is expected to last approximately two years.

f. "Technical malfunction" means any hardware, software, or other malfunction that prevents a user from timely filing a complete e-filing or sending or receiving service of an e-filing.

g. "Filing Party" means any party or attorney representing a party who has registered to file pleadings or papers electronically in a particular matter.

3. Participation in the Pilot Program

a. Participation by parties and counsel in the pilot program will initially be voluntary to accommodate training. Commencing on a date certain to be set by the court approximately 90 days following the launch of the pilot program, all attorneys filing a new "DO" case shall be required to file all pleadings and papers therein electronically. On a date certain to be set by the court approximately 180 days following the initiation of mandatory "DO" filings, attorneys filing a new "DM" case shall be required to file all pleadings and papers therein electronically. Approximately 180 days following the initiation of mandatory "DM" filings, all attorneys filing a new civil case in circuit court wherein the suffix of the case starts with a "C" or an "N," and in all newly filed domestic matters not already required to be filed electronically wherein the suffix starts with a "D," all pleadings and papers filed therein shall be required to file electronically. Mandatory filings in an identified case type shall also include newly filed domestic post-disposition proceedings.

b. Parties not represented by counsel may voluntarily participate in the pilot program. An unrepresented party who initially chooses to voluntarily participate in this pilot program may withdraw from the program at any time by filing a hard copy of a paper or pleading pursuant to the Michigan Court Rules, at which time the Clerk shall create a paper file and maintain the paper file as outlined in § 4(d).

c. Pursuant to the schedule outlined in § 3(a), it is presumed that all documents will be filed electronically. However, the Court recognizes that circumstances may arise that would prevent an attorney or participating party from filing a document or documents electronically. To ensure that all parties retain access to the courts, parties that demonstrate good cause will be permitted to file a hard copy of their documents with the clerk, at which time the Clerk shall create a paper file and maintain the paper file as outlined in § 4(d).

d. A public access terminal will be available at the Eaton County Courthouse for those persons wishing to participate in the pilot program or to review electronically filed documents but without sufficient equipment to facilitate participation. The electronic filing system utilized for this pilot program limits access to those person who are parties in a matter to case files in which they have registered as a filing party. Those not a party to the case may access the case file by making a request to the Circuit Court Clerk, where proper protocol with regard to access to public and non-public files will be followed. Electronically retained documents may be printed and presented to the requester. A customary copy fee may be applied if the requestor seeks to retain the provided copy.

4. E-filings Submission, Acceptance, and Time of Service with the Court; Signature

a. In an effort to facilitate uniform service within the scope of this program, the 56th Circuit Court strongly recommends electronic service.

b. Program participants must submit e-filings pursuant to these rules and the pilot program's technical requirements. The clerk may, in accordance with MCR 8.119(C) reject documents submitted for filing that do not comply with MCR 2.113(C)(1), are not accompanied by the proper fees, do not conform to the technical requirements of this pilot program, or are otherwise submitted in violation of a statute, MCR, LAO, or program rules.

c. E-filings may be submitted to the court at any time, but shall only be reviewed and accepted for filing by the Eaton County Clerk's Office during normal business hours of 8:00 a.m. to 5:00 p.m. E-filings received by the clerk's office before midnight will be granted that day's date for filing purposes. For purposes of determining e-filing receipt time, the receipt time reflected on the clerk's computer will serve as the official time of receipt.

d. In any mandatory case, as outlined in § 3(a), wherein all parties are represented by counsel, and subject to § 3(c), the court shall create and maintain only an electronic file. In those instances where a party is originally represented by counsel who subsequently withdraws and the party desires to continue in pro per without participating in this pilot program, a paper file shall be created by the clerk with a notice that the file was originally created electronically, and any documents filed before the creation of the paper file will be maintained electronically. Subsequent electronically filed documents will be retained in electronic format and only the verification of receipt of an electronically filed document will be placed into the paper file. If the pro per litigant wishes to participate in the pilot program, the clerk shall maintain only an electronic file.

e. In any mandatory case as outlined in § 3(a) wherein some parties are represented by counsel and other parties are not, and at least one of those parties not represented by counsel does not desire to voluntarily participate in this pilot program, the clerk shall create a paper file. All pleadings and papers submitted electronically will be retained in electronic format and only the verification of receipt of an electronically filed document will be placed into the paper file. All paper filing will be retained in the paper file created by the clerk.

f. These rules apply to parties added or joined to an existing matter. If counsel represents the new party or parties, all papers filed by counsel must be done so in conformity with these rules. Sections 3(b), 4(d), and 4(e) set forth the respective rights and obligations of unrepresented parties. The clerk shall maintain its files in conformity with these rules.

g. E-filings shall be treated as if they were hand-delivered to the court for all purposes under statute, MCR, and LAO.

h. A pleading, document, or instrument e-filed or electronically served under this rule shall be deemed to have been signed by the judge, court clerk, attorney, party or declarant:

i. Signatures submitted electronically shall use the following form: /s/ *John L. Smith*.

ii. A document that requires a signature under the penalty of perjury is deemed signed by the declarant if, before filing, the declarant has signed a printed form of the document.

iii. An e-filed document that requires a signature of a notary public is deemed signed by the notary public if, before filing, the notary public has signed a printed form of the document.

i. The original of a sworn or verified document that is an e-filing (e.g., a verified pleading) or part of an e-filing (e.g., an affidavit, notarization or bill of costs) must be maintained by the filing attorney and made available upon reasonable request of the court, the signatory or opposing party.

j. Proposed orders shall be processed by the court in accordance with the provisions of the pilot program. The clerk shall present the document to the court for review and signature pursuant to MCR 2.602(B).

k. By electronically filing the document, the electronic filer indicates compliance with these rules.

5. Time for Service and Filing of Pleadings, Documents and Motions; Judge's Copies; Hearings on Motions; Fees

a. All times for filing and serving e-filings shall be governed by applicable statute, MCR, and LAO, with the exception that e-filings received by the Clerk's Office before midnight will be granted that day's date for filing purposes, and electronic service sent before midnight will be deemed served on that business day.

b. The electronic submission of a motion and brief through this pilot program satisfies the requirements of filing a judge's copy under MCR 2.119(A)(2). Upon request of the court, the filing party shall promptly provide an electronic or paper judge's copy to chambers.

c. For documents filed electronically, applicable fees, including e-filing fees and service fees, shall be paid electronically through procedures established by the Eaton County Clerk's Office at the same time and in the same amount as required by statute, court rule, or AO.

i. Each e-filing is subject to the following e-filing fees.

Type of Filing	**Fee**
EFO (e-filing only)	$5.00
EFS (e-filing with service)	$8.00
SO (service only)	$5.00

ii. Users who use credit cards for payment may also be responsible for a user fee, as set by the Eaton County Clerk up to a maximum of 2% of the transaction amount.

d. User fees shall not be waived on the basis of indigency. Indigent litigants not represented by counsel may file hard copies of papers and pleadings.

6. Service

a. All attorneys, and parties appearing pro se, participating in this pilot program shall provide the court and counsel, where opposing counsel is present, with one e-mail address with the functionality required for the pilot program. All service on opposing counsel shall originate from and be perfected upon this e-mail address.

b. Unless otherwise agreed to by the court and the parties, all e-filings must be served electronically to the e-mail address of opposing counsel. The subject-matter line for the transmittal of document served by e-mail shall state "Service of e-filing in case [insert caption of case]."

c. In matters where an attorney represents a party and the opposing side or sides are unrepresented, service by all parties shall be by traditional means, unless otherwise agreed to in writing.

d. The parties and the court may agree that, instead of e-mail service, e-filings may be served to the parties (but not the court) by facsimile or by traditional means. For those choosing to accept facsimile service:

i. The parties shall provide the court and opposing parties with one facsimile number with appropriate functionality,

ii. The facsimile number shall serve as the number to which service may be made,

iii. The sender of the facsimile should obtain a confirmation of delivery, and

iv. Parties shall comply with the requirements of MCR 2.406 on the use of facsimile communication equipment.

e. In mandatory situations, and those where one chooses to voluntarily participate in the pilot program, proof of service shall be submitted electronically to the 56th Circuit Court according to MCR 2.104 and these rules.

7. Format and Form of E-filing and Service

a. An attorney or party may only e-file documents for one case per transaction.

b. All e-filings shall comply with MCR 1.109 and the technical requirements of the court's vendor.

c. Any exhibit or attachment that is part of an e-filing must be clearly designated and identified as an exhibit or attachment.

d. All e-filings, subject to subsection 6(d), shall be served on the parties in the same format and form as submitted to the court.

8. Pleadings, Motions, and Documents not to be E-filed

Documents to be filed under seal (pursuant to court order) shall not be e-filed during the pilot program and must be filed by the traditional methods provided in the MCR. The obligation of the clerk in such an instance shall be governed by § 4 of this administrative order.

9. Official Court Record; Certified Copies

a. For purposes of this pilot program, e-filings are the official court record. An appellate record shall be certified in accordance with MCR 7.210(A)(1).

b. Certified or true copies of e-filed documents shall be issued in the conventional manner by the Eaton County Clerk's Office in compliance with the Michigan Trial Court Case File Management Standards.

c. At the conclusion of the pilot program, if the program does not continue as a pilot project or in some other format, the clerk shall convert all e-filings to paper form in accordance with MCR 8.119(D)(1)(d), unless electronic means of long-term retention is approved. Participating attorneys shall provide reasonable assistance in constructing the paper record.

d. At the conclusion of the pilot program, if the program continues as a pilot project or in another format, the clerk shall provide for record retention and public access in a manner consistent with the instructions of the court and court rules.

10. Court Notices, Orders, and Judgments

At the court's discretion, the court may issue, file, and serve orders, judgments, and notices as e-filings. Pursuant to stipulation and order, the parties may agree to accept service from the court via facsimile pursuant to the procedures set forth in Rule 6(c).

11. Technical Malfunctions

a. A party experiencing a technical malfunction with the party's equipment (such as PDF conversion problems or inability to access the pilot program sites), another party's equipment (such as an inoperable e-mail address), or an apparent technical malfunction of the court's pilot program equipment, software, or server shall use reasonable efforts to timely file or receive service by traditional methods and shall provide prompt notice to the court and the parties of any such malfunction.

b. If a technical malfunction has prevented a party from timely filing, responding to, or otherwise perfecting or receiving service of an e-filing, the affected party may petition the 56th Circuit Court for relief. Such petition shall contain an adequate proof of the technical malfunction and set forth good cause for failure to use non-electronic means to timely file or serve a document. The court shall liberally consider proof of the technical malfunction and use its discretion in determining whether such relief is warranted.

12. Privacy Considerations

a. With respect to any e-filing, the following requirements for personal information shall apply:

i. Social Security Numbers. Full social security numbers shall not be included in e-filings. If an individual's social security number must be referenced in an e-filing, only the last four digits

of that number may be used and the number specified in substantially the following format: XXX-XX-1234.

ii. Names of Minor Children. Unless named as a party, the identity of minor children shall not be included in e-filings. If a non-party minor child must be mentioned, only the initials of that child's name may be used.

iii. Dates of Birth. An individual's full birth date shall not be included in e-filings. If an individual's date of birth must be referenced in an e-filing, only the year may be used and the date specified in substantially the following format: XX/XX/1998.

iv. Financial Account Numbers. Full financial account numbers shall not be included in e-filings unless required by statute, court rule, or other authority. If a financial account number must be referenced in an e-filing, only the last four digits of these numbers may be used and the number specified in substantially the following format: XXXXXX1234.

v. Driver's License Numbers and State-Issued Personal Identification Card Numbers. A person's full driver's license number and state-issued personal identification number shall not be included in e-filings. If an individual's driver's license number or state-issued personal identification card number must be referenced in an e-filing, only the last four digits of that number should be used and the number specified in substantially the following format: X-XXX-XXX-XX1-234.

vi. Home Addresses. With the exception of a self-represented party, full home addresses shall not be included in e-filings. If an individual's home address must be referenced in an e-filing, only the city and state should be used.

b. Parties wishing to file a complete personal data identifier listed above may:

i. Pursuant to, and in accordance with the MCR and administrative orders, file a motion seeking the court's permission to file a traditional paper version of the document under seal. The court may, in granting the motion to file the document under seal, still require that an e-filing that does not reveal the complete personal data identifier be filed for the public files.

or

ii. Pursuant to and in accordance with the applicable MCR and LAO, obtain a court order to file a traditional paper reference list under seal. The reference list shall contain the complete personal data identifiers and the redacted identifiers used in the e-filing. All references in the case to the redacted identifiers included in the reference list shall be construed to refer to the corresponding complete personal data identifiers. The reference list must be filed under seal, and may be amended as of right.

c. Parties should exercise caution when filing papers that contain private or confidential information, including, but not limited to, the information covered above and listed below:

i. Medical records, treatment, and diagnosis;

ii. Employment history;

iii. Individual financial information;

iv. Insurance information;

v. Proprietary or trade secret information;

vi. Information regarding an individual's cooperation with the government; and

vii. Personal information regarding the victim of any criminal activity.

13. Amendment

These rules may be amended upon the recommendation of the participating judges, the approval of the chief judge, and authorization by the state court administrator.

14. Expiration

Unless otherwise directed by the Michigan Supreme Court, this pilot program, requiring parties to electronically file documents in cases assigned to participating judges, shall continue until July 1, 2011, or further order of the 56th Circuit Court.

AO No. 2009-6 — A Court Shall Submit a Local Administrative Order to SCAO When Appointing Magistrates and Referees

[Entered September 9, 2009; effective January 1, 2010.]

On order of the Court, effective January 1, 2010, a court shall submit local administrative orders to the State Court Administrative Office to identify individuals appointed as magistrates or referees in that court.

Courts are authorized by statute to appoint magistrates and referees to positions that allow those magistrates and referees to perform various functions. As the entity charged with supervision of the state's courts, it is essential that the State Court Administrative Office of the Michigan Supreme Court be aware of the identity of each of these appointed individuals. In addition, because the law with regard to magistrates allows the court that appoints the magistrate to establish the scope of the duties the magistrate will perform, and because immunity for the magistrate's actions extends only to those actions that are performed within the scope of the authority established by the court that appoints the magistrate, it is also essential that the Supreme Court be notified of the scope of authority granted by each court to its magistrate or magistrates. Further, the Michigan Court Rules grant courts the authority to determine the specific types of hearings and proceedings to be heard by referees, and this information should likewise be submitted to the State Court Administrative Office.

Accordingly, on order of the Court,

A. Each court that appoints a magistrate or referee shall submit a local administrative order to the State Court Administrative Office that identifies an individual appointed as a magistrate or referee. The local administrative order shall include the name and contact information for the individual and the date the appointment is or was effective.

B. Further, each court that appoints a magistrate or referee shall describe the scope of the authority conferred by the court on the magistrate or referee.

C. It is the responsibility of a magistrate or referee to notify the State Court Administrative Office of changes in the individual's contact information during the course of the appointment.

AO No. 2009-7 — Adoption of a Pilot Project in the 46th District Court to Study the Effects of Proposed Rule 8.119 of the Michigan Court Rules

[Entered October 13, 2009; text as amended by order entered January 21, 2010.]

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

The purpose of the pilot project is to determine whether the proposed language represents a feasible and practical procedure for courts to follow in screening documents that are submitted for filing in cases that involve garnishments and consumer debt collections. The Court is interested in learning whether this procedure will increase efficiency within the court (including assessing its effect on the clerk and the judges of the court), and determining what effect the procedure will have on litigants. The 46th District Court will operate under the following rule for the period of the pilot project, which will begin on the date this order enters and continue for six months or as otherwise ordered by the Court. The 46th District Court will provide a report to the Court within three months of the conclusion of the pilot project regarding the court's assessment of the feasibility of the procedure described below. The 46th District Court shall keep a list of litigants who request that the submitted document be reviewed by a judge.

RULE 8.119 COURT RECORDS AND REPORTS; DUTIES OF CLERKS

(A)-(B) [Unchanged.]

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

(D) Return of Nonconforming Papers Related to Garnishment or Consumer Debt Collection Case. If the clerk of the court returns a paper related to a garnishment or consumer debt collection case as nonconforming, the clerk must notify the litigant in writing of the reason for the return. The notice shall provide the name and phone number of the deputy clerk returning the papers. The litigant may, with no additional filing or motion fee, (a) submit supporting documentation; (b) submit an amended version of the paper; (c) request the clerk to submit the paper as initially submitted to the court for immediate review; or (d) withdraw the paper. If no judge is assigned to the case, the chief judge or the chief judge's designee shall perform the

review. Upon review, the judge shall either allow the filing or issue a written order disallowing the filing. If disallowed, the reason shall be stated in the order. If the litigant withdraws the paper, the court shall not charge a filing fee and any filing fee previously paid shall be returned to the filer.

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

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

[Statements regarding the amended order appear at 485 Mich cxviii (2010).]

AO No. 2010-1 — Adoption of Administrative Order to Establish and Require Compliance with Court Collections Program and Reporting Requirements

[Entered February 2, 2010; effective May 1, 2010.]

On order of the Court, notice of the proposed changes and an opportunity for comment in writing and at a public hearing having been provided, and consideration having been given to the comments received, the following administrative order is adopted, effective May 1, 2010.

Enforcing court orders, including financial sanctions, is a responsibility of the courts that, if done effectively, enhances the courts' integrity and credibility while providing funds to assure victims are made whole and support law enforcement, libraries, the crime victim's rights fund, and local governments. In order to improve the enforcement and collection of court-ordered financial sanctions, it is ordered that the State Court Administrator establish court collections program requirements and that all circuit courts, circuit court family divisions, district courts, and municipal courts comply with those requirements. The State Court Administrative Office shall enforce the requirements and assist courts in adopting practices in compliance with those requirements.

In order to effectively monitor and measure the effect of collections programs, it is ordered that the State Court Administrator establish reporting requirements regarding outstanding receivables and collections efforts undertaken by courts, including establishment of the reporting format, method, and due dates. It is further ordered that all circuit courts, circuit court family divisions, district courts, and municipal courts comply with those requirements. The State Court Administrative Office shall facilitate compliance with and enforce the requirements.

AO No. 2010-2 — Adoption of Concurrent Jurisdiction Plan for the 12th Circuit Court and the Baraga County Probate Court

[Entered March 16, 2010; text as amended by order entered March 19, 2010.]

Administrative Order No. 2003-1 and MCL 600.401 *et seq.* authorize Michigan trial courts to adopt concurrent jurisdiction plans within a county or judicial circuit, subject to approval of the Court.

The Court approves adoption of the following concurrent jurisdiction plan, effective July 1, 2010:

- The 12th Circuit Court and the Baraga County Probate Court

The plan shall remain on file with the state court administrator.

Amendments to concurrent jurisdiction plans may be implemented by local administrative order pursuant to MCR 8.112. Plan amendments shall conform to the requirements of Administrative Order No. 2003-1 and MCL 600.401 *et seq.*

AO No. 2010-3 — E-Filing Project in Oakland Circuit Court, Family Division

[Entered March 16, 2010; amended October 20, 2011, January 23, 2013, May 22, 2013, November 26, 2014, June 17, 2015, September 16, 2015, and December 23, 2015 (effective January 1, 2016). Text as amended by order entered December 23, 2015.]

On order of the Court, the Sixth Judicial Circuit Court, in consultation with the State Court Administrative Office (SCAO), developed this project to study the effectiveness of electronically filing court documents in connection with the just, speedy, and economical determination of Family Division actions in a mandatory electronic filing environment. By further order of the Court, the Sixth Circuit Court Family Division is authorized to continue its e-filing project during a transition period while the State Court Administrative Office prepares and implements a statewide e-filing system. In addition, it is anticipated that the Sixth Circuit Court Family Division, along with other court locations that participated as e-filing pilot courts, will be among the first group of courts that will connect with any statewide system for purposes of testing and early integration.

Participation in this program is mandatory for cases with a "DO" case code and assigned to program judge(s), and, effective immediately, will be gradually implemented for cases with a "DM" case code.

The Sixth Judicial Circuit Court will report to and provide information as requested by the State Court Administrative Office.

1. Construction

The purpose of the transition period for e-filing is to continue successful e-filing efforts in the Sixth Circuit Family Division and to coordinate with state efforts, through a vendor or otherwise, to build and operate a statewide system of e-filing. The Court may exercise its discretion to grant necessary relief to avoid the consequences of error so as not to affect the substantial rights of the parties. Except for matters related to electronically filing or service of documents during the transition period, the Michigan Rules of Court govern all other aspects of the cases involved in the project.

2. Definitions

(a) "Clerk" means the Oakland County Clerk.

(b) "E-filing" means any court pleading, motion, brief, response, list, order, judgment, notice, or other document filed electronically pursuant to the project.

(c) "LAO" means all local administrative orders governing the Sixth Judicial Circuit Court.

(d) "MCR" means the Michigan Rules of Court.

(e) "Transition e-filing program" or "project" means the initiative by the Sixth Judicial Circuit Court, the Oakland County Clerk, and the Oakland County Department of Information Technology in conjunction with the court's vendor and under the supervision of the SCAO. This e-filing application facilitates the electronic filing of pleadings, motions, briefs, responses, lists, orders, judgments, notices, and other documents during the period after enactment of statutory authority to fund and operate a statewide electronic filing system. The vision is that all state courts in Michigan will eventually permit e-filing (with appropriate modifications and improvements). The Oakland County project will begin testing with two Circuit Court judges with "DO" type civil cases. "DM" type cases are also included in the scope of this project. The Court plans to expand the program to all Family Division judges who wish to participate.

(f) "Technical malfunction" means any hardware, software, or other malfunction that prevents a user from timely filing a complete e-filing or sending or receiving service of an e-filing.

(g) "Wiznet envelope" means an electronic submission that contains one or more Wiznet transactions.

(h) "Wiznet transaction" means the submission of one or more related documents which results in a single register of actions entry. A single register of actions entry is determined by the Clerk. E.g. a motion, brief, affidavit, notice of hearing, and proof of service for a single motion submitted at one time frequently constitutes a single register of actions entry.

3. Participation in the Program

(a) Participation in the program shall be mandatory in all pending or newly filed "DO" type cases assigned to participating Circuit Court judges. Participation for new filings shall begin following the filing of the initial complaint or other initiating document, and assignment of the case to a participating judge. At the discretion of the e-filing judge, participation in the program may also include proceedings in post-disposition cases assigned to the judge.

In addition, this order authorizes e-filing for all "DM" cases. Recognizing the logistical challenges associated with implementing e-filing in "DM" cases, the Court authorizes the Family Division of the Sixth Circuit Court to gradually implement the program beginning with a limited number of cases assigned to a single judge and a single Friend of the Court referee team assigned to that judge. The Sixth Circuit Court may expand the scope of the program at any time to include additional judges and/or FOC referee teams without further authorization of the Court.

(b) This is a mandatory e-filing project. It is presumed that all documents will be filed electronically. However, the Court recognizes that circumstances will arise which prevent one from e-filing. To ensure that all parties retain access to the courts, parties that demonstrate good cause will be permitted to file their documents with the Clerk, who will then file the documents electronically. Among the factors that the Court will consider in determining whether good cause exists to excuse a party from mandatory e-filing are a party's access to the Internet and indigency. A self-represented party is not excused from the project merely because the individual does not have counsel.

4. E-filings Submission, Acceptance, and Time of Service with the Court; Signature

(a) Program participants must submit e-filings pursuant to these rules and the program's technical requirements. The Clerk may, in accordance with MCR 8.119(C) reject documents submitted for filing that do not comply with MCR 2.113(C), are not accompanied by the proper fees, clearly violate Administrative Order 2006-2, do not conform to the technical requirements of this pilot project, or are otherwise submitted in violation of statute, court rule, administrative order, or program rules.

(b) E-filings may be submitted to the court at any time, but shall only be reviewed and accepted for filing by the Oakland County Clerk's Office during normal business hours of 8:00 a.m. to 4:30 p.m. E-filings submitted after business hours shall be deemed filed the business day the e-filing is accepted (usually the next business day). The Clerk shall process electronic submissions on a first in/ first out basis.

(c) E-filings shall be treated as if they were hand delivered to the court for all purposes under statute, court rule, and administrative order.

(d) A pleading, document, or instrument e-filed or electronically served under this rule shall be deemed to have been signed by the judge, court clerk, attorney, party, or declarant.

(i) Signatures submitted electronically shall use the following form: /s/ *John L. Smith*.

(ii) A document that requires a signature under the penalty of perjury is deemed signed by the declarant if, before filing, the declarant has signed a printed form of the document.

(iii) An e-filed document that requires a signature of a notary public is deemed signed by the notary public if, before filing, the notary public has signed a printed form of the document.

(e) The original of a sworn or verified document that is an e-filing (e.g., a verified pleading) or part of an e-filing (e.g., an affidavit, notarization, or bill of costs) must be maintained by the filing attorney or self represented litigant and made available upon reasonable request of the court, the signatory, or opposing party.

(f) Proposed orders shall be submitted to the court in accordance with the provisions of the pilot. The Court and Clerk shall exchange the documents for review and signature pursuant to MCR 2.602(B).

(g) By electronically filing the document, the electronic filer indicates compliance with these rules.

5. Time for Service and Filing of Pleadings, Documents, and Motions; Judge's Copies; Hearings on Motions; Fees

(a) All times for filing and serving e-filings shall be governed by the applicable statute, court rule, and administrative order as if the e-filings were hand delivered. Where a praecipe is required by LCR 2.119(A), it must be submitted electronically to the Court through the epraecipe application at http://courts.oakgov.com/ePraecipe/.

(b) The electronic submission of a motion and brief through this program satisfies the requirements of filing a Judge's Copy under MCR 2.119(A)(2). A judge may require that one "courtesy copy" or "chambers copy" of any dispositive motion and all accompanying exhibits, as well as responses and replies, or any motion and brief in which the motion, brief, and attachments equal 40 pages or more be submitted directly to the judge's chamber in paper format. Any exhibits must be appropriately tabbed. Good practice requires that in appropriate cases, relevant portions of lengthy documents be highlighted. A printed copy of the e-filing transmission receipt must be attached to the front of the pleading. The requirement to provide a "courtesy copy" or "chambers copy" at a judge's request shall expire on May 22, 2018.

(c) Applicable fees, including e-file fees and service fees, shall be paid electronically through procedures established by the Oakland County Clerk's Office at the same time and in the same amount as required by statute, court rule, or administrative order.

6. Service

(a) All parties shall register as a service contact with the court's vendor's application which will provide the court and opposing parties with one email address with the functionality required for the program.

(b) It is highly recommended that all e-filings must be served electronically to the email addresses of all parties.

(c) The parties and court may agree that, instead of eservice, e-filings may be served to the parties (but not the court) as provided in MCR 2.107.

(d) For those choosing to accept facsimile service:

(i) the parties shall provide the court and opposing parties with one facsimile number with appropriate functionality,

(ii) the facsimile number shall serve as the number to which service may be made,

(iii) the sender of the facsimile should obtain a confirmation of delivery, and

(iv) parties shall comply with the requirements of MCR 2.406 on the use of facsimile communication equipment.

(e) Proof of Service shall be submitted to the Court according to MCR 2.104 and these rules.

7. Format and Form of E-filing and Service

(a) A party may only e-file documents for one case per Wiznet envelope.

(b) A party may e-file multiple Wiznet transactions within a single Wiznet envelope, subject to subrule 7(a).

(c) All e-filings shall comply with MCR 1.109 and the technical requirements of the Court's vendor and, after implementation, the vendor implementing the statewide e-filing system.

(d) Any exhibit or attachment that is part of an e-filing must be clearly designated and identified as an exhibit or attachment.

(e) All e-filings, subject to subsection 6(c) above, shall be served on the parties in same format and form as submitted to the court.

8. Pleadings, Motions, and Documents not to be E-filed

The following documents shall not be e-filed during the Pilot program and must be filed by the traditional methods provided in the court rules and administrative orders:

(a) documents to be filed under seal (pursuant to court order), and

(b) initiating documents, and

(c) documents related to divorce proceedings that are not filed in the court file, such as a verified statement of divorce and judgment information forms.

9. Official Court Record; Certified Copies

(a) For purposes of this program, the electronic version of all documents filed with the Court, with the exception of documents filed under seal [see 8(a) and MCR 8.119(F)] is the official court record. An appellate record shall be certified in accordance with MCR 7.210(A)(1).

(b) Certified or true copies of e-filed documents shall be issued in the conventional manner by the Oakland County Clerk's Office in compliance with the Michigan Trial Court Case File Management Standards.

(c) At the conclusion of the program, if the program does not continue in some other format, the clerk shall convert all e-filings to paper form in accordance with MCR 8.119(D)(1)(d). Participating attorneys shall provide reasonable assistance in constructing the paper record.

(d) At the conclusion of the program, the Court and Clerk shall provide for record retention and public access in a manner consistent with the instructions of the court and court rules.

10. Court Notices, Orders, and Judgments

The Court shall issue, file, and serve orders, judgments, and notices as e-filings. A party exempted from e-filing under this program shall be served in accordance with MCR 2.107(C).

11. Technical Malfunctions

(a) A party experiencing a technical malfunction with the party's equipment (such as PDF conversion problems or inability to access the program sites), another party's equipment (such as

an inoperable email address), or an apparent technical malfunction of the court's equipment, software or server shall use reasonable efforts to timely file or receive service as provided in these rules and shall provide prompt notice to the court and parties of any such malfunction.

(b) If a technical malfunction has prevented a party from timely filing, responding to, or otherwise perfecting or receiving service of an e-filing, the affected party may petition the Court for relief. Such petition shall contain an adequate proof of the technical malfunction and set forth good cause for failure to use non-electronic means to timely file or serve a document. The Court shall liberally consider proof of the technical malfunction and use its discretion in determining whether such relief is warranted.

12. Privacy Considerations

(a) With respect to any e-filing, the following requirements for personal information shall apply:

1. Social Security Numbers. Pursuant to Administrative Order 2006-2, full social security numbers shall not be included in any e-filings. If an individual's social security number must be referenced in an e-filing, only the last four digits of that number may be used and the number specified in substantially the following format: XXX-XX-1234.

2. Names of Minor Children. Unless named as a party or otherwise required by statute, court rule, or administrative order, the identity of minor children shall not be included in any e-filings. If a non-party minor child must be mentioned, only the initials of that child's name may be used.

3. Dates of Birth. Except as required by statute, court rule, or administrative order, an individual's full birth date shall not be included in any e-filings. Subject to the above limitation, if an individual's date of birth is otherwise referenced in an e-filing, only the year may be used and the date specified in substantially the following format: XX/XX/1998.

4. Financial Account Numbers. Full Financial account numbers shall not be included in any e-filings unless required by statute, court rule, or other authority. If a financial account number must be referenced in an e-filing, only the last four digits of these numbers may be used and the number specified in substantially the following format: XXXXX1234.

5. Driver's License Numbers and State-Issued Personal Identification Card Numbers. A person's full Driver's license number and state-issued personal identification number shall not be included in any e-filings. If an individual's driver's license number or state-issued personal identification card number must be referenced in an e-filing, only the last four digits of that number should be used and the number specified in substantially the following format: X-XXX-XXX-XX1-234.

6. Home Addresses. With the exception of a self-represented party, full home addresses shall not be included in any e-filings. If an individual's home address must be referenced in an e-filing, only the city and state should be used. For a party whose address has been made confidential by court order pursuant to MCR 3.203(F), the alternative address shall be treated as specified above.

(b) Parties wishing to file a complete personal data identifier listed above may:

1. Pursuant to and in accordance with court rules and administrative orders, file a motion to file a traditional paper version of the document under seal. The Court may, in granting the motion to file the document under seal, still require that an e-filing that does not reveal the complete personal data identifier be filed for the public files.

Or

2. Pursuant to and in accordance with the applicable court rules and administrative orders, obtain a court order to file a traditional paper reference list under seal. The reference list shall contain the complete personal data identifiers and the redacted identifiers used in the e-filing. All references in the case to the redacted identifiers included in the reference list shall be construed to refer to the corresponding complete personal data identifiers. The reference list must be filed under seal, and may be amended as of right.

(c) Parties should exercise caution when filing papers that contain private or confidential information, including, but not limited to, the information covered above and listed below:

1. Medical records, treatment and diagnosis;

2. Employment history;

3. Individual financial information;

4. Insurance information;

5. Proprietary or trade secret information;

6. Information regarding an individual's cooperation with the government; and

7. Personal information regarding the victim of any criminal activity.

(d) These rules are designed to protect the private personal identifiers and information of individuals involved or referenced in actions before the Court. Nothing in these rules should be interpreted as authority for counsel or a self-represented litigant to deny discovery to the opposing party under the umbrella of complying with these rules.

13. Amendment

Procedural aspects of these rules may be amended upon the recommendation of the participating judges, the approval of the chief judge, and authorization by the State Court Administrator. Proposed substantive changes, including, for example, a proposed expansion of the program to permit additional case types and a proposed change in fees, must be submitted to the Supreme Court for approval.

14. Financial data.

Detailed financial data as defined in Administrative Order No. 2009-1, including costs generated and savings realized under the terms of this e-filing project, shall be included in the Oakland Circuit Court's annual report for submission to this Court.

15. Expiration

This pilot program, requiring parties to electronically file documents in cases assigned to participating judges, shall continue until further order of this Court.

AO No. 2010-4 — [Rescinded] E-filing Project in the 13th Judicial Circuit Court

[Entered April 27, 2010; effective July 1, 2010; amended September 19, 2012, May 22, 2013, December 23, 2015, and February 28, 2018. Rescinded and replaced by AO No. 2019-4, entered October 23, 2019.]

AO No. 2010-5 — 29th Judicial Circuit Court Pilot Project No. 1 (Family Division Informal Docket for Low Conflict Domestic Relations Cases)

[Entered July 13, 2010; effective September 1, 2010.]

On order of the Court, the 29th Judicial Circuit Court is authorized to implement a domestic relations pilot project to test the effectiveness of an informal docket for selected domestic relations cases.

The pilot project shall begin September 1, 2010, or as soon as an evaluator has been selected to evaluate the project, and shall continue for three years, or until further order of this Court.

If this Court adopts generally applicable Michigan Court Rules for informal dockets during the pendency of the pilot project, the 29th Judicial Circuit Court must, within 60 days of the effective date of the adopted rules, modify its procedures to comply with those new rules.

The 29th Judicial Circuit Court must collect and provide statistics and other information to the State Court Administrative Office and its retained evaluator to assist in evaluating the effectiveness of the project.

1. Purpose of the Pilot Project

The purpose of the pilot project is to study the effectiveness of alternative, less formal procedures designed to help *pro se* domestic relations litigants use the judicial system more effectively, foster a cooperative ongoing relationship between the parties, and improve the court's processing of domestic relations cases.

2. Participation

(a) The 29th Judicial Circuit Court shall issue a local administrative order that specifies one of the following criteria for creating a pool of pilot project cases and a separate pool of comparison group cases: (i) selection based on *case filing dates*, (ii) selection of a *specific number of filed cases* that satisfy all the other project criteria, or (iii) selection by the *presiding judge*.

(b) The court shall select cases for participation as soon as possible after the filing and service of each complaint.

(c) This is a voluntary project. The court will not require parties to participate, but will offer the opportunity to all those who qualify.

3. Friend of the Court Settlement Conference

After service of the complaint, the answer to complaint, and the summons, the court will refer *pro se* parties to the Friend of the Court Office for a settlement conference and the subsequent preparation of a recommended order for custody, parenting time, and child support.

During the conference, an FOC staff person will provide information about the pilot project and verify that the case meets all the selection criteria. Eligible parties who agree to participate must sign a consent form.

4. Hearings With the Assigned Family Division Judge

After the assignment clerk receives copies of both parties' consent forms, the clerk will schedule the parties for an initial hearing with the presiding judge within 30 days. If either party objects to the FOC settlement conference recommended order, the objection will be heard at the initial hearing, provided that the objecting party has filed a written statement of those reasons and sent copies to the other party, the judge's assignment clerk, the judge's office, and the Friend of the Court. During the initial hearing, the judge and the parties must discuss the following issues, as applicable to each case:

- Unresolved disputes.
- Possible evidence.
- Possible witnesses.
- The schedule for subsequent hearings. [At the initial settlement conference with the Friend of the Court, parties will receive motion forms, including a form to request removal of the domestic relations case from the project, and a judgment of divorce form.]
- Any property settlement agreements. If the parties have not yet agreed on the division of all the marital property, the court may grant an extension.
- The procedure for preparing and entering a judgment of divorce, including which party will prepare the judgment.

The Assigned Family Division Judge will explain the conference-style hearing to both parties at the initial hearing. Both parties must agree in court on the record to the use of the conference-style hearing. If the parties do not agree to use conference-style hearing, the parties may still participate in the informal docket project and use informal evidentiary rules and procedures

For pilot project cases, conference-style hearings will be conducted. Both parties and all witnesses will be sworn in. The hearings will be recorded. Either party may present evidence. Either party or the judge may ask questions.

If there is more than one unresolved issue, the judge will instruct the parties to discuss each issue individually and then facilitate the parties' discussions. Although parties will have an opportunity to question each other, the parties may ask only issue-clarifying questions. The judge may allow or reject each question.

All witnesses must testify in a similar manner. They may provide narrative testimony. The parties and the judge may question the witnesses. The judge may allow conversations between the parties and the witnesses.

If the court determines the case should be removed from the pilot project for any reason, the court will state the reasons on the record.

AO No. 2010-6 — [Rescinded] E-filing in the 16th Circuit Court (Macomb County)

[Entered December 28, 2010; amended January 23, 2013, May 22, 2013, December 23, 2015, and February 28, 2018. Rescinded and replaced by AO No. 2019-4, entered October 23, 2019.]

AO No. 2011-1 — [Rescinded] E-filing Project in the 3rd Circuit Court (Wayne County)

[Entered February 1, 2011; superseded by order entered June 28, 2011; amended April 4, 2012, March 20, 2013, May 22, 2013, June 17, 2015, September 16, 2015, December 23, 2015, March 23, 2016, and February 28, 2018. Rescinded and replaced by AO No. 2019-4, entered October 23, 2019.]

AO No. 2011-2 — Rescission of AO No. 2002-1 (Dissolution of the Child Support Leadership Council)

[Entered June 30, 2011.]

On order of the Court, Administrative Order No. 2002-1 is rescinded, effective immediately.

AO No. 2011-3 — [Rescinded] Caseflow Management Guidelines; Rescission of AO No. 2003-7

[Entered August 17, 2011; effective September 1, 2011; rescinded by AO No. 2013-12, entered October 2, 2013, effective January 1, 2014.]

AO No. 2011-4 — [Rescinded] E-filing Rules for the 20th Circuit Court, the Ottawa County Probate Court, and the 58th District Court (Ottawa County)

[Entered September 22, 2011; amended January 23, 2013, May 22, 2013, December 23, 2015, February 28, 2018, and October 17, 2018. Rescinded and replaced by AO No. 2019-4, entered October 23, 2019.]

AO No. 2011-6 — E-Filing in Oakland Probate Court

[Entered October 20, 2011; amended May 22, 2013, and December 23, 2015 (effective January 1, 2016). Text as amended by order entered December 23, 2015.]

On order of the Court, the Oakland County Probate Court is authorized to continue its e-filing project during a transition period while the State Court Administrative Office prepares and implements a statewide e-filing system. The Oakland County Probate Court is aware that rules regarding electronic filing have been published for comment by this Court. If this Court adopts electronic-filing rules during the pendency of the Oakland County Probate Court Electronic Document Filing Pilot Project, the Oakland County Probate Court will, within 60 days of the effective date of the rules, comply with the requirements of those rules. In addition, it is anticipated that the Oakland County Probate Court, along with other court locations that participated as e-filing pilot courts, will be among the first group of courts that will connect with any statewide system for purposes of testing and early integration.

The Oakland County Probate Court will report to and provide information as requested by the State Court Administrative Office.

1. Construction

The purpose of the transition period for e-filing is to review and potentially recommence e-filing efforts in the Oakland County Probate Court and to coordinate with state efforts, through a vendor or otherwise, to build and operate a statewide system of e-filing. The Oakland County Probate Court may exercise its discretion to grant necessary relief to avoid the consequences of error so as not to affect the substantial rights of the parties. Except for matters related to electronically filing or service of documents during the transition period, the Michigan Rules of Court govern all other aspects of the cases involved in the program.

2. Definitions

(a) "Register" means the Oakland County Probate Register.

(b) "E-filing" means any court pleading, motion, brief, response, list, order, judgment, notice, claims, inventories, accounts, reports, or other documents filed electronically pursuant to the program.

(c) "LAO" means all local administrative orders governing the Oakland County Probate Court.

(d) "MCR" means the Michigan Rules of Court.

(e) "Transition e-filing program" or "project" means the initiative by the Oakland County Probate Court in conjunction with the Oakland County Department of Information Technology, and in part with Tyler, Inc. (Wiznet), and under the supervision of the State Court Administrative Office. This e-filing application facilitates the electronic filing of pleadings, motions, briefs, responses, lists, orders, judgments, notices, claims, inventories, accounts, reports, and other

documents during the period after enactment of statutory authority to fund and operate a statewide electronic filing system. The Oakland County program will begin testing with one probate judge with "DE", "DA," "TV," and "CZ" case types. The court plans to expand the program to all probate judges as soon as practicable.

(f) "Technical malfunction" means any hardware, software, or other malfunction that prevents a user from timely filing a complete e-filing or sending or receiving service of an e-filing.

(g) "Wiznet envelope" means an electronic submission that contains one or more Wiznet transactions.

(h) "Wiznet transaction" means the submission of one or more related documents which results in a single register of actions entry.

3. Participation in the Program

(a) If the court recommences its efiling program, participation in the program shall be mandatory in all newly filed DE, DA, TV or CZ case types assigned to the participating probate judges. Participation shall begin following the filing of the initial petition, complaint or other initiating document, and assignment of the case to a participating judge pursuant to the court's LAO. At the discretion of the judge, participation may also include post-disposition proceedings in qualifying case types assigned to participating judges.

(b) This is a mandatory e-filing project. It is presumed that all documents will be filed electronically. However, the Court recognizes that circumstances may arise that will prevent a party from e-filing. To ensure that all parties retain access to the Courts, parties that demonstrate good cause will be permitted to file their documents with the register's office, who will then file the documents electronically. Among the factors that the Oakland County Probate Court will consider in determining whether good cause exists to excuse a party from mandatory e-filing are a party's access to the Internet and indigency. A self-represented party is not excused from the project merely because the individual does not have counsel.

4. E-filings Submission, Acceptance, and Time of Service with the Court; Signature

(a) Program participants must submit e-filings pursuant to these rules and the program's technical requirements. The register may, in accordance with MCR 8.119(C), reject documents submitted for filing that do not comply with MCR 5.113 or MCR 2.113(C)(2), are not accompanied by the proper fees, clearly violate Administrative Order No. 2006-2, do not conform to the technical requirements of this project, or are otherwise submitted in violation of a statute, an MCR, an LAO, or the program rules.

(b) E-filings may be submitted to the court at any time, but shall only be reviewed and accepted for filing by the Oakland County Probate Court during the normal business hours of the register's office. E-filings submitted after business hours shall be deemed filed on the business day the e-filing is accepted for filing. The register's office shall process electronic submissions on a first-in, first-out basis.

(c) E-filings shall be treated as if they were hand delivered to the court for all purposes under statute, court rule, and administrative order.

(d) A pleading, document, or instrument e-filed or electronically served under this rule shall be deemed to have been signed by the judge, register, attorney, party, or declarant.

(i) Signatures submitted electronically shall be scanned copies of the actual signed document, or shall use the following form for the signature: */s/John L. Smith*.

(ii) A document that requires a signature under the penalty of perjury, or is required to be signed by the fiduciary or trustee under MCR 5.114(A)(3), is deemed signed by the declarant or fiduciary if, before filing, the declarant or fiduciary has signed a printed form of the document.

(iii) An e-filed document that requires a signature of a notary public is deemed signed by the notary public if, before filing, the notary public has signed a printed form of the document.

(e) The original of a sworn or verified document that is an e-filing (e.g., a verified pleading) or part of an e-filing (e.g. an affidavit, notarization, or bill of costs) must be maintained by the filing attorney or self-represented litigant and made available upon reasonable request of the court, the signatory, or opposing party.

(f) Proposed orders shall be submitted to the court in accordance with the provisions of the pilot program. The court and the register shall exchange the documents for review and signature pursuant to MCR 2.602(B).

(g) By electronically filing the document, the electronic filer indicates compliance with these rules.

5. Time for Service and Filing of Pleadings, Documents, and Motions; Judge's Copies; Hearings on Motions; Fees

(a) All times for filing and serving filings shall be governed by the applicable statute, the MCR and the LAO as if the e-filings were hand delivered.

(b) The electronic submission of a motion and brief through this program satisfies the requirements of filing a judge's copy where applicable under the MCR. A judge may require that one "courtesy copy" or "chambers copy" of any dispositive motion and all accompanying exhibits, as well as responses and replies, or any motion and brief in which the motion, brief, and attachments equal 40 pages or more be submitted directly to the judge's chamber in paper format. Any exhibits must be appropriately tabbed. Good practice requires that in appropriate cases, relevant portions of lengthy documents be highlighted. A printed copy of the e-filing transmission receipt must be attached to the front of the pleading. The requirement to provide a "courtesy copy" or "chambers copy" at a judge's request shall expire on May 22, 2018.

(c) Applicable fees, including e-filing fees and service fees, shall be paid electronically through procedures established by the Oakland County Probate Court at the same time and in the same amount as required by statute, court rule, or administrative order. Inventory fees shall be paid according to procedures established by the court.

6. Service

(a) All parties shall register as a service contact with the Tyler (Wiznet) application which will provide the court and opposing parties with one e-mail address with the functionality required for the program. All service shall originate from and be perfected upon this e-mail address.

(b) Unless otherwise agreed to by the court and the parties, all e-filings must be served electronically to the e-mail address of all interested parties. The subject matter line for the transmittal of document served by e-mail shall state: "Service of e-filing in case [insert caption of case]."

(c) The parties and the court may agree that, instead of e-mail service, e-filings may be served to the parties (but not the court) by other appropriate means under the MCR. For those choosing to accept facsimile service:

(i) the parties shall provide the court and the opposing parties with one facsimile number with appropriate functionality,

(ii) the facsimile number shall serve as the number to which service may be made,

(iii) the sender of the facsimile should obtain a confirmation of delivery, and

(iv) parties shall comply with the requirements of the MCR on the use of facsimile communication equipment.

(d) The court reserves the right to serve parties by traditional means, including facsimile, when necessary to ensure appropriate service of notices, opinions and orders, and other official court documents.

(e) Proof of Service shall be submitted to the Oakland County Probate Court according to the MCR and these rules.

7. Format and Form of E-filing and Service

(a) A party may only e-file documents for one case in each transaction.

(b) All e-filings shall comply with MCR 1.109 and the technical requirements of the court's vendor and, after implementation, the vendor implementing the statewide e-filing system.

(c) Any exhibit or attachment that is part of an e-filing must be clearly designated and identified as an exhibit or attachment.

(d) All e-filings, subject to subsection 6(c) above, shall be served on the parties in the same format and form as submitted to the court.

8. Pleadings, Motions, and Documents Not to Be E-Filed

The following documents shall not be e-filed during the program and must be filed by the traditional methods provided in the MCR and the LAO:

(a) documents to be filed under seal (pursuant to court order),

(b) initiating documents,

(c) original documents which are required by statute to be filed with the court, such as wills submitted for probate. In such case, the document shall be e-filed using a copy of the document and the original shall be delivered to the court for filing within 14 days of the e-filing date,

(d) inventories that are being presented pursuant to MCL 700.3706,

(e) documents for case evaluation proceedings.

9. Official Court Record; Certified Copies

(a) For purposes of this program, the electronic version of all documents filed with the Court, with the exception of documents filed under seal, is the official court record. An appellate record for the Court of Appeals shall be certified in accordance with MCR 7.210(A)(1).

(b) Certified copies of e-filed documents shall be issued in the conventional manner by the Oakland County Probate Register in compliance with the Michigan Trial Court Case File Management Standards.

(c) At the conclusion of the program, if the program does not continue in some other format, the register shall convert all e-filings to paper form in accordance with MCR 8.119(D)(1)(d). Participating attorneys shall provide reasonable assistance in constructing the paper record.

(d) At the conclusion of the program, the register shall provide for record retention and public access in a manner consistent with the instructions of the court and the court rules.

10. Court Notices, Orders, and Judgments

At the court's discretion, the court and register may issue, file and serve orders, judgments, and notices as e-filings.

11. Technical Malfunctions

(a) A party experiencing a technical malfunction with the party's equipment (such as Portable Document Format [PDF] conversion problems or inability to access the program sites), another party's equipment (such as an inoperable e-mail address), or an apparent technical malfunction of the court's equipment, software, or server shall use reasonable efforts to timely file or receive service by traditional methods and shall provide prompt notice to the court and the parties of any such malfunction.

(b) If a technical malfunction has prevented a party from timely filing, responding to, or otherwise perfecting or receiving service of an e-filing, the affected party may petition the Oakland County Probate Court for relief. Such petition shall contain an adequate proof of the technical malfunction and set forth good cause for failure to use non-electronic means to timely file or serve a document. The court shall liberally consider proof of the technical malfunction and use its discretion in determining whether such relief is warranted.

12. Privacy Considerations

(a) Social Security Numbers. Pursuant to Administrative Order No. 2006-2, full social security numbers shall not be included in e-filings. If an individual's social security number must be referenced in an e-filing, only the last four digits of that number may be used and the number specified in substantially the following format: XXX-XX-1234.

(b) Parties should exercise caution when filing papers that contain private or confidential information, including, but not limited to, the information covered above and listed below:

1. Medical records, treatment and diagnosis;

2. Employment history;

3. Individual financial information;

4. Insurance information;

5. Proprietary or trade secret information;

6. Information regarding an individual's cooperation with the government; and

7. Personal information regarding the victim of any criminal activity.

13. If the e-filing program is recommenced, the Oakland Probate Court shall file an annual report with the Supreme Court covering the project to date by January 1 of each year (or more frequently or on another date as specified by the Court) that outlines the following:

(a) Detailed financial data that show the total amount of money collected in fees for documents filed or served under the project to date, the original projections for collections of fees, and whether the projections have been met or exceeded.

(b) Detailed financial information regarding the distribution or retention of collected fees, including the amount paid to Tyler per document and in total for the subject period, the amount retained by the court per document and in total for the period, and whether the monies retained by the court are in a separate account or commingled with other monies.

(c) A detailed itemization of all costs attributed to the project to date and a statement of whether and when each cost will recur.

(d) A detailed itemization of all cost savings to the court whether by reduced personnel or otherwise and a statement of whether any cost savings to the court are reflected in the fee structure charged to the parties.

14. Amendment

Procedural aspects of these rules may be amended upon the recommendation of the participating judges, the approval of the chief judge, and authorization by the State Court Administrator. Proposed substantive changes, including, for example, a proposed expansion of the program to permit additional case types and a proposed change in fees, must be submitted to the Supreme Court for approval.

15. Expiration

This program, requiring parties to electronically file documents in cases assigned to participating judges, shall continue until further order of the Court.

AO No. 2012-1 — Adoption of Concurrent Jurisdiction Plan for the 10th Circuit Court, the 70th District Court and the Saginaw County Probate Court

[Entered April 4, 2012.]

Administrative Order No. 2003-1 and MCL 600.401 *et seq.* authorize Michigan trial courts to adopt concurrent jurisdiction plans within a county or judicial circuit, subject to approval of the Court.

The Court hereby approves adoption of the following concurrent jurisdiction plan effective August 1, 2012:

- The 10th Circuit Court, the 70th District Court, and the Saginaw County Probate Court

The plan shall remain on file with the state court administrator.

Amendments to concurrent jurisdiction plans may be implemented by local administrative order pursuant to MCR 8.112. Plan amendments shall conform to the requirements of Administrative Order No. 2003-1 and MCL 600.401 *et seq*.

AO No. 2012-2 — Adoption of Concurrent Jurisdiction Plan for the 33rd Circuit Court, the 90th District Court and Charlevoix/Emmet Probate District

[Entered September 19, 2012.]

Administrative Order No. 2003-1 and MCL 600.401 *et seq.* authorize Michigan trial courts to adopt concurrent jurisdiction plans within a county or judicial circuit, subject to approval of the Court.

The Court hereby approves adoption of the following concurrent jurisdiction plan effective January 1, 2013:

- The 33rd Circuit Court, the 90th District Court, and Charlevoix/Emmet Probate District

The plan shall remain on file with the state court administrator.

Amendments to concurrent jurisdiction plans may be implemented by local administrative order pursuant to MCR 8.112. Plan amendments shall conform to the requirements of Administrative Order No. 2003-1 and MCL 600.401 *et seq*.

AO No. 2012-3 — Adoption of Concurrent Jurisdiction Plan for the 57th Circuit Court, the 90th District Court and Charlevoix/Emmet Probate District

[Entered September 19, 2012.]

Administrative Order No. 2003-1 and MCL 600.401 *et seq.* authorize Michigan trial courts to adopt concurrent jurisdiction plans within a county or judicial circuit, subject to approval of the Court.

The Court hereby approves adoption of the following concurrent jurisdiction plan effective January 1, 2013:

- The 57th Circuit Court, the 90th District Court, and Charlevoix/Emmet Probate District

The plan shall remain on file with the state court administrator.

Amendments to concurrent jurisdiction plans may be implemented by local administrative order pursuant to MCR 8.112. Plan amendments shall conform to the requirements of Administrative Order No. 2003-1 and MCL 600.401 *et seq*.

AO No. 2012-4 — Adoption of Concurrent Jurisdiction Plan for the 48th Circuit Court, the 57th District Court, and Allegan County Probate Court

[Entered October 24, 2012.]

Administrative Order No. 2003-1 and MCL 600.401 *et seq.* authorize Michigan trial courts to adopt concurrent jurisdiction plans within a county or judicial circuit, subject to approval of the Court.

The Court hereby approves adoption of the following concurrent jurisdiction plan effective February 1, 2013:

- The 48th Circuit Court, the 57th District Court, and Allegan County Probate Court

The plan shall remain on file with the state court administrator.

Amendments to concurrent jurisdiction plans may be implemented by local administrative order pursuant to MCR 8.112. Plan amendments shall conform to the requirements of Administrative Order No. 2003-1 and MCL 600.401 *et seq*.

AO No. 2012-5 — Implementation of Trial Court Performance Measures

[Entered December 5, 2012.]

Performance measurement is a critical means to assess the services provided to the public and the processes used to deliver those services. Performance measurement can assist in assessing and recognizing areas within courts that are working well, and those that require attention and improvement.

Trial court performance measures are not a new concept. The National Center for State Courts first issued the 10 CourTools in 2005; in the 1990s, SCAO formed a task force, including judges and court administrators, to study how to measure a court's performance. In 2009, the state court administrator convened the Trial Court Performance Measures Committee, which piloted performance measures and offered recommendations. The committee stressed that all trial courts should embrace performance measures as an opportunity to provide high-quality public service in the most efficient way. Further, because transparency and accountability are integral elements of an efficient and effective judiciary, SCAO's standardized statewide performance measure reports should be readily available to the public.

In an effort to ensure continued improvement in the judiciary, the Court adopts this order.

A. The State Court Administrative Office is directed to:

1. Develop a plan for implementation of performance measures in all trial courts. The initial plan shall be submitted to the Supreme Court for approval, and the plan subsequently shall be periodically reviewed by the Court.

2. Assist trial courts in implementing and posting performance measures.

3. In conjunction with the Trial Court Performance Measures Committee, assess and report on the effectiveness of the performance measures and modify the measures as needed.

B. Trial courts are directed to:

1. Comply with the trial court performance measures plan developed by the State Court Administrative Office.

2. Report performance measure information to the State Court Administrative Office.

C. SCAO's standardized statewide performance measure reports shall be made available to the public on the Internet after approval by the Supreme Court.

AO No. 2012-6 — Adoption of Concurrent Jurisdiction Plan for the 37th Circuit Court, the 10th District Court, and the Calhoun County Probate Court

[Entered December 5, 2012.]

Administrative Order No. 2003-1 and MCL 600.401 *et seq.* authorize Michigan trial courts to adopt concurrent jurisdiction plans within a county or judicial circuit, subject to approval of the Court.

The Court hereby approves adoption of the following concurrent jurisdiction plan effective January 1, 2013, or as soon thereafter as possible:

- The 37th Circuit Court, the 10th District Court, and the Calhoun County Probate Court.

The plan shall remain on file with the state court administrator.

Amendments to concurrent jurisdiction plans may be implemented by local administrative order pursuant to MCR 8.112. Plan amendments shall conform to the requirements of Administrative Order No. 2003-1 and MCL 600.401 *et seq*.

AO No. 2012-7 — [Suspended] Adoption of Administrative Order to Allow State Court Administrative Office to Authorize a Judicial Officer's Appearance by Video Communication Equipment

[Entered December 5, 2012; effective January 1, 2013; suspended by AO No. 2020-19, entered June 26, 2020.]

The State Court Administrative Office is authorized, until further order of this Court, to approve the use of two-way interactive video technology in the trial courts to allow judicial officers to preside remotely in any proceeding that may be conducted by two-way interactive technology or communication equipment without the consent of the parties under the Michigan Court Rules and statutes. Remote participation by judicial officers shall be limited to the following specific situations:

1) judicial assignments;

2) circuits and districts that are comprised of more than one county and would require a judicial officer to travel to a different courthouse within the circuit or district;

3) district court districts that have multiple court locations in which a judicial officer would have to travel to a different courthouse within the district;

4) a multiple district plan in which a district court magistrate would have to travel to a different district.

The judicial officer who presides remotely must be physically present in a courthouse located within his or her judicial circuit, district, or multiple district area.

For circuits or districts that are comprised of more than one county, each court that seeks permission to allow its judicial officers to preside by video communication equipment must submit a proposed local administrative order for approval by the State Court Administrator pursuant to MCR 8.112(B). The local administrative order must describe how the program will be implemented and the administrative procedures for each type of hearing for which two-way interactive video technology will be used. The State Court Administrative Office shall either approve the proposed local administrative order or return it to the chief judge for amendment in accordance with requirements and guidelines provided by the State Court Administrative Office.

For judicial assignments, the assignment order will allow remote participation by judges as long as the assigned judge is physically present in a courthouse located within the judge's judicial circuit or district. A local administrative order is not required for assignments.

For multiple district plans, the plan will allow remote participation by district court magistrates as long as the magistrate is physically present in a courthouse located within the multiple district area. No separate local administrative order is required.

The State Court Administrative Office shall assist courts in implementing the technology, and shall report periodically to this Court regarding its assessment of the program. Those courts

using the technology shall provide statistics and otherwise cooperate with the State Court Administrative Office in monitoring the use of video communication equipment.

AO No. 2013-1 — Adoption of Concurrent Jurisdiction Plan for the 18th Circuit Court, the 74th District Court, and the Bay County Probate Court

[Entered January 23, 2013.]

Administrative Order No. 2003-1 and MCL 600.401 *et seq.* authorize Michigan trial courts to adopt concurrent jurisdiction plans within a county or judicial circuit, subject to approval of the Court.

The Court hereby approves adoption of the following concurrent jurisdiction plan effective immediately:

- The 18th Circuit Court, the 74th District Court, and the Bay County Probate Court.

The plan shall remain on file with the state court administrator.

Amendments to concurrent jurisdiction plans may be implemented by local administrative order pursuant to MCR 8.112. Plan amendments shall conform to the requirements of Administrative Order No. 2003-1 and MCL 600.401 *et seq*.

AO No. 2013-2 — Adoption of Concurrent Jurisdiction Plan for the 14th Circuit Court, the 60th District Court, and the Muskegon County Probate Court

Administrative Order No. 2003-1 and MCL 600.401 *et seq.* authorize Michigan trial courts to adopt concurrent jurisdiction plans within a county or judicial circuit, subject to approval of the Court.

The Court hereby approves adoption of the following concurrent jurisdiction plan effective immediately:

- The 14th Circuit Court, the 60th District Court, and the Muskegon County Probate Court.

The plan shall remain on file with the state court administrator.

Amendments to concurrent jurisdiction plans may be implemented by local administrative order pursuant to MCR 8.112. Plan amendments shall conform to the requirements of Administrative Order No. 2003-1 and MCL 600.401 *et seq*.

AO No. 2013-3 — Adoption of Concurrent Jurisdiction Plan for the 45th Circuit Court, the 3-B District Court, and the St. Joseph County Probate Court

[Entered March 20, 2013.]

Administrative Order No. 2003-1 and MCL 600.401 *et seq.* authorize Michigan trial courts to adopt concurrent jurisdiction plans within a county or judicial circuit, subject to approval of the Court.

The Court hereby approves adoption of the following concurrent jurisdiction plan effective immediately:

- The 45th Circuit Court, the 3-B District Court, and the St. Joseph County Probate Court.

The plan shall remain on file with the state court administrator.

Amendments to concurrent jurisdiction plans may be implemented by local administrative order pursuant to MCR 8.112. Plan amendments shall conform to the requirements of Administrative Order No. 2003-1 and MCL 600.401 *et seq*.

AO No. 2013-4 — Adoption of Concurrent Jurisdiction Plan for the 56th Circuit Court, the 56-A District Court, and the Eaton County Probate Court

[Entered May 1, 2013.]

Administrative Order No. 2003-1 and MCL 600.401 *et seq.* authorize Michigan trial courts to adopt concurrent jurisdiction plans within a county or judicial circuit, subject to approval of the Court.

The Court hereby approves adoption of the following concurrent jurisdiction plan effective immediately:

- The 56th Circuit Court, the 56-A District Court, and the Eaton County Probate Court.

The plan shall remain on file with the state court administrator.

Amendments to concurrent jurisdiction plans may be implemented by local administrative order pursuant to MCR 8.112. Plan amendments shall conform to the requirements of Administrative Order No. 2003-1 and MCL 600.401 *et seq*.

AO No. 2013-5 — Adoption of Concurrent Jurisdiction Plan for the 54th Circuit Court, the 71-B District Court, and the Tuscola County Probate Court

[Entered May 1, 2013.]

Administrative Order No. 2003-1 and MCL 600.401 *et seq.* authorize Michigan trial courts to adopt concurrent jurisdiction plans within a county or judicial circuit, subject to approval of the Court.

The Court hereby approves adoption of the following concurrent jurisdiction plan effective immediately:

- The 54th Circuit Court, the 71-B District Court, and the Tuscola County Probate Court.

The plan shall remain on file with the state court administrator.

Amendments to concurrent jurisdiction plans may be implemented by local administrative order pursuant to MCR 8.112. Plan amendments shall conform to the requirements of Administrative Order No. 2003-1 and MCL 600.401 *et seq*.

AO No. 2013-6 — Implementation of Business Court Standards

[Entered June 5, 2013; effective September 1, 2013.]

Business courts, as defined by MCL 600.8031, are specialized dockets within a circuit court. Business courts are intended to provide a case management structure that facilitates timely, effective, and predictable resolution of complex business cases. Specialized dockets improve the efficiency of the courts, which benefits all litigants. This order provides specific direction to circuit courts in the establishment of their business courts.

1. Each business court shall develop a local administrative order for operation of its business court docket. That local administrative order must be approved by the State Court Administrative Office in accordance with MCR 8.112(B).

2. Judges appointed to the business court must attend training provided by the Michigan Judicial Institute. Business court judges are encouraged also to participate in training provided by other organizations as local funding permits.

3. A business court judge should preside over the assigned business court cases from filing through disposition of the matter. If the business court judge is unable to preside over a business court matter, the chief judge may temporarily assign another judge to preside over the business court matter pursuant to MCR 8.111(C).

4. Courts shall establish specific case management practices for business court matters. These practices should reflect the specialized pretrial requirements for business court cases, and will typically include provisions relating to scheduling conferences, alternative dispute resolution (with an emphasis on mediation scheduled early in the proceeding), discovery cutoff dates, case evaluation, and final settlement conferences.

5. Case management and scheduling conferences shall be conducted by the assigned business court judge. Courts should facilitate the processing of business court cases by utilizing electronic filing (if authorized by the Supreme Court), telephonic and video conferencing.

6. Business court opinions shall be transmitted to the SCAO within 7 days after the trial court enters the opinion. Court opinions generated as part of the business court docket must meet the requirements established by the SCAO.

7. Business courts shall maintain data as prescribed by the SCAO, and shall provide data to the SCAO upon request.

AO No. 2013-7 — Adoption of Concurrent Jurisdiction Plan for the 38th Circuit Court, the 1st District Court and the Monroe County Probate Court

[Entered June 19, 2013.]

Administrative Order No. 2003-1 and MCL 600.401 *et seq.* authorize Michigan trial courts to adopt concurrent jurisdiction plans within a county or judicial circuit, subject to approval of the Court.

The Court hereby approves adoption of the following concurrent jurisdiction plan effective immediately:

- The 38th Circuit Court, the 1st District Court, and the Monroe County Probate Court.

The plan shall remain on file with the state court administrator.

Amendments to concurrent jurisdiction plans may be implemented by local administrative order pursuant to MCR 8.112. Plan amendments shall conform to the requirements of Administrative Order No. 2003-1 and MCL 600.401 *et seq*.

AO No. 2013-8 — Trial Court Requirements for Providing Meaningful Access to the Court for Limited English Proficient Persons

[Entered September 11, 2013.]

In order to ensure that those persons with limited English proficiency have meaningful access to Michigan courts, the Michigan Supreme Court adopts this order requiring courts to adopt a language access plan.

"Limited English proficient" person means a person who does not speak English as his or her primary language, and who has a limited ability to read, write, speak, or understand English, and by reason of his or her limitations, is not able to understand and meaningfully participate in the court process.

Within 90 days of the date of this order, each trial court shall adopt a language access plan. This plan must substantially conform to the model promulgated by the state court administrator. The plan must provide meaningful access to limited English proficient persons who have contacts with the court and its administrative staff. The plan shall be submitted to and approved by the State Court Administrative Office as a local administrative order under MCR 8.112.

AO No. 2013-9 — Adoption of Concurrent Jurisdiction Plan for the 40th Circuit Court, the 71-A District Court, and the Lapeer County Probate Court

[Entered September 18, 2013.]

Administrative Order No. 2003-1 and MCL 600.401 *et seq.* authorize Michigan trial courts to adopt concurrent jurisdiction plans within a county or judicial circuit, subject to approval of the Court.

The Court hereby approves adoption of the following concurrent jurisdiction plan effective immediately:

- The 40th Circuit Court, the 71-A District Court, and the Lapeer County Probate Court.

The plan shall remain on file with the state court administrator.

Amendments to concurrent jurisdiction plans may be implemented by local administrative order pursuant to MCR 8.112. Plan amendments shall conform to the requirements of Administrative Order No. 2003-1 and MCL 600.401 *et seq*.

AO No. 2013-10 — Adoption of Concurrent Jurisdiction Plan for the 44th Circuit Court, the 53rd District Court, and the Livingston County Probate Court

[Entered September 18, 2013.]

Administrative Order No. 2003-1 and MCL 600.401 *et seq.* authorize Michigan trial courts to adopt concurrent jurisdiction plans within a county or judicial circuit, subject to approval of the Court.

The Court hereby approves adoption of the following concurrent jurisdiction plan effective immediately:

- The 44th Circuit Court, the 53rd District Court, and the Livingston County Probate Court.

The plan shall remain on file with the state court administrator.

Amendments to concurrent jurisdiction plans may be implemented by local administrative order pursuant to MCR 8.112. Plan amendments shall conform to the requirements of Administrative Order No. 2003-1 and MCL 600.401 *et seq*.

AO No. 2013-11 — Adoption of Concurrent Jurisdiction Plan for the 1st Circuit Court, the 2-B District Court, and the Hillsdale County Probate Court

[Entered September 18, 2013.]

Administrative Order No. 2003-1 and MCL 600.401 *et seq.* authorize Michigan trial courts to adopt concurrent jurisdiction plans within a county or judicial circuit, subject to approval of the Court.

The Court hereby approves adoption of the following concurrent jurisdiction plan effective immediately:

- The 1st Circuit Court, the 2-B District Court, and the Hillsdale County Probate Court.

The plan shall remain on file with the state court administrator.

Amendments to concurrent jurisdiction plans may be implemented by local administrative order pursuant to MCR 8.112. Plan amendments shall conform to the requirements of Administrative Order No. 2003-1 and MCL 600.401 *et seq*.

AO No. 2013-12 — Revised Caseflow Management Guidelines and Rescission of AO No. 2011-3

[Entered October 2, 2013; effective January 1, 2014; amended May 7, 2014, effective immediately; amended May 25, 2016, and June 15, 2016, effective September 1, 2016.]

On order of the Court, notice of the proposed changes and an opportunity for comment in writing and at a public hearing having been provided, and consideration having been given to the comments received, Administrative Order No. 2013-12 is adopted, and Administrative Order No. 2011-3 is rescinded, effective January 1, 2014.

Administrative Order No. 2013-12

The management of the flow of cases in the trial court is the responsibility of the judiciary. In carrying out that responsibility, the judiciary must balance the rights and interests of individual litigants, the limited resources of the judicial branch and other participants in the justice system, and the interests of the citizens of this state in having an effective, fair, and efficient system of justice.

Accordingly, on order of the Court,

A. The State Court Administrator is directed, within available resources, to:

1. assist trial courts in implementing caseflow management plans that incorporate case processing time guidelines established pursuant to this order;

2. gather information from trial courts on compliance with caseflow management guidelines; and

3. assess the effectiveness of caseflow management plans in achieving the guidelines established by this order.

B. Trial courts are directed to:

1. maintain current caseflow management plans consistent with case processing time guidelines established in this order, and in cooperation with the State Court Administrative Office;

2. report to the State Court Administrative Office caseflow management statistics and other caseflow management data required by that office; and

3. cooperate with the State Court Administrative Office in assessing caseflow management plans implemented pursuant to this order.

On further order of the Court, the following time guidelines for case processing are provided as goals for the administration of court caseloads. These are only guidelines and are not intended to supersede procedural requirements in court rules or statutes for specific cases, or to

supersede reporting requirements in court rules or statutes. The trial courts shall not dismiss cases for the sole reason that the case is likely to exceed the guideline. In addition, these guidelines do not supplant judicial discretion if, for good cause, a specific case of any type requires a time line that extends beyond the maximum permitted under these guidelines.

Note: The phrase "adjudicated" refers to the date a case is reported in Part 2 of the caseload report forms and instructions. Aging of a case is suspended for the time a case is inactive as defined in Parts 2 and 4 of the caseload report forms and instructions. Refer to these specific definitions for details.

Matters Submitted to the Judge. Matters under submission to a judge or judicial officer should be promptly determined. Short deadlines should be set for presentation of briefs and affidavits and or production of transcripts. Decisions, when possible, should be made from the bench or within a few days of submission; otherwise a decision should be rendered no later than 35 days after submission.

Probate Court Guidelines.

1. Estate Proceedings. 75% of all cases should be adjudicated within 35 days from the date of the initial filing, 90% within 182 days, and 98% within 364 days.

2. Guardianship, Conservatorship, and Protective Order Proceedings. 75% of all matters should be adjudicated within 90 days from the date of the initial filing and 95% within 364 days.

3. Mental Illness Proceedings; Judicial Admission Proceedings. 90% of all petitions should be adjudicated within 14 days from the date of filing and 98% within 28 days.

4. Civil Proceedings and Trusts Proceedings. 70% of all cases should be adjudicated within 364 days from the date of case filing and 95% within 728 days.

District Court Guidelines.

1. *Civil Proceedings.*

a. General Civil. 90% of all general civil and miscellaneous civil cases should be adjudicated within 273 days from the date of case filing and 98% within 455 days.

b. Summary Civil. 95% of all small claims, landlord/tenant, and land contract actions should be adjudicated within 126 days from the date of case filing in those cases where there is no jury demand. 65% of all landlord/tenant and land contract actions where a jury is demanded should be adjudicated within 154 days from the date of case filing.

2. *Felony, Misdemeanor, and Extradition Detainer Proceedings.*

a. Misdemeanor. 85% of all statute and ordinance misdemeanor cases, including misdemeanor drunk driving and misdemeanor traffic, should be adjudicated within 63 days from the date of first appearance and 95% within 126 days.

b. Felony and Extradition/Detainer. 60% of all preliminary examinations in felony, felony drunk driving, felony traffic, and extradition/detainer cases should be concluded within 14 days of arraignment and 75% within 28 days.

3. Civil Infraction Proceedings. 90% of all civil infraction cases, including traffic, nontraffic, and parking cases, should be adjudicated within 35 days from the date of filing and 98% within 84 days.

Circuit Court Guidelines.

1. *Civil Proceedings.* 70% of all cases should be adjudicated within 364 days from the date of case filing and 95% within 728 days.

2. *Domestic Relations Proceedings*.

a. Divorce Without Children. 85% of all divorce cases without children should be adjudicated within 182 days from the date of case filing and 98% within 364 days.

b. Divorce With Children. 85% of all divorce cases with children should be adjudicated within 301 days from the date of case filing and 95% within 364 days.

c. Paternity. 75% of all paternity cases should be adjudicated within 147 days from the date of case filing and 95% within 238 days.

d. Responding Interstate Establishment. 75% of all incoming interstate actions to establish support should be adjudicated within 147 days from the date of case filing and 95% within 238 days.

e. Child Custody Issues, Other Support, and Other Domestic Relations Matters. 75% of all child custody, other support, and other domestic relations issues not listed above should be adjudicated within 147 days from the date of case filing and 95% within 238 days.

3. *Delinquency Proceedings*. Where a minor is being detained or is held in court custody, 80% of all original petitions or complaints should have adjudication and disposition completed within 84 days from the authorization of the petition and 90% within 98 days. Where a minor is not being detained or held in court custody, 75% of all original petitions or complaints should have adjudication and disposition completed within 119 days from the authorization of the petition and 98% within 210 days.

4. *Child Protective Proceedings*. Where a child is in out-of-home placement (foster care), 75% of all original petitions should have adjudication and disposition completed within 84 days from the authorization of the petition and 85% within 98 days. Where a child is not in out-of-home placement (foster care), 75% of all original petitions should have adjudication and disposition within 119 days from the authorization of the petition and 95% within 210 days.

5. *Designated Proceedings.* 90% of all original petitions should be adjudicated within 154 days from the designation date and 98% within 301 days. Minors held in custody should be afforded priority for trial.

6. *Juvenile Traffic and Ordinance Proceedings.* 90% of all citations should have adjudication and disposition completed within 63 days from the date of first appearance and 98% within 126 days.

7. *Adoption Proceedings*.

a. Petitions for Adoption. 90% of all petitions for adoption should be finalized or otherwise concluded within 287 days from the date of filing and 98% within 364 days.

b. Petitions to Rescind Adoption. 98% of all petitions to rescind adoption should be adjudicated within 91 days from the date of filing.

8. *Miscellaneous Family Proceedings*.

a. Name Change. 90% of all petitions should be adjudicated within 126 days from the date of filing.

b. Safe Delivery. 98% of all petitions should be adjudicated within 273 days from the date of filing.

c. Personal Protection. 100% of all petitions requesting ex parte relief should be adjudicated within 24 hours of filing. 90% of all petitions not requesting ex parte relief or in which a hearing will be set should be adjudicated within 14 days from the date of filing and 100% within 21 days.

d. Emancipation of Minors. 98% of all petitions should be adjudicated within 91 days from the date of filing.

e. Infectious Diseases. 98% of all petitions should be adjudicated within 91 days from the date of filing.

f. Parental Waiver. 98% of all petitions should be adjudicated within 5 days from the date of filing.

9. *Ancillary Proceedings*.

a. Guardianship, Conservatorship and Protective Order Proceedings. 75% of all matters should be adjudicated within 90 days from the date of the initial filing and 95% within 364 days.

b. Mental Illness Proceedings; Judicial Admission. 90% of all petitions should be adjudicated within 14 days from the date of filing and 98% within 28 days.

10. Criminal Proceedings. 70% of all felony cases should be adjudicated within 91 days from the date of entry of the order binding the defendant over to the circuit court; 85% within 154 days; and 98% within 301 days. Incarcerated persons should be afforded priority for trial.

With SCAO approval, circuit courts may establish by local administrative order an alternative guideline for criminal proceedings that would provide that 75% of all felony cases

should be adjudicated within 154 days from the date of entry of the order binding the defendant over to the circuit court and 98% within 301 days. Incarcerated persons should be afforded priority for trial. Courts requesting the alternative guideline must give the sheriff the opportunity to comment on the proposed order.

11. *Appellate, Administrative Review, and Extraordinary Writ Proceedings*.

a. Appeals from Courts of Limited Jurisdiction. 98% of all appeals to circuit court from courts of limited jurisdiction should be adjudicated within 182 days from the filing of the claim of appeal.

b. Appeals from Administrative Agencies. 98% of all appeals to the circuit court from administrative agencies should be adjudicated within 182 days from the filing of the claim of appeal.

c. Extraordinary Writs. 90% of all extraordinary writ requests should be adjudicated within 35 days from the date of filing and 98% within 91 days.

AO No. 2013-13 — Creation of Committee on Model Criminal Jury Instructions

[Entered October 30, 2013.]

For decades, criminal jury instructions in Michigan have been developed by the Standing Committee on Jury Instructions, Standard Criminal, of the State Bar of Michigan and then published by the Institute for Continuing Legal Education. The instructions were then made available for purchase. Now, however, recognizing their widespread use and the utility of the instructions for attorneys, litigants, and the courts, and in support of the notion that these materials should be readily available to all users, the Court desires to make use of the instructions mandatory and ensure that they are freely available to all, as are the model civil jury instructions.

In addition to the Court's adoption of proposed amendments of MCR 2.512 that will require the use of criminal jury instructions where appropriate, under this administrative order the Court creates a committee to propose new and to modify existing criminal jury instructions. The Court is appreciative of the long and distinguished service that members of the Standing Committee on Standard Criminal Jury Instructions have provided over the years. Their dedicated service has produced a set of criminal jury instructions that has become a valuable tool in criminal proceedings. The Court also acknowledges the generous decision by the Institute of Continuing Legal Education to relinquish its copyright over the instructions, thus enabling this Court to make the instructions and much of their accompanying materials available to everyone for no charge on the Court's website.

The new Committee on Model Criminal Jury Instructions is established. The committee shall consist of 21 persons to be appointed by the Supreme Court. The Supreme Court will designate one member to serve as the chairperson of the committee. Generally members will be appointed for three-year terms and may be reappointed for two additional terms. However, to facilitate the transition and the staggering of terms, some initial appointments will be for abbreviated terms and those appointees who are members of the current State Bar of Michigan Standing Committee on Jury Instructions, Standard Criminal, will not be eligible for reappointment.

Effective January 1, 2014, the following persons are appointed to the new Committee on Model Criminal Jury Instructions:

For terms ending December 31, 2014:

The Honorable William J. Caprathe
The Honorable John T. Hammond
Ronald J. Bretz
Stephen M. Taratuta
Anica Letica
J. Mark Cooney
Torchio W. Feaster

For terms ending December 31, 2015:

The Honorable Brian R. Sullivan
William J. Vailliencourt, Jr.
Opolla Brown
The Honorable Annette M. Jurkiewicz-Berry
Louisa M. Papalas-Concessi
The Honorable Gene Schnelz
Lawrence B. Shulman

For terms ending December 31, 2016:

Rudolph A. Serra
Bonita S. Hoffman
The Honorable Paul J. Paruk
Christopher Smith
Stacia J. Buchanan
The Honorable Timothy G. Hicks
Timothy Baughman

Judge Caprathe is designated as chairperson for the duration of his term. Court staff will serve as reporter of the committee.

It shall be the duty of the committee to ensure that the Criminal Jury Instructions accurately state applicable law, and that the instructions are concise, understandable, conversational, unslanted, and not argumentative. The committee shall have the authority to amend or repeal existing instructions and, when necessary, to adopt new instructions. Before doing so, the committee shall provide a text of the proposal to the secretary of the State Bar of Michigan and the state court administrator, and shall post the proposal on the Court's website [http://courts.mi.gov/Courts/MichiganSupremeCourt/MCrimJI] for public comment. The notice and website posting shall state the time and method for commenting on the proposal. If the committee finds it necessary to take immediate action, the committee may adopt a new instruction or revision while the public comment period is pending.

By separate order, the Court is amending Rule 2.512 of the Michigan Court Rules to reflect the requirement to use the criminal jury instructions. The instructions, use notes, and history are expected to be posted on the Court's website by January 1, 2014. Additional supplemental commentary will be available shortly thereafter. Practitioners, litigants, and courts are encouraged to use the instructions as soon as practicable, but will be required to use them on the order's effective date of March 1, 2014.

AO No. 2013-14 — Adoption of Concurrent Jurisdiction Plan for the 20th Circuit Court, the 58th District Court, and the Ottawa County Probate Court

[Entered November 6, 2013.]

Administrative Order No. 2003-1 and MCL 600.401 *et seq.* authorize Michigan trial courts to adopt concurrent jurisdiction plans within a county or judicial circuit, subject to approval of the Court.

The Court hereby approves adoption of the following concurrent jurisdiction plan effective immediately:

- The 20th Circuit Court, the 58th District Court, and the Ottawa County Probate Court.

The plan shall remain on file with the state court administrator.

Amendments to concurrent jurisdiction plans may be implemented by local administrative order pursuant to MCR 8.112. Plan amendments shall conform to the requirements of Administrative Order No. 2003-1 and MCL 600.401 *et seq*.

AO No. 2013-15 — Adoption of Concurrent Jurisdiction Plan for the 31st Circuit Court, the 72nd District Court, and the St. Clair County Probate Court

[Entered November 6, 2013.]

Administrative Order No. 2003-1 and MCL 600.401 *et seq.* authorize Michigan trial courts to adopt concurrent jurisdiction plans within a county or judicial circuit, subject to approval of the Court.

The Court hereby approves adoption of the following concurrent jurisdiction plan effective immediately:

- The 31st Circuit Court, the 72nd District Court, and the St. Clair County Probate Court.

The plan shall remain on file with the state court administrator.

Amendments to concurrent jurisdiction plans may be implemented by local administrative order pursuant to MCR 8.112. Plan amendments shall conform to the requirements of Administrative Order No. 2003-1 and MCL 600.401 *et seq*.

AO No. 2013-16 — Adoption of Concurrent Jurisdiction Plan for the 25th Circuit Court, the 96th District Court, and the Marquette County Probate Court

[Entered November 27, 2013.]

Administrative Order No. 2003-1 and MCL 600.401 *et seq.* authorize Michigan trial courts to adopt concurrent jurisdiction plans within a county or judicial circuit, subject to approval of the Court.

The Court hereby approves adoption of the following concurrent jurisdiction plan effective immediately:

- The 25th Circuit Court, the 96th District Court, and the Marquette County Probate Court.

The plan shall remain on file with the state court administrator.

Amendments to concurrent jurisdiction plans may be implemented by local administrative order pursuant to MCR 8.112. Plan amendments shall conform to the requirements of Administrative Order No. 2003-1 and MCL 600.401 *et seq*.

AO No. 2014-1 — Adoption of Concurrent Jurisdiction Plan for the 15th Circuit Court, the 3-A District Court, and the Branch County Probate Court

[Entered January 29, 2014.]

Administrative Order No. 2003-1 and MCL 600.401 *et seq.* authorize Michigan trial courts to adopt concurrent jurisdiction plans within a county or judicial circuit, subject to approval of the Court.

The Court hereby approves adoption of the following concurrent jurisdiction plan effective immediately:

- The 15th Circuit Court, the 3-A District Court, and the Branch County Probate Court.

The plan shall remain on file with the state court administrator.

Amendments to concurrent jurisdiction plans may be implemented by local administrative order pursuant to MCR 8.112. Plan amendments shall conform to the requirements of Administrative Order No. 2003-1 and MCL 600.401 *et seq*.

AO No. 2014-2 — Adoption of Concurrent Jurisdiction Plan for the 9th Circuit Court, the 8th District Court, and the Kalamazoo County Probate Court

[Entered January 29, 2014.]

Administrative Order No. 2003-1 and MCL 600.401 *et seq.* authorize Michigan trial courts to adopt concurrent jurisdiction plans within a county or judicial circuit, subject to approval of the Court.

The Court hereby approves adoption of the following concurrent jurisdiction plan effective immediately:

- The 9th Circuit Court, the 8th District Court, and the Kalamazoo County Probate Court.

The plan shall remain on file with the state court administrator.

Amendments to concurrent jurisdiction plans may be implemented by local administrative order pursuant to MCR 8.112. Plan amendments shall conform to the requirements of Administrative Order No. 2003-1 and MCL 600.401 *et seq*.

AO No. 2014-3 — Adoption of Concurrent Jurisdiction Plan for the 29th Circuit Court, the 65A and 65B District Courts, and the Clinton County and Gratiot County Probate Courts

[Entered January 29, 2014.]

Administrative Order No. 2003-1 and MCL 600.401 *et seq.* authorize Michigan trial courts to adopt concurrent jurisdiction plans within a county or judicial circuit, subject to approval of the Court.

The Court hereby approves adoption of the following concurrent jurisdiction plan effective immediately:

- The 29th Circuit Court, the 65A and 65B District Courts, and the Clinton County and Gratiot County Probate Courts.

The plan shall remain on file with the state court administrator.

Amendments to concurrent jurisdiction plans may be implemented by local administrative order pursuant to MCR 8.112. Plan amendments shall conform to the requirements of Administrative Order No. 2003-1 and MCL 600.401 *et seq*.

AO No. 2014-4 — Adoption of Concurrent Jurisdiction Plan for the 30th Circuit Court, the 54A, 54B, and 55th District Courts, and the Ingham County Probate Court

[Entered January 29, 2014.]

Administrative Order No. 2003-1 and MCL 600.401 *et seq.* authorize Michigan trial courts to adopt concurrent jurisdiction plans within a county or judicial circuit, subject to approval of the Court.

The Court hereby approves adoption of the following concurrent jurisdiction plan effective immediately:

- The 30th Circuit Court, the 54A, 54B, and 55th District Courts, and the Ingham County Probate Court.

The plan shall remain on file with the state court administrator.

Amendments to concurrent jurisdiction plans may be implemented by local administrative order pursuant to MCR 8.112. Plan amendments shall conform to the requirements of Administrative Order No. 2003-1 and MCL 600.401 *et seq*.

AO No. 2014-5 — Order Creating the Task Force on the Role of the State Bar of Michigan

[Entered February 13, 2014.]

[T]he regulation of the practice of law, the maintenance of high standards in the legal profession, and the discharge of the profession's duty to protect and inform the public are, in the context of the present challenge, purposes in which the State of Michigan has a compelling interest. . . . [*Falk v State Bar of Michigan*, 411 Mich 63, 114; 305 NW2d 201 (1981) (opinion of RYAN, J.).]

[T]he compelled association and integrated bar are justified by the State's interest in regulating the legal profession and improving the quality of legal services. The State Bar may therefore constitutionally fund activities germane to those goals out of the mandatory dues of all members. It may not, however, in such manner fund activities of an ideological nature which fall outside of those areas of activity. [*Keller v State Bar of California*, 496 US 1, 13-14; 110 S Ct 2228; 110 L Ed 2d 1 (1990).]

The question having been raised about the appropriateness of the mandatory nature of the State Bar of Michigan, and the State Bar having requested that the Michigan Supreme Court facilitate this important discussion, pursuant to its exclusive constitutional authority to establish "practice and procedure," Const 1963, art 6, § 5, the Court establishes the Task Force on the Role of the State Bar of Michigan to address whether the State Bar's current programs and activities support its status as a mandatory bar.

The task force is charged with determining whether the State Bar's duties and functions "can[] be accomplished by means less intrusive upon the First Amendment rights of objecting individual attorneys" (*Falk,* 411 Mich at 112 [opinion of RYAN, J.]) under the First Amendment principles articulated in *Keller* and *Falk*. At the same time, the task force should keep in mind the importance of protecting the public through regulating the legal profession, and how this goal can be balanced with attorneys' First Amendment rights.

The task force shall examine existing State Bar programs and activities that are germane to the compelling state interests recognized in *Falk* and *Keller* to justify a mandatory bar. In addition, the task force shall examine what other programs the State Bar of Michigan ought to undertake to enhance its constitutionally-compelled mission. The task force is invited to examine how other mandatory bars satisfy their constitutionally-permitted mission and shall make its report and recommendations to the Court by June 2, 2014. The task force's report may also include proposed revisions of administrative orders and court rules governing the State Bar of Michigan in order to improve the governance and operation of the State Bar.

The members appointed to the task force are as follows:

Danielle Michelle Brown
Hon. Alfred M. Butzbaugh (Ret.)
Thomas W. Cranmer
Peter H. Ellsworth

John E. McSorley
Colleen A. Pero
John W. Reed
Hon. Michael J. Riordan
Thomas C. Rombach
Hon. John J. Walsh
Janet K. Welch
Vanessa Peterson Williams

Hon. Alfred M. Butzbaugh is appointed as chairperson of the task force.

Nelson Leavitt shall serve as the reporter of the task force.

Justice McCormack shall serve as the Court's liaison to the task force.

AO No. 2014-6 — Adoption of Concurrent Jurisdiction Plan for the 43rd Circuit Court, the 4th District Court, and the Cass County Probate Court

[Entered March 26, 2014.]

Administrative Order No. 2003-1 and MCL 600.401 *et seq.* authorize Michigan trial courts to adopt concurrent jurisdiction plans within a county or judicial circuit, subject to approval of the Court.

The Court hereby approves adoption of the following concurrent jurisdiction plan effective immediately:

- The 43rd Circuit Court, the 4th District Court, and the Cass County Probate Court.

The plan shall remain on file with the state court administrator.

Amendments to concurrent jurisdiction plans may be implemented by local administrative order pursuant to MCR 8.112. Plan amendments shall conform to the requirements of Administrative Order No. 2003-1 and MCL 600.401 *et seq*.

AO No. 2014-7 — Adoption of Concurrent Jurisdiction Plan for the 42nd Circuit Court, the 75th District Court, and the Midland County Probate Court

[Entered March 26, 2014.]

Administrative Order No. 2003-1 and MCL 600.401 *et seq.* authorize Michigan trial courts to adopt concurrent jurisdiction plans within a county or judicial circuit, subject to approval of the Court.

The Court hereby approves adoption of the following concurrent jurisdiction plan effective immediately:

- The 42nd Circuit Court, the 75th District Court, and the Midland County Probate Court.

The plan shall remain on file with the state court administrator.

Amendments to concurrent jurisdiction plans may be implemented by local administrative order pursuant to MCR 8.112. Plan amendments shall conform to the requirements of Administrative Order No. 2003-1 and MCL 600.401 *et seq*.

AO No. 2014-8 — Adoption of Concurrent Jurisdiction Plan for the 27th Circuit Court, the 78th District Court, and the Newaygo County and Oceana County Probate Courts

[Entered March 26, 2014.]

Administrative Order No. 2003-1 and MCL 600.401 *et seq.* authorize Michigan trial courts to adopt concurrent jurisdiction plans within a county or judicial circuit, subject to approval of the Court.

The Court hereby approves adoption of the following concurrent jurisdiction plan effective immediately:

- The 27th Circuit Court, the 78th District Court, and the Newaygo County and Oceana County Probate Courts.

The plan shall remain on file with the state court administrator.

Amendments to concurrent jurisdiction plans may be implemented by local administrative order pursuant to MCR 8.112. Plan amendments shall conform to the requirements of Administrative Order No. 2003-1 and MCL 600.401 *et seq*.

AO No. 2014-9 — Adoption of Concurrent Jurisdiction Plan for the 24th Circuit Court, the 73A District Court, and the Sanilac County Probate Court

[Entered March 26, 2014.]

Administrative Order No. 2003-1 and MCL 600.401 *et seq.* authorize Michigan trial courts to adopt concurrent jurisdiction plans within a county or judicial circuit, subject to approval of the Court.

The Court hereby approves adoption of the following concurrent jurisdiction plan effective immediately:

- The 24th Circuit Court, the 73A District Court, and the Sanilac County Probate Court.

The plan shall remain on file with the state court administrator.

Amendments to concurrent jurisdiction plans may be implemented by local administrative order pursuant to MCR 8.112. Plan amendments shall conform to the requirements of Administrative Order No. 2003-1 and MCL 600.401 *et seq*.

AO No. 2014-10 — Adoption of Concurrent Jurisdiction Plan for the 6th Circuit Court and the Oakland County Probate Court

[Entered April 2, 2014.]

Administrative Order No. 2003-1 and MCL 600.401 *et seq.* authorize Michigan trial courts to adopt concurrent jurisdiction plans within a county or judicial circuit, subject to approval of the Court.

The Court hereby approves adoption of the following concurrent jurisdiction plan effective immediately:

- The 6th Circuit Court and the Oakland County Probate Court.

The plan shall remain on file with the state court administrator.

Amendments to concurrent jurisdiction plans may be implemented by local administrative order pursuant to MCR 8.112. Plan amendments shall conform to the requirements of Administrative Order No. 2003-1 and MCL 600.401 *et seq*.

AO No. 2014-11 — Adjustment of Discipline Portion of State Bar of Michigan Dues

[Entered June 20, 2014.]

In 2011, the Court directed that the discipline portion of the dues members pay to the State Bar of Michigan be reduced by $10 (to $110) in light of the $5 million surplus of the discipline system. Today, there is an even greater surplus. Therefore, the Court directs that the amount of discipline dues be adjusted to $90. This change will be reflected in the dues notice for the 2014-15 fiscal year that is distributed to all bar members under Rule 4 of the Rules Concerning the State Bar.

AO No. 2014-12 — Order Creating the Michigan Tribal State Federal Judicial Forum

[Entered June 25, 2014; amended February 18, 2015, and September 16, 2015. Text as amended by order entered September 16, 2015.]

Michigan is privileged to be the home of 12 federally recognized Indian tribes and tribal court systems. Michigan has also enjoyed a long history of collaboration between state and tribal courts. The first Tribal State Court Forum, which was created in 1992, resulted in the creation of the "Enforcement of Tribal Judgments" court rule, MCR 2.615, and, most recently, the passage of the Michigan Indian Family Preservation Act of 2012 (MIFPA). Fostering continuing good relations between our state and tribal courts is of great interest to this Court.

For purposes of building on the past spirit of cooperation and of creating a dialogue among the state, tribal, and federal judiciaries, the Court recognizes the importance of establishing an ongoing forum that will address working relationships among the court systems and the interaction of state, tribal, and federal court jurisdiction in Michigan.

The Michigan Tribal State Federal Judicial Forum is established. The membership of the forum shall consist of: the chief tribal judge of each of Michigan's 12 federally recognized tribes, or their designated alternate judges, with membership to be expanded to accommodate any new federally recognized tribes; and 12 state court judges (or the same number as there are tribal judges), who will be appointed by the Michigan Supreme Court from among a pool of currently serving or retired Michigan judges or justices. In making appointments, the Court will consider geographic proximity to the tribes, Indian Child Welfare Act and MIFPA case load dockets, and current involvement with tribal court relations. The forum shall then pursue participation from federal judges and officials.

The specific charge of the forum is contained in its Naakonigewin (or Charter), but by majority vote, the members of the forum may designate any other duties that are in the best interests of state, tribal, and federal courts and the citizens who are served by these three systems.

Forum members will serve three-year terms, and memberships are renewable at the discretion of the Chief Tribal Judges or Tribal Liaison Justice. To facilitate the staggering of terms, some initial appointments will be for abbreviated terms. The forum shall be led by co-chairs, who will be one tribal court judge and one state court judge and who shall be selected by the entire body of members for a three-year term. Work committees may be formed as needed, and decisions shall be made by consensus—defined as a majority of members present at each meeting. Meetings shall be held three times per year, including at least two in-person meetings.

Effective July 1, 2014, the following state court judges or justices are appointed to the new Michigan Tribal State Federal Judicial Forum:

For terms ending July 1, 2016:

1) Susan L. Dobrich, Chief Judge, Cass County Courts, 43rd Circuit Court Family Division

2) William A. Hupy, Chief Judge, Menominee County Probate Court, 41st Circuit Court Family Division

3) Jeffrey C. Nellis, Judge, Mason County Probate Court, 51st Circuit Court Family Division

4) Larry J. Nelson, Chief Judge, Leelanau County Probate Court, 13th Circuit Court Family Division

5) George J. Quist, Judge, Kent County Probate Court, 17th Circuit Court Family Division

6) Frank S. Szymanski, Judge, Wayne County Probate Court, 3rd Circuit Court Family Division

7) Jeff J. Davis, Assistant US Attorney, Western District of Michigan

For terms ending July 1, 2017:

1) Robert J. Butts, Judge, Cheboygan County Probate Court, 53rd Circuit Court Family Division

2) William T. Ervin, Judge, Isabella County Probate Court, 21st Circuit Court Family Division

3) Cheryl L. Hill, Judge, Marquette County Probate Court, 25th Circuit Court Family Division

4) James P. Lambros, Chief Judge, Chippewa County Courts, 50th Circuit Court Family Division

5) Timothy P. Connors, Judge, 22nd Circuit Court Family Division

6) Michael F. Cavanagh, Justice, Michigan Supreme Court

7) Timothy P. Greeley, US Magistrate Judge

8) Hannah N. Bobee, Assistant US Attorney (Western District of Michigan)

Effective July 1, 2014, tribal judges will be appointed by their respective Chief Tribal Court Judges to represent the following federally recognized Indian tribes:

1) Bay Mills Indian Community

2) The Grand Traverse Band of Ottawa and Chippewa Indians

3) Hannahville Indian Community

4) Nottawaseppi Huron Band of Potawatomi

5) Keweenaw Bay Indian Community

6) Lac Vieux Desert Band of Lake Superior Chippewa Indians

7) Little River Band of Ottawa Indians

8) Little Traverse Bay Bands of Odawa Indians

9) Pokagon Band of Potawatomi Indians

10) Saginaw Chippewa Indian Tribe

11) Sault Ste. Marie Tribe of Chippewa Indians

12) Match-E-Be-Nash-She-Wish Band of Pottawatomi Indians (Gun Lake Tribe)

Court staff shall serve as reporter of the forum.

Justice Bridget M. McCormack shall serve as the Supreme Court Tribal Liaison Justice to the forum.

AO No. 2014-13 — Automated Income Tax Garnishment Pilot Project in 36th District Court

[Entered June 25, 2014.]

On order of the Court, the 36th District Court (court) and the State Court Administrative Office (SCAO) developed this pilot project to automate the business process for issuing writs for income tax garnishment.

Effective immediately, the 36th District Court is authorized to operate a pilot program to process requests for writs of state income tax garnishment through a web-based system referred to as GarnIT. This administrative order governs the procedures associated with the transmission of requests and writs through GarnIT. This order also includes rules designed to address issues unique to the implementation of this program. Participation in this pilot program is voluntary for 2014.

The 36th District Court and SCAO will track the effectiveness of this pilot program and report the results to the Supreme Court after January 1, 2015.

1. Purpose and Construction. The purpose of the pilot is to determine whether it is feasible to automate the processing of income tax garnishments in the 36th District Court as a way to reduce overhead costs, streamline data storage requirements, and improve user satisfaction. Except for matters related to transmission of requests and writs for state income tax garnishments through GarnIT during the pilot, the Michigan Court Rules govern all other postjudgment proceedings concerning the cases involved in the pilot.

2. Definitions.

(a) "ACH" means Automated Clearing House, an electronic network for financial transactions in the United States.

(b) "Batch" means an electronic submission that contains one or more case records.

(c) "CEPAS" means Centralized Electronic Payment Authorization System.

(d) "Clerk" means the clerk of the court for the 36th District Court.

(e) "Court" means the 36th District Court.

(f) "Department" means the Department of Treasury.

(g) "Electronic submission" means the submission of one or more requests which results in the recording of data into the 36th District Court's case management system.

(h) "File format" means the format for submitting income tax garnishment transactions to the Department of Treasury for processing.

(i) "GarnIT" means the web-based system for processing requests and writs for income tax garnishments.

(j) "MCR" means the Michigan Court Rules.

(k) "Pilot" means the court innovation initiative tested in the 36th District Court and the Michigan Department of Treasury in conjunction with IBM and under the supervision of the SCAO. This web-based application facilitates the electronic processing of income tax garnishments in the 36th District Court. The pilot program is expected to launch October 1, 2014 and will continue through November 30, 2014. If it is successful, the pilot will be discontinued and the program will be evaluated for statewide use.

(l) "Transaction" means the request and writ for income tax garnishment electronically processed pursuant to the pilot.

3. Participation in GarnIT. Use of GarnIT for filers who submit requests to the court for 2014 income tax garnishments begins on October 1, 2014, and shall be voluntary during the pilot.

4. Electronic Submission and Acceptance of Submission with the Court; Signature; Statutory Service and Process Fees.

(a) Plaintiffs who choose to use GarnIT will submit requests under the rules in this administrative order and agree to comply with GarnIT's technical requirements. GarnIT will reject requests that do not meet GarnIT's validation requirements and that do not conform to the technical requirements of GarnIT.

(b) Except when maintenance of the case management system or GarnIT is being performed, requests may be submitted to the court and will be processed 24-hours per day, seven days a week through GarnIT.

(c) A request submitted under these rules shall be deemed to have been signed by the plaintiff and filed with the clerk of the court. Electronic signatures shall use the following form: /s/ *John L. Smith*.

(d) By using GarnIT, the plaintiff acknowledges compliance with the rules of this administrative order and acceptance of the business process specified in this administrative order.

(e) The statutory service fee for issuing a writ (hereinafter referred to as filing fee) shall be paid electronically at the same time the writ is issued and in the same amount as required by statute.

(f) The court shall pay the fees associated with the use of credit cards or the court shall pay the cost of establishing Automated Clearing House (ACH) for payment of the filing fees for issuing the writs.

(g) Each plaintiff shall provide one email address with the functionality required by the GarnIT pilot.

5. Format and Form of Electronic Submission.

(a) A plaintiff may file only one request per case per defendant.

(b) A plaintiff may submit multiple transactions within a single batch, subject to subrule 5(a).

(c) All submissions shall comply with the technical requirements of GarnIT and MCR 1.109.

(d) The court will maintain a digital image of each order issued, in accordance with subrule (11).

6. Validation of Requests; Notice of Writs and Rejected Requests; Payment and Receipt.

(a) GarnIT will compare data from submitted requests against data in the Court's case management system and will validate:

(1) party information,

(2) case number,

(3) existence of an unsatisfied judgment on file,

(4) that the judgment has not expired,

(5) that the 21-day time frame before enforcing judgment has passed, and

(6) there is no bankruptcy case pending.

(b) If a request does not meet the validation criteria, GarnIT will display an error message to the filer indicating writ field validation failure. Instructions to the plaintiff for handling validation failure will be available through GarnIT. The instructions will include what steps, if any, the plaintiff can take to correct discrepancies in data between the court's case management system and the official court documents upon which the plaintiff is basing the request.

(c) Filing fees under MCL 600.2529(h) will be collected through CEPAS on each validated request.

(d) GarnIT will notify the plaintiff regarding the submitted requests including payment receipt numbers and a link for printing the writs for purposes of service on the department and the defendant in accordance with Rule 8.

7. Format and Generation of Writs; Payment Processing.

(a) For each validated request, GarnIT will produce an electronic equivalent of SCAO-approved form MC 52, Request and Writ for Garnishment (Income Tax Refund/Credit), which constitutes issuance of a signed writ.

(b) All writs issued will be recorded in data files in the format the department requires for use by the plaintiff.

(c) GarnIT will update the Court's case management system as to each writ issued.

(d) GarnIT will update the Court's case management system as to fees collected.

8. Service on the Department and the Defendant. The plaintiff shall print all issued writs and serve them on the department and the defendant in accordance with existing court rules and department requirements.

9. Correcting Data in the Court's Case Management System. If the plaintiff receives an error message as indicated in Rule 6b, the following procedure shall be followed by the plaintiff and the court:

(a) If the error is the result of incorrect data provided by the plaintiff, the plaintiff may correct the data and resubmit the request through GarnIT in accordance with the instructions and requirements of GarnIT.

(b) If the plaintiff believes the error is the result of incorrect data in the court's case management system, the plaintiff shall submit an email request to correct the data, along with supporting documentation, in accordance with the instructions and requirements of GarnIT. Within 24 hours after receipt of a request to correct data and supporting documentation, the court shall handle the request. If the court determines that the discrepancy is the result of clerical error by the court, the court will correct the data in the case management system and send an email response to the plaintiff indicating what action was taken and informing plaintiff that the request can be resubmitted in GarnIT. If the court determines that the discrepancy is not the result of clerical error by the court, the court will send an email response to the plaintiff indicating that fact.

(c) If the plaintiff wants to request a change in case data that is not the result of data entry error, plaintiff shall file a motion with the court under MCR 2.119.

10. Technical Malfunctions. The GarnIT website will provide instructions regarding what action to take if the plaintiff experiences a technical malfunction with use of GarnIT or has other technical difficulties using GarnIT that cannot be resolved by the plaintiff.

11. Official Court Record; Record Retention.

(a) For purposes of this pilot program, the electronic data and the electronic equivalent of SCAO-approved form MC 52, Request and Writ for Garnishment (Income Tax Refund/Credit), produced by and through the GarnIT transaction and subsequently maintained in the case management system, constitutes the official court record and meets the record retention and public access requirements of the court rules and General Records Retention and Disposal Schedule #16 – Michigan Trial Courts.

(b) A request and writ processed by GarnIT can be generated or printed on demand by the clerk. The request and writ maintained by the court will not contain the social security numbers or federal identification numbers of the parties.

(c) If a request is made for a certified copy of a request and writ processed by GarnIT, the clerk shall print the document and certify it in compliance with the Michigan Trial Court Case File Management Standards.

12. Privacy Considerations. The plaintiff shall provide in each submission to GarnIT, the social security numbers and federal identification numbers of the parties for use in the data file and writs issued for service on the department. The social security number or federal identification number will not be retained by GarnIT or the Court after requests are validated and writs are issued and printed in accordance with Rules 6 and 7.

13. Expiration. Unless otherwise directed by the Michigan Supreme Court, this pilot shall continue until November 30, 2014.

AO No. 2014-14 — Adoption of Concurrent Jurisdiction Plan for the 47th Circuit Court, the 94th District Court, and the Delta County Probate Court

[Entered August 26, 2014.]

Administrative Order No. 2003-1 and MCL 600.401 *et seq.* authorize Michigan trial courts to adopt concurrent jurisdiction plans within a county or judicial circuit, subject to approval of the Court.

The Court hereby approves adoption of the following concurrent jurisdiction plan effective immediately:

- The 47th Circuit Court, the 94th District Court, and the Delta County Probate Court.

The plan shall remain on file with the state court administrator.

Amendments to concurrent jurisdiction plans may be implemented by local administrative order pursuant to MCR 8.112. Plan amendments shall conform to the requirements of Administrative Order No. 2003-1 and MCL 600.401 *et seq*.

AO No. 2014-15 — Adoption of Concurrent Jurisdiction Plan for the 16th Circuit Court, the 42nd District Court, and the Macomb County Probate Court

[Entered August 26, 2014.]

Administrative Order No. 2003-1 and MCL 600.401 *et seq.* authorize Michigan trial courts to adopt concurrent jurisdiction plans within a county or judicial circuit, subject to approval of the Court.

The Court hereby approves adoption of the following concurrent jurisdiction plan effective immediately:

- The 16th Circuit Court, the 42nd District Court, and the Macomb County Probate Court.

The plan shall remain on file with the state court administrator.

Amendments to concurrent jurisdiction plans may be implemented by local administrative order pursuant to MCR 8.112. Plan amendments shall conform to the requirements of Administrative Order No. 2003-1 and MCL 600.401 *et seq*.

AO No. 2014-16 — Adoption of Concurrent Jurisdiction Plan for the 32nd Circuit Court, the 98th District Court, and the Gogebic and Ontonagon County Probate Courts

[Entered August 26, 2014.]

Administrative Order No. 2003-1 and MCL 600.401 *et seq.* authorize Michigan trial courts to adopt concurrent jurisdiction plans within a county or judicial circuit, subject to approval of the Court.

he Court hereby revises Administrative Order No. 2005-1 and approves adoption of the following concurrent jurisdiction plan, effective immediately:

- The 32nd Circuit Court, the 98th District Court, and the Gogebic and Ontonagon County Probate Courts.

The plan shall remain on file with the state court administrator.

Amendments to concurrent jurisdiction plans may be implemented by local administrative order pursuant to MCR 8.112. Plan amendments shall conform to the requirements of Administrative Order No. 2003-1 and MCL 600.401 *et seq*.

AO No. 2014-17 — Adoption of Concurrent Jurisdiction Plan for the 4th Circuit Court, the 12th District Court, and the Jackson County Probate Court

[Entered August 26, 2014.]

Administrative Order No. 2003-1 and MCL 600.401 *et seq.* authorize Michigan trial courts to adopt concurrent jurisdiction plans within a county or judicial circuit, subject to approval of the Court.

The Court hereby approves adoption of the following concurrent jurisdiction plan effective immediately:

- The 4th Circuit Court, the 12th District Court, and the Jackson County Probate Court.

The plan shall remain on file with the state court administrator.

Amendments to concurrent jurisdiction plans may be implemented by local administrative order pursuant to MCR 8.112. Plan amendments shall conform to the requirements of Administrative Order No. 2003-1 and MCL 600.401 *et seq*.

AO No. 2014-18 — Merger of the State Appellate Defender Office (SADO) and Michigan Appellate Assigned Counsel System (MAACS)

[Entered September 17, 2014; text as amended by order entered January 21, 2015.]

1978 PA 620 authorized the Appellate Defender Commission to develop a system of indigent appellate defense services to include services provided by the State Appellate Defender Office and locally appointed private counsel. In Administrative Order No. 1981-7, the Court authorized the Appellate Defender Commission to establish an Appellate Assigned Counsel Administrator's Office to operate the roster of private attorneys providing appellate defense services. SADO and the Michigan Assigned Appellate Counsel System have operated separately until now. On order of the Court, at the request of the Appellate Defender Commission, effective immediately, to promote efficiency and improve the administration of assigned appellate counsel for indigent defendants, the Court orders that operations of the two offices be merged. The State Appellate Defender shall serve as administrator of the Michigan Assigned Appellate Counsel System. Further, the Court directs the Appellate Defender Commission to review operations of the MAACS and submit a proposed administrative order that reflects the consolidation of the two offices and incorporates proposed updates or revisions that the commission recommends. The commission shall submit the proposed administrative order to the Court no later than October 1, 2015.

AO No. 2014-19 — Reporting Requirements for the 36th District Court

[Entered October 1, 2014.]

On order of the Court, effective immediately and continuing through December 31, 2017, the 36th District Court shall submit quarterly benchmark reports (by the 20th of October, January, April, and July) for review and evaluation by the State Court Administrative Office. The following benchmarks for reporting shall begin on October 20, 2014:

FISCAL

I. Budget to Actual Expenditures Report

II. Budget Proposal for Next Fiscal Year (for January 20th only)

III. Revenues Collected Report

IV. Bond Account Reconciliation

V. Bank Account Reconciliation

VI. Past Debt (Outstanding Receivables) Plan (specify actions that have been taken to identify and reduce both collectible and uncollectible receivables, including collection and enforcement actions and results of these actions)

VII. Organizational Chart (including salaries)

CASE PROCESSING

I. Case Age Report by Judge – Felonies to be reported by October 20, 2014; State Misdemeanors and Traffic to be reported no later than January 20, 2015

II. Time between Filing and Entry of Case in Case Management System (by division)

III. Juror Utilization Report (number of panels/cases called compared to number of jury trials conducted)

ADMINISTRATIVE

I. Litigation Update

II. Project List (noting specific timelines)

JUDGES

I. Judges' Attendance Records

II. Judges' Arrival Time (to be conducted by monitors secured by the State Court Administrator or designee)

AO No. 2014-20 — Adoption of Concurrent Jurisdiction Plan for the 35th Circuit Court, the 66th District Court, and the Shiawassee County Probate Court

[Entered October 22, 2014.]

Administrative Order No. 2003-1 and MCL 600.401 *et seq.* authorize Michigan trial courts to adopt concurrent jurisdiction plans within a county or judicial circuit, subject to approval of the Court.

The Court hereby approves adoption of the following concurrent jurisdiction plan effective immediately:

- The 35th Circuit Court, the 66th District Court, and the Shiawassee County Probate Court.

The plan shall remain on file with the state court administrator.

Amendments to concurrent jurisdiction plans may be implemented by local administrative order pursuant to MCR 8.112. Plan amendments shall conform to the requirements of Administrative Order No. 2003-1 and MCL 600.401 *et seq*.

AO No. 2014-21 — [Rescinded] Adoption of Concurrent Jurisdiction Plan for the 18th District Court and the 29th District Court

[Entered October 22, 2014. Rescinded by order entered September 16, 2020.]

Administrative Order No. 2003-1 and MCL 600.401 *et seq.* authorize Michigan trial courts to adopt concurrent jurisdiction plans within a county or judicial circuit, subject to approval of the Court.

The Court hereby approves adoption of the following concurrent jurisdiction plan effective immediately:

- The 18th District Court and the 29th District Court.

The plan shall remain on file with the state court administrator.

Amendments to concurrent jurisdiction plans may be implemented by local administrative order pursuant to MCR 8.112. Plan amendments shall conform to the requirements of Administrative Order No. 2003-1 and MCL 600.401 *et seq*.

AO No. 2014-22 — Rescission of Administrative Order No. 2006-3 (Michigan Uniform System of Citation)

[Entered November 5, 2014.]

On order of the Court, effective immediately, Administrative Order No. 2006-3, the order setting forth the Michigan Uniform System of Citation, is rescinded. The Court currently uses, and encourages others to use, the Michigan Appellate Opinion Manual, which sets forth the Court's standards for citation of authority, quotation, and style in opinions of the Supreme Court and the Court of Appeals. The manual is now available in a searchable online format, and may be found at www.courts.mi.gov.

AO No. 2014-23 — E-filing System for the Michigan Supreme Court and the Michigan Court of Appeals

[Entered November 26, 2014; text as amended by order entered December 18, 2019.]

On order of the Court, effective February 1, 2020, all documents filed by or on behalf of attorneys who are licensed to practice law in the State of Michigan or who are admitted to temporarily appear and practice under MCR 8.126(A), must be filed electronically with the Michigan Supreme Court (MSC) and the Michigan Court of Appeals (COA) using the MiFILE system unless excused by court order upon a motion showing good cause. Self-represented litigants may, but are not required to, electronically file their documents with the Court.

Although this order sets out the manner in which e-filed documents are submitted to the courts or served on other parties to an action, it does not change the time periods required for taking action under the Michigan Court Rules, except as explicitly provided.

I. Definitions

For purposes of this order:

(A) "Authorized user" means a party, a party's attorney, or court staff who is registered in the MiFILE system (https://mifile.courts.michigan.gov/) and who has satisfied the requirements imposed by the courts relating to electronic filing and service procedures. A court may revoke user authorization for good cause as determined by the court, including but not limited to a security breach or failure to comply with system requirements. An authorized user must notify the court and ImageSoft, Inc., of any change in the authorized user's firm name, delivery address, telephone number, fax number, e-mail address, or other required registration information. This notice must occur as soon as practicable but no later than 7 days after the effective date of the change.

(B) "Electronic filing" or "e-filing" means the completed electronic transmission of documents or information to the court.

(C) "Electronic notice/notification" or "e-notice/notification" means the electronic transmission of documents or information from the court.

(D) "Electronic service" or "e-service" means the electronic transmission of documents or information to a party, a party's attorney, or a party's representative.

II. Scope

(A) Consistent with the Michigan Court Rules and the provisions of this order, the MSC and the COA may:

(1) accept electronic filing and permit electronic service of documents from authorized users, except as provided in subsection (B) below;

(2) issue electronic filing guidelines consistent with this order. The guidelines must be posted prominently on the courts' electronic filing website; or

(3) electronically issue, file, and serve notices, orders, opinions, and other documents, subject to the provisions of this order.

Filers need not provide hard copies to the courts, as otherwise required by the court rules, of documents that are electronically filed.

(B) Registered users agree to accept e-service through the MiFILE system unless and until the user's registration is terminated. Service on nonregistered users must be accomplished in a manner allowed under the court rules, such as by first-class mail, hand delivery, or e-mail under MCR 2.107(C)(4).

III. Signatures

(A) A document electronically filed or electronically served under this order shall be deemed to have been signed by the party, the party's attorney, or the declarant for all purposes provided in the Michigan Court Rules. A statutory or court rule requirement for an original signature in a document is satisfied by inserting a typed signature with "/s/ [Name]" or a graphic image of a handwritten signature, including an actual signature on a scanned document. A digital signature that authenticates digital information through computer cryptography may not be used.

(B) A document containing the signature of a third party (e.g., affidavits, stipulations) may also be filed electronically by indicating that the signed original is maintained by the filing party. Signed copies shall be provided to the parties or court upon request.

IV. Retention of Documents

Unless otherwise ordered by the court, copies of all documents electronically filed or served shall be maintained by the party filing those documents and shall be made available, upon reasonable notice, for inspection or copying. Parties shall retain such copies until final disposition of the case and the expiration of all appeal opportunities.

V. Official Case Record

The electronically filed documents maintained on the courts' servers are the official record of the court.

VI. Payment of Filing Fees and Costs

(A) A filing fee is due and payable at the time of the transmission of the electronic document unless:

(1) the document type does not require a fee;

(2) the filing is accompanied by a motion to waive fees;

(3) the fee is waived by the court pursuant to statute or court rule; or

(4) payment is deferred pending an interagency transfer of funds.

Failure to timely pay a filing fee may result in the filing being rejected by the court.

(B) Fees and costs are paid electronically through the MiFILE system.

VII. Transmission Failures and System Outages

(A) In the event of a transmission failure of an electronically filed document, a party may file a motion requesting that the court enter an order permitting a document to be deemed filed *nunc pro tunc* on the date of the unsuccessful transmission. The moving party must prove to the court's satisfaction that:

(1) the transmission was attempted on the date and at the time asserted by the party;

(2) the transmission failed because of the failure of the MiFILE system to process the electronic document or because of the court's computer system's failure to receive the document; and

(3) the transmission failure was not caused, in whole or in part, by the action or inaction of the party.

(B) Scheduled system outages, such as for system maintenance, shall be posted on the court and MiFILE websites and will be scheduled before 9:00 a.m. or after midnight on business days whenever feasible.

(C) Notice will be provided on the court and MiFILE websites if the MiFILE system becomes unavailable for an extended or uncertain period. The notice shall indicate whether filers are responsible for filing the documents conventionally in order to meet the deadlines imposed by statute or court rule.

VIII. Filing Completion

(A) A document filed electronically shall be considered filed with the court when the transmission to the MiFILE system is complete and the system reflects a "Filed" status.

(B) If the court rejects an e-filed document pursuant to court rule, the court shall notify the filer of the rejection and the document shall not become part of the official court record.

(C) Upon completion of an e-filing transmission to the MiFILE system, the system shall issue to the filer and to the court a notification that includes the date and time of the transmission.

IX. Time for Filing

Filings may be transmitted to the MiFILE system twenty-four hours a day, seven days a week (with the exception of the system's downtime required for periodic maintenance). However,

a document electronically filed or served after 11:59 p.m. Eastern Time, or on a Saturday, Sunday, or court holiday (see MCR 8.110[D][2]) shall be deemed to have been filed or served on the next business day. See MCR 1.108.

X. Format of Documents

The MiFILE system accepts the following file types for e-filed documents: Microsoft Word (DOC and DOCX), PDF, text files (TXT), images such as a TIFF, PNG or JPG. The courts strongly prefer that original pleadings be submitted as Word documents, text files, or searchable PDFs. Nonoriginal documents may be scanned into PDF as nonsearchable images.

AO No. 2014-24 — Extension of Expiration Date for E-filing Pilot Project in Oakland Circuit Court, Family Division

[Entered November 26, 2014.]

By revision of Administrative Order No. 2010-3, dated January 23, 2013, this Court extended the e-filing project of the Family Division of the Oakland Circuit Court through December 31, 2014. Since that time, the validity and scalability of e-filing has been successfully demonstrated in Oakland Circuit Court's Family Division, and in six other courts participating in e-filing pilot projects. Recognizing that the "pilot" aspect of the projects would be ending before a statewide system is available, the State Court Administrator communicated to all pilot courts that their e-filing projects would end, at the latest, at the expiration of their administrative orders that authorized or extended their projects. Pilot projects would be replaced, as the State Court Administrator noted, with an accessible and affordable statewide system for all Michigan residents, litigants, and courts. To that end, the Court anticipates working with the Michigan Legislature and the Governor in 2015 for authorization and funding of a statewide system.

Given the looming expiration date of the Family Division's e-filing project, the Oakland Circuit Court has expressed its desire for a limited extension of that project. Consistent with this Court's long-term goals, the Oakland Circuit Court communicated an interest in "a uniform approach and consistent e-filing experience, no matter where, when, and in which court they file" and the court "firmly . . . support[s] . . . the statewide e-filing initiative." Considering Oakland Circuit Court's interest and willingness to partner with the State Court Administrative Office on this statewide effort, the State Court Administrator has recommended a limited extension of the pilot project "to ensure the continuity of e-filing services as [the Oakland Circuit Court, Family Division,] transition[s] from [its] local pilot to the statewide initiative."

On order of the Court, the e-filing pilot project operating in Oakland Circuit Court's Family Division, under Administrative Order No. 2010-3, is extended until June 30, 2015, which is the same expiration date for Oakland Circuit Court's e-filing pilot project authorized by Administrative Order No. 2007-3.

AO No. 2014-25 — Establishment of Videoconferencing Standards

[Entered November 26, 2014; effective January 1, 2015.]

To ensure consistency in videoconferencing practices and procedures throughout the state of Michigan; to improve service to the public, other agencies, and the judiciary; and to improve the performance and efficiency of videoconferencing in the courts, it is ordered that the State Court Administrator establish Videoconferencing Standards and that appellate and trial courts conform to those standards. The State Court Administrative Office shall enforce the standards and assist courts in adopting practices to conform to those standards.

AO No. 2015-1 — Authorization of Pilot Project for Summary Jury Trials in the 16th Circuit Court and for Pilot Projects Testing Summary Jury Trials in Other Courts Approved by the Michigan Supreme Court

[Entered March 25, 2015; extended until March 25, 2020, by order entered June 21, 2017; extended until September 16, 2022, by order entered September 16, 2020.]

On order of the Court, the 16th Circuit Court and other courts approved by the Michigan Supreme Court are authorized to implement summary jury trial pilot projects. A summary jury trial is a voluntary, binding jury trial, typically conducted in a single day before a panel of six jurors and presided over by the assigned judge, a judge appointed by the court, or a special hearing officer selected jointly by the parties. The summary jury trial process is intended to afford parties an efficient and economical means of resolving their dispute. The pilot projects are established to study the effectiveness of the summary jury trial process in resolving civil cases without adjudication by the trial court. The pilot projects shall begin as soon as possible after the approval by the Court, and shall remain in effect for 24 months. The 16th Circuit Court and other pilot courts will track participation in and the effectiveness of their pilot programs and shall report to, and make such findings available to, the Michigan Supreme Court.

(A) Applicability.

This administrative order governs summary jury trial practice in the pilot projects conducted in the 16th Circuit Court and other pilot courts. The pilot projects are intended to include cases that can be presented on a summary basis, including those tort, no-fault and business proceedings that do not involve complex facts or numerous witnesses, but each pilot site will establish its own standards for identifying eligible cases. Parties who agree to participate in the summary jury trial pilot projects must participate in the scheduled summary jury trial unless the parties reach a resolution before the summary jury trial.

(B) Procedure.

(1) Stipulation: At any time after the filing of a complaint, parties who agree to participate in a summary jury trial shall file with the court a Consent Order for Summary Jury Trial. The attorneys and/or parties may stipulate to any high/low parameters, which shall not be disclosed to the jury.

(2) Presiding Officer: The parties shall agree on who shall preside over the summary jury trial. The presiding officer may be the assigned trial court judge, a retired judge appointed to preside over the proceeding, or a special hearing officer. The trial court shall not appoint, recommend, direct or otherwise influence a party's or attorney's selection of a special hearing officer. If the parties agree that a retired judge should be assigned or a special hearing officer should preside, the court shall enter an order naming the presiding officer.

(3) Appointment and Qualification of Special Hearing Officer: The special hearing officer must be licensed to practice law in the State of Michigan. A special hearing officer is not authorized to enter judicial orders but must present them to the court's assigned judge for entry.

The parties and the special hearing officer, by agreement, shall determine the compensation, if any, of the special hearing officer and how that cost will be allocated between the parties.

(4) Mediation and Case Evaluation: Upon entry of a Consent Order for Summary Jury Trial, the trial court shall not require that mediation under MCR 2.411 or case evaluation under MCR 2.403 take place prior to the summary jury trial. However, the parties may voluntarily engage in any ADR processes following the entry of the consent order and before the summary jury trial.

(5) Scheduling: The clerk of the court, in consultation with the parties, shall schedule the summary jury trial and provide notice of the scheduled summary jury trial to the parties and attorneys at least 56 days before the trial's date. The clerk of the court shall allocate such space or staff as may be available and suitable to conduct the summary jury trial. Once scheduled, the summary jury trial will be adjourned only upon written stipulation of the parties with approval of the presiding officer or upon good cause shown.

(6) Pretrial Submissions:

(a) Documentary Evidence: Any party intending to offer evidence at the summary jury trial shall serve copies of any proposed exhibits and a witness list upon all parties not less than 28 days before the scheduled date of the summary jury trial. Unless otherwise agreed by all parties, exhibits that are not served upon all parties as required under this provision are not admissible. Witnesses who have not been listed shall not be called at trial.

(b) Pretrial Conference: No later than 14 days before the scheduled date of the summary jury trial, the judge or special hearing officer assigned to the case shall conduct a pretrial conference, at which time the special hearing officer or judge shall address:

(i) objections to any evidence, including proposed redactions, motions in limine, and other evidentiary issues;

(ii) juror questionnaires and proposed voir dire questions;

(iii) whether the jury shall be permitted to take notes;

(iv) jury instructions and the jury verdict form; and,

(v) any other matters the judge, special hearing officer, or parties consider important in governing the summary jury trial process.

(7) Record: The summary jury trial shall not be recorded by the court's court reporter. However, any party may record or transcribe the proceedings at that party's expense.

(8) Jury Composition: The jury of a summary jury trial shall be comprised of six jurors, selected for examination in the regular term of court. Ten potential jurors shall be seated, and after questioning, plaintiff(s) shall strike one juror, defendant(s) shall strike one juror, plaintiff(s) shall strike a second juror and defendant(s) shall strike a second juror until six jurors remain and have been impaneled. Challenges for cause are not permitted.

(9) Time Allocations: It is expected that a summary jury trial shall last no longer than one day. Unless otherwise agreed to by the parties and the court under subrule (17) below, the summary jury trial shall be conducted within the following time allocations:

(a) Jury Selection: Jury selection shall take no longer than 30 minutes, which includes 10 minutes allocated to the special hearing officer or judge for an introduction and general questions to be given to all potential jurors agreed to by the parties, and 10 minutes for questions by each side.

(b) Opening Statements: Each side shall have 15 minutes for opening statements.

(c) Presentation of Proofs: Each side shall have up to 2 hours for presentation of proofs. This time allocation shall include the party's direct examination of witnesses, cross-examination of the other party's witnesses, admission of exhibits, and any time spent directing the jury's attention to specific aspects of documents that have been admitted.

(d) Closing Argument: Each side shall have up to 15 minutes for closing argument, and plaintiff shall have an additional 3 minutes for rebuttal.

(e) Jury Instruction: The parties shall make efforts to limit the number of instructions read to allow the instructions to be presented in 10 minutes or less.

(10) Rules of Evidence: The parties may offer evidence that is relevant and material to the dispute. The judge or hearing officer shall not require authentication of documentary evidence for purposes of admissibility. As part of the Consent Order for Summary Jury Trial, the parties may agree to modify the rules of evidence. The parties are encouraged to stipulate to modes and methods of presentation that will expedite the process, such as an agreement regarding the admissibility of video or written depositions, affidavits, written reports and ex parte depositions with any agreed upon redactions.

(11) Jury Verdict: The verdict of the jury shall be returned on a written verdict form and is binding, subject to any written high/low limitations agreed upon by the parties. A verdict will be received when five of the six jurors agree on a disposition.

(12) Inconsistent Verdict: In the case of an inconsistent verdict, the judge or special hearing officer shall recharge the jury as appropriate and require it to return to deliberation to resolve any inconsistency.

(13) Posttrial Motions: The only posttrial motion available to the parties shall be a motion for new trial, which must be filed with the trial court and served on the judge or special hearing officer as well as the other parties within seven days after entry of the jury's verdict. The judge or special hearing officer shall grant a new trial only under the following circumstances:

(a) an irregularity in the proceedings of the court, jury, or prevailing party, or an order of the court or abuse of discretion that denied the moving party a fair trial;

(b) misconduct of the jury or of the prevailing party during the trial;

(c) error of law occurring in the proceedings; or

(d) fraud (intrinsic or extrinsic) of an adverse party.

(14) Order of Judgment: The nonprevailing party shall pay the prevailing party the judgment amount within 28 days after the jury renders a verdict, subject to any high/low parameters established before the trial. After payment, the prevailing party shall submit an Order of Dismissal with Prejudice for entry by the court.

If payment is not made within 28 days after entry of the verdict, an Order of Judgment based upon the jury verdict, subject to any high/low agreement, shall be entered by the circuit court consistent with MCR 2.602.

(15) Waiver of Costs and Sanctions: Except in the case of fraud, the parties agree to waive taxation of costs and sanctions.

(16) No Right to Appeal and Costs: Except in the case of fraud, the parties agree to waive the right to appeal the jury's verdict. Any appeals shall be taken in accordance with the Appellate Rules found at MCR 7.201- 7.219.

(17) Modification of Procedures: Any of the above described procedures may be modified by stipulation of the parties with approval of the judge or special hearing officer.

AO No. 2015-2 — Adoption of Concurrent Jurisdiction Plan for the 52nd Circuit Court, the 73B District Court, and the Huron County Probate Court

[Entered April 29, 2015.]

Administrative Order No. 2003-1 and MCL 600.401 *et seq.* authorize Michigan trial courts to adopt concurrent jurisdiction plans within a county or judicial circuit, subject to approval of the Court.

The Court hereby approves adoption of the following concurrent jurisdiction plan effective immediately:

- The 52nd Circuit Court, the 73B District Court, and the Huron County Probate Court.

The plan shall remain on file with the state court administrator.

Amendments to concurrent jurisdiction plans may be implemented by local administrative order pursuant to MCR 8.112. Plan amendments shall conform to the requirements of Administrative Order No. 2003-1 and MCL 600.401 *et seq*.

AO No. 2015-3 — Establishment of Michigan Trial Court Standards and Guidelines for Websites and Social Media

[Entered April 29, 2015.]

In order to guide trial courts that are considering the use of trial court websites and social media sites to improve their service to the public, other agencies, and the judiciary, and to meet the public's growing expectation that courts communicate directly with the public, while preserving fairness and judicial impartiality, it is ordered that the State Court Administrator establish Michigan Trial Court Standards and Guidelines for Websites and Social Media and that trial courts conform to the standards. The State Court Administrative Office shall enforce the standards and assist courts in adopting practices to conform to those standards.

AO No. 2015-4 — Authorization for Use of GarnIT in the 36th, 46th, and 47th District Courts

[Entered May 27, 2015; text as amended by order entered May 25, 2016.]

Until further order of the Court, effective immediately, the 36th, 46th, and 47th District Courts are each authorized to operate the GarnIT system for processing requests for writs of state income tax garnishment. Participation by plaintiffs in this program is voluntary.

1. Purpose and Construction.

The purpose of this order is to authorize continued use of GarnIT in the courts that piloted the system in 2015. The 2015 pilot was successful and it is beneficial to these three courts and the users to continue the GarnIT system while the Michigan Supreme Court determines its long-term strategy for e-filing and its plans for incorporating GarnIT into that strategy. Except for matters related to the transmission of requests and writs for state income tax garnishments through GarnIT, the Michigan Court Rules govern all other postjudgment proceedings concerning the cases involved in the GarnIT program.

2. Definitions.

(a) "ACH" means Automated Clearing House, an electronic network for financial transactions in the United States.

(b) "Batch" means an electronic submission that contains one or more case records.

(c) "CEPAS" means Centralized Electronic Payment Authorization System.

(d) "Clerk" means the clerk of the court for the 36th, 46th, or 47th District Courts.

(e) "Court" means the 36th, 46th, or 47th District Courts.

(f) "Department" means the Department of Treasury.

(g) "Electronic submission" means the submission of one or more requests that result in the recording of data into the courts' case management systems.

(h) "File format" means the format for submitting batch income tax garnishment transactions to the GarnIT for processing.

(i) "GarnIT" means the web-based system for processing requests and writs for state income tax garnishments.

(j) "MCR" means the Michigan Court Rules.

(k) "Transaction" means the request and writ for income tax garnishment electronically processed pursuant to the pilot.

3. Participation in GarnIT

Use of GarnIT for submitting requests for income tax garnishments in the 36th, 46th, and 47th District Courts shall be voluntary.

4. Electronic Submission and Acceptance of Submission with the Court; Signatures; Statutory Service and Process Fees

(a) Plaintiffs who choose to use GarnIT will submit requests under the rules in this administrative order and agree to comply with GarnIT's technical requirements. GarnIT will reject requests that do not meet GarnIT's validation requirements and that do not conform to the technical requirements of GarnIT.

(b) Except when maintenance to the case management system or GarnIT is being performed, requests may be submitted to the court and will be processed 24 hours a day, seven days a week through GarnIT.

(c) A request submitted under these rules shall be deemed to have been signed by the plaintiff and filed with the clerk. Electronic signatures shall use the following form: /s/ *John L. Smith*.

(d) By using GarnIT, the plaintiff acknowledges compliance with the rules in this administrative order and acceptance of the business process as specified in this administrative order.

(e) The statutory service fee for issuing a writ (hereinafter referred to as the "filing fee") shall be paid electronically at the same time the writ is issued and in the same amount as required by statute.

(f) The court shall pay the fees associated with the use of credit cards or the cost of establishing Automated Clearing House (ACH) for payment of the filing fees.

(g) Each plaintiff shall provide one e-mail address with the functionality required for GarnIT.

5. Format and Form of Electronic Submission

(a) A plaintiff may file only one request per case per defendant.

(b) A plaintiff may submit multiple transactions within a single batch, subject to subrule 5(a).

(c) All submissions must comply with the technical requirements of GarnIT and MCR 1.109.

(d) The court will maintain a digital image of each order issued, in accordance with subrule 11.

6. Validation of Requests; Notice of Writs and Rejected Requests; Payment and Receipt

(a) GarnIT will compare data from submitted requests against data in the court's case management system and will validate:

(1) the party information,

(2) the name of the plaintiff's attorney, if one exists,

(3) the case number,

(4) the existence of an unsatisfied judgment on file,

(5) that the judgment has not expired,

(6) that the 21-day period required before enforcing the judgment has passed, and

(7) that there is no bankruptcy case pending.

(b) GarnIT will compare a plaintiff attorney name from a submitted request against data in the case management system, and if the name is validated, GarnIT will provide the address from the case management system. Judicial Information Systems will update the case management system with address information provided by the State Bar of Michigan on a quarterly basis.

(c) If a plaintiff's attorney is designated to receive money from a garnished income tax refund on behalf of the plaintiff, GarnIT will omit the plaintiff's address from the validation requirements. The plaintiff's name will be validated and included in the request, but the plaintiff's address on file with the court, if any, will not be included in the request.

(d) If a request does not meet the validation criteria, GarnIT will display an error message to the filer indicating a validation failure in the writ field. Instructions to the plaintiff for handling validation failure will be available through GarnIT. The instructions will include what steps, if any, the plaintiff can take to correct discrepancies in data between the court's case management system and the official court documents on which the plaintiff is basing the request.

(e) GarnIT will apply a formula to the amount of costs supplied by the plaintiff, and if they exceed the programmed threshold, GarnIT will display a message to the filer indicating that the amounts appear to be inaccurate. Instructions for how to proceed will be available through GarnIT. The filer can correct the amounts and proceed with the submission or, if the filer believes that the amounts are accurate, may file the request with the court manually.

(f) Filing fees under MCL 600.2529(1)(h) will be collected through CEPAS on each validated request.

(g) GarnIT will notify the plaintiff regarding the submitted requests including payment receipt numbers and a link for printing the writs for purposes of service on the department and the defendant in accordance with Rule 8.

7. Format and Generation of Writs; Payment Processing

(a) For each validated request, GarnIT will produce a secure electronic equivalent of SCAO-approved form MC 52, Request and Writ for Garnishment (Income Tax Refund/Credit), which constitutes issuance of a signed writ.

(b) GarnIT will update the court's case management system with respect to each writ issued.

(c) GarnIT will update the court's case management system with respect to fees collected.

8. Service on the Department and the Defendant

(a) The plaintiff shall print all issued writs and serve them on the department and the defendant in accordance with existing court rules.

(b) After service is completed, the plaintiff shall record proof of service in GarnIT by completing an attestation for each recipient that service was completed, including the date of service and the amount of any fee charged.

(c) The plaintiff shall maintain the proof of service so that it can be produced upon request if necessary in further proceedings in the case.

9. Correcting Data in the Court's Case Management System

If the plaintiff receives an error message as indicated in Rule 6b, the following procedure shall be followed by the plaintiff and the court:

(a) If the error is the result of incorrect data provided by the plaintiff, the plaintiff may correct the data and resubmit the request through GarnIT in accordance with the instructions and requirements of GarnIT.

(b) If the plaintiff believes the error is the result of incorrect data in the court's case management system, the plaintiff shall submit an e-mail request to correct the data, along with supporting documentation, in accordance with the instructions and requirements of GarnIT. Within 24 hours after receipt of a request to correct data and supporting documentation, the court shall handle the request. If the court determines that the discrepancy is the result of clerical error by the court, the court will correct the data in the case management system and send an e-mail response to the plaintiff indicating what action was taken and informing the plaintiff that the request can be resubmitted in GarnIT. If the court determines that the discrepancy is not the result of clerical error by the court, the court will send an e-mail response to the plaintiff indicating that fact.

(c) If the plaintiff wants to request that data in a case be changed for a reason other than a data entry error, the plaintiff must file a notice of the change with the court.

10. Technical Malfunctions

The GarnIT website will provide instructions regarding what action to take if the plaintiff experiences a technical malfunction using GarnIT or has other technical difficulties using GarnIT that cannot be resolved by the plaintiff.

11. Official Court Record; Record Retention

(a) The electronic data and the electronic equivalent of SCAO-approved form MC 52, Request and Writ for Garnishment (Income Tax Refund/Credit), produced by and through the GarnIT transaction and subsequently maintained in the case management system constitutes the official court record and meets the record retention and public access requirements of the court rules and General Records Retention and Disposal Schedule #16 – Michigan Trial Courts.

(b) A request and writ processed by GarnIT can be generated or printed on demand by the clerk. The request and writ maintained by the court will not contain the social security numbers or federal identification numbers of the parties.

(c) If a request is made for a certified copy of a request and writ processed by GarnIT, the clerk shall print the document and certify it in compliance with the Michigan Trial Court Case File Management Standards.

12. Privacy Considerations

In each submission to GarnIT, the plaintiff shall provide the social security numbers and federal identification numbers of the parties for use in the data file and writs issued for service on the department. The social security numbers or federal identification numbers will not be retained by GarnIT or the court after requests are validated and writs are issued and printed in accordance with rules 6 and 7 of this order.

13. Expiration

This pilot project will continue until further order of the Court.

AO No. 2015-5 — Adoption of Administrative Order Requiring Trial Courts to Comply With Certain ADA-Related Practices

[Entered September 16, 2015.]

Trial Court Requirements for Providing Equal and Full Access to Courts for Persons with Disabilities

On order of the Court, to ensure that persons with disabilities have equal and full access to Michigan courts and that all trial courts and court-operated programs and services have implemented procedures in compliance with the Americans with Disabilities Act of 1990, the ADA Amendments Act of 2008, Michigan's Deaf Persons' Interpreters Act (1982 PA 204), and the Persons with Disabilities Civil Rights Act (1976 PA 220), the Michigan Supreme Court orders that each trial court shall:

Adopt a local administrative order that describes the procedure to be followed for a person to request accommodations in that court. The local administrative order shall include the provisions incorporated in Model LAO 35, but may include additional provisions. The local administrative order shall be submitted to and approved by the State Court Administrative Office as a local administrative order under MCR 8.112.

Designate a court employee to be the court's ADA coordinator.

Ensure that the chief judge and ADA coordinator participate in training regarding the duties and obligations of a court in compliance with the ADA, the ADA Amendments Act of 2008, the Deaf Persons' Interpreters Act, and the Persons with Disabilities Civil Rights Act.

Further, courts shall comply with any additional requirements established by the SCAO regarding compliance with these acts.

The requirements established in this order shall become effective 90 days after the date this order enters.

AO No. 2015-6 — Adoption of Concurrent Jurisdiction Plan for the 23rd Circuit Court, the 81st District Court, and the Alcona, Arenac, Iosco, and Oscoda County Probate Courts

[Entered September 16, 2015.]

On order of the Court, adoption of this concurrent jurisdiction plan replaces the plan for the 23rd Circuit Court, the 81st District Court, and the Alcona, Arenac, Iosco, and Oscoda County Probate Courts originally adopted in Administrative Order No. 2004-4, which has been revised to eliminate references to these courts.

Administrative Order No. 2003-1 and MCL 600.401 *et seq.* authorize Michigan trial courts to adopt concurrent jurisdiction plans within a county or judicial circuit, subject to approval of the Court.

The Court hereby approves adoption of the following concurrent jurisdiction plan effective immediately:

- The 23rd Circuit Court, the 81st District Court, and the Alcona, Arenac, Iosco, and Oscoda County Probate Courts.

The plan shall remain on file with the state court administrator.

Amendments to concurrent jurisdiction plans may be implemented by local administrative order pursuant to MCR 8.112. Plan amendments shall conform to the requirements of Administrative Order No. 2003-1 and MCL 600.401 *et seq*.

AO No. 2015-7 — Adoption of Concurrent Jurisdiction Plan for the 26th Circuit Court, the 88th District Court, and the Montmorency County Probate Court

[Entered September 16, 2015.]

Administrative Order No. 2003-1 and MCL 600.401 *et seq.* authorize Michigan trial courts to adopt concurrent jurisdiction plans within a county or judicial circuit, subject to approval of the Court.

The Court hereby approves adoption of the following concurrent jurisdiction plan effective immediately:

- the 26th Circuit Court, the 88th District Court, and the Montmorency County Probate Court.

The plan shall remain on file with the state court administrator.

Amendments to concurrent jurisdiction plans may be implemented by local administrative order pursuant to MCR 8.112. Plan amendments shall conform to the requirements of Administrative Order No. 2003-1 and MCL 600.401 *et seq*.

AO No. 2015-8 — Authorization of Pilot Project to Study Feasibility and Effectiveness of Mediation in the Court of Appeals

[Entered September 16, 2015.]

On order of the Court, the Court of Appeals is authorized to implement a mediation pilot project. As provided below, selection for mediation before an outside mediator would be by order of the Court of Appeals and parties could request to have their appeal included in the program or removed from the program. The program is intended to afford parties an efficient and economical means of resolving their appeal. This pilot project is established to study the feasibility and effectiveness of appellate mediation. The program shall begin October 1, 2015, and shall remain in effect for 12 months. The Court of Appeals will track participation in, and effectiveness of, the program and shall report to, and make such findings available to, the Michigan Supreme Court.

(A) Selection for Mediation.

(1) At any time during the pendency of an appeal before the Court of Appeals, the chief judge or another designated judge may order an appeal submitted to mediation. When a case is selected for mediation, participation is mandatory, however, the chief judge or another designated judge may remove the case on finding that mediation would be inappropriate.

(2) To identify cases for mediation, the Court of Appeals will review civil appeals to determine if mediation would be of assistance to the court or the parties. At any time, a party to a pending civil appeal may file a written request that the appeal be submitted to mediation. Such a request may be made without formal motion and shall be confidential.

(3) A party to a case that has been selected for mediation may file a request to have the case removed from mediation. Such a request may be made without formal motion and shall be confidential. If the request to remove is premised on a desire to avoid the cost of mediation, it is not necessary to demonstrate an inability to pay such costs.

(4) The submission of an appeal to mediation will not toll any filing deadlines in the appeal unless the court orders otherwise.

(B) Mediation Procedure.

(1) Mediation shall be conducted by a mediator selected by stipulation of the parties or designated by the court. A mediator designated by the court shall be an attorney, licensed in Michigan, who has met the qualifications of mediators provided in MCR 2.411(F).

(2) Mediation shall consider the possibility of settlement, the simplification of the issues, and any other matters which the mediator determines may aid in the handling or disposition of the appeal.

(3) The order referring the case to mediation shall specify the time within which the mediation is to be completed. Within the time stated in the order, the mediator shall file a notice

with the clerk stating only the date of completion of mediation, who participated in the mediation, whether settlement was reached, and whether any further mediation is warranted.

(4) If mediation results in full or partial settlement of the case, within 21 days after the filing of the notice by the mediator, the parties shall file a stipulation to dismiss pursuant to MCR 7.218(B).

(5) The mediator may charge a reasonable fee, which shall be divided and borne equally by the parties unless agreed otherwise and paid by the parties directly to the mediator. If a party does not agree upon the fee requested by the mediator, upon motion of the party, the chief judge or another designated judge shall set a reasonable fee. In all other respects, mediator fees shall be governed by MCR 2.411(D).

(6) The statements and comments made during mediation are confidential as provided in MCR 2.412 and may not be disclosed in the notice filed by the mediator under (B)(3) of this order or by the participants in briefs or in argument.

(7) Upon failure by a party or attorney to comply with a provision of this order or the order submitting the case to mediation, the chief judge or another designated judge may assess reasonable expenses, including attorney's fees, caused by the failure, may assess all or a portion of appellate costs, or may dismiss the appeal.

(C) Selection of Mediator.

(1) Except as otherwise provided in this order, the selection of a mediator shall be governed by MCR 2.411(B).

(2) Within the time provided in the order referring a case to mediation, the parties may stipulate to the selection of a mediator. Such stipulation shall be filed with the clerk of the court. If the parties do not file a stipulation agreeing to a mediator within the time provided, the court shall appoint a mediator from the roster of approved mediators maintained by the circuit court in which the case originated.

AO No. 2015-9 — Authorization of a One-year Pilot Project Related to the SADO/MAACS Merger

[Entered September 16, 2015; extended to December 31, 2017, by order entered September 21, 2016.]

In Administrative Order No. 2014-18, the Court ordered the merger of the State Appellate Defender Office (SADO) and the Michigan Appellate Assigned Counsel System (MAACS), and further ordered the Appellate Defender Commission "to review operations of the MAACS and submit a proposed administrative order that reflects the consolidation of the two offices and incorporates proposed updates or revisions that the commission recommends."

On order of the Court, and upon the request of the Appellate Defender Commission, MAACS is authorized to implement a one-year pilot project to assess the feasibility, costs, and benefits associated with structural reforms currently under consideration for permanent statewide implementation. These reforms would consolidate the individual "local lists" of roster attorneys, which currently exist in all 57 circuit courts, into a smaller number of regional lists to be maintained and administered by MAACS. The pilot will assess the extent to which this consolidation results in greater speed and efficiency in the assignment process, by reducing the number of lists to maintain and allowing MAACS to assume the responsibility of prescreening counsel, preparing appointment orders, and sending notification of appointments to defendants and their attorneys.

The reforms under consideration will depend upon the standardization of appellate assigned counsel policies among the circuit courts, most notably including the voluntary adoption of a standard attorney fee and expense policy. The pilot will assess the extent to which uniformity in attorney fee policies allows more meaningful data analysis related to attorney performance and efficiency, as well as the potential financial impact of these reforms on the circuit courts and their funding units. The pilot will also assess the extent to which standardization of attorney fees affects MAACS's attorney recruitment and retention efforts.

The pilot shall begin as soon as possible as authorized by this order and when there is participation by a sufficient number of circuit courts to constitute two geographic regions, as identified and approved by MAACS. The pilot shall remain in effect for 12 months, unless extended with the approval of this Court and participating circuit courts. MAACS shall track the effectiveness of the reforms by quantitative and qualitative analysis, and shall make its findings available to the Michigan Supreme Court.

For the duration of the pilot project, all participating circuit courts shall comply with the following regulations, which supplement Section 3 of the MAACS regulations as adopted by this Court in Administrative Order No. 1989-3:

(1) Upon the consent of all affected circuit courts and MAACS, local lists of MAACS roster attorneys may be consolidated by geographic region in whatever manner MAACS deems appropriate, with MAACS assuming certain administrative responsibilities that have traditionally been handled by individual circuit courts.

(2) In order to facilitate the consolidation of local lists, any affected circuit court shall adopt the following administrative procedures:

(a) Within one business day after receiving a request for appellate counsel, the trial court shall provide a copy to MAACS, along with the judgment of sentence, the register of actions, and the identities of all court reporters not named on the register of actions.

(b) Within seven days after the filing of a timely request for counsel, MAACS shall provide to the trial court a proposed order of appointment naming a qualified attorney who has been selected by list rotation or approved specific selection, and directing the court reporter(s) to prepare and file all transcripts as required by MCR 6.425(G) within the time limits specified in MCR 7.210.

(c) Within seven days after receiving a proposed appointment order naming appellate counsel, and within the deadline provided by MCR 6.425(G)(1)(a), the trial court shall issue an order appointing counsel or denying the request for counsel. If the court denies the request for counsel, it shall accompany its ruling with a statement of reasons. The court shall provide copies of its order to MAACS, the prosecutor, and the court reporter(s). MAACS shall provide copies of the trial court's order to the defendant and appointed counsel, thereby satisfying the trial court's responsibilities under MCR 6.425(G)(2).

(d) Within 28 days after receiving a timely request for payment detailing the time and expenses related to the representation in a manner approved by MAACS, the trial court shall order reimbursement pursuant to a standard attorney fee and expense policy that has been approved by the appellate defender commission and the trial court.

AO No. 2015-10 — Adoption of Concurrent Jurisdiction Plan for the 51st Circuit Court, the 79th District Court, and the Mason County Probate Court

[Entered October 14, 2015.]

Administrative Order No. 2003-1 and MCL 600.401 *et seq.* authorize Michigan trial courts to adopt concurrent jurisdiction plans within a county or judicial circuit, subject to approval of the Court.

The Court hereby approves adoption of the following concurrent jurisdiction plan effective immediately:

- the 51st Circuit Court, the 79th District Court, and the Mason County Probate Court.

The plan shall remain on file with the state court administrator.

Amendments to concurrent jurisdiction plans may be implemented by local administrative order pursuant to MCR 8.112. Plan amendments shall conform to the requirements of Administrative Order No. 2003-1 and MCL 600.401 *et seq*.

AO No. 2016-1 — Authorizes the 7th Circuit Court to Require Parties and Attorneys to Submit Pleadings in Electronic Format in Personal Injury or Other Civil Cases Arising From Allegations of Lead or Other Contaminants in Flint Water

[Entered May 25, 2016.]

On order of the Court, at the request of the 7th Circuit Court, and pursuant to MCR 1.109(C)(1), the 7th Circuit Court is authorized to require parties and attorneys in personal injury or other civil cases arising from allegations of lead or other contaminants in Flint water to submit pleadings in electronic format. The 7th Circuit Court shall submit a local administrative order to the State Court Administrative Office describing the manner in which such pleadings are to be submitted. This order is effective immediately, and shall remain in effect until further order of the Court.

AO No. 2016-2 — Regulations Governing a System for Appointment of Counsel for Indigent Defendants in Criminal Cases and Minimum Standards for Indigent Criminal Defense Services

[Entered June 1, 2016.]

Pursuant to the Michigan Indigent Defense Commission Act, 2013 PA 93, the Michigan Indigent Defense Commission submitted to this Court proposed standards that would regulate the manner in which counsel would be appointed to represent indigent defendants in criminal cases, and would further impose specific training, experience and continuing legal education requirements on attorneys who seek appointment as counsel in these types of cases. The Court published the proposed standards for comment, and after due consideration, conditionally approves the standards as set forth below. [The conditional approval reflects the Court's ongoing authority to establish, implement, and impose professional standards. See Administrative Order No. 1981-7 (approving regulations and standards for the appellate indigent defense system); Administrative Order No. 2004-6 (altering the standards of Administrative Order No. 1981-7).]

This approval is subject to and contingent on legislative revision of the MIDC Act to address provisions that the Court deems to be of uncertain constitutionality. These provisions include:

1. MCL 780.985 creates the MIDC as an "autonomous entity" and places it within "the judicial branch." Employees of the judicial branch are subject to this Court's exclusive constitutional authority to exercise general supervisory control. See Const 1963, art 6, §§ 1, 4, and 7; *Judicial Attorneys Ass'n v Michigan*, 459 Mich 291, 298; 586 NW2d 635 (1998). We are concerned that placing the MIDC within the judicial branch, while denying the Court the ability to supervise and direct the commission's activities and employment, may contravene the general principle of separation of powers under the Michigan Constitution, Const 1963, art 3, § 2, and impinge upon the specific constitutional function of this Court to supervise the judicial branch.

2. MCL 780.983(f) defines "indigent criminal defense system," an entity subject to the authority of the MIDC, in a manner that includes trial courts, and combines trial courts with nonjudicial local governments. In addition, MCL 780.989(1)(a) allows the MIDC to "[d]evelop[] and oversee[] the implementation, enforcement, and modification of minimum standards, rules, and procedures to ensure that indigent criminal defense services providing effective assistance of counsel are consistently delivered to all indigent adults in this state;" and MCL 780.989(1)(b) allows the MIDC "to assure compliance with the commission's minimum standards, rules, and procedures." We are concerned that these provisions might contain enforcement mechanisms that present an unconstitutional usurpation of this Court's authority under Const 1963, art 6, § 4, which provides that the Supreme Court "shall have general superintending control over all courts." They also raise general separation of powers concerns under Const 1963, art 3, § 2.

3. MCL 780.989(1)(f) and (2) and MCL 780.991(2) arguably allow the MIDC to regulate the legal profession. The Constitution exclusively assigns regulation of the legal profession to the judiciary. See Const 1963, art 6, § 5; *Grievance Administrator v Lopatin*, 462 Mich 235; 612 NW2d 120 (2000); *Attorney General v Michigan Public Serv Comm*, 243 Mich App 487, 517; 625 NW2d 16 (2000).

To promote the goal of providing effective assistance of counsel for indigent defendants in criminal cases without disruption, the Court urges legislative revision of the MIDC Act to address the constitutional concerns raised herein by this Court. If this Court determines before December 31, 2016, that legislative revisions of the MIDC Act have sufficiently addressed our concerns, the standards approved conditionally by this Court today will then take full effect. Otherwise, this Court's conditional approval of these standards will be automatically withdrawn on December 31, 2016. The Court will then determine what, if any, further action it may take to preserve its constitutional authority.

The conditionally approved standards and requirements, together with the commentary of the MIDC and the MIDC's description of the principles governing the creation of the standards, are as follows:

Minimum Standards for Appointed Counsel under the MIDC Act

Standard 1

Education and Training of Defense Counsel

The MIDC Act requires adherence to the principle that "[d]efense counsel is required to attend continuing legal education relevant to counsel's indigent defense clients." MCL 780.991(2)(e). The United States Supreme Court has held that the constitutional right to counsel guaranteed by the Sixth Amendment includes the right to the effective assistance of counsel. The mere presence of a lawyer at a trial "is not enough to satisfy the constitutional command." *Strickland v Washington*, 466 US 668, 685; 104 S Ct 2052, 2063; 80 L Ed 2d 674 (1984). Further, the Ninth Principle of The American Bar Association's *Ten Principles of a Public Defense Delivery System* provides that a public defense system, in order to provide effective assistance of counsel, must ensure that "Defense counsel is provided with and required to attend continuing legal education."

The MIDC proposed a minimum standard for the education and training of defense counsel. The version conditionally approved by the Court is as follows:

A. Knowledge of the law. Counsel shall have reasonable knowledge of_substantive Michigan and federal law, constitutional law, criminal law, criminal procedure, rules of evidence, ethical rules and local practices. Counsel has a continuing obligation to have reasonable knowledge of the changes and developments in the law. "Reasonable knowledge" as used in this standard means knowledge of which a lawyer competent under MRPC 1.1 would be aware.

B. Knowledge of scientific evidence and applicable defenses. Counsel shall have reasonable knowledge of the forensic and scientific issues that can arise in a criminal case, the legal issues concerning defenses to a crime, and be reasonably able to effectively litigate those issues.

C. Knowledge of technology. Counsel shall be reasonably able to use office technology commonly used in the legal community, and technology used within the applicable court system. Counsel shall be reasonably able to thoroughly review materials that are provided in an electronic format.

D. Continuing education. Counsel shall annually complete continuing legal education courses relevant to the representation of the criminally accused. Counsel shall participate in skills training and educational programs in order to maintain and enhance overall preparation, oral and written advocacy, and litigation and negotiation skills. Lawyers can discharge this obligation for annual continuing legal education by attending local trainings or statewide conferences. Attorneys with fewer than two years of experience practicing criminal defense in Michigan shall participate in one basic skills acquisition class. All attorneys shall annually complete at least twelve hours of continuing legal education. Training shall be funded through compliance plans submitted by the local delivery system or other mechanism that does not place a financial burden on assigned counsel. The MIDC shall collect or direct the collection of data regarding the number of hours of continuing legal education offered to and attended by assigned counsel, shall analyze the quality of the training, and shall ensure that the effectiveness of the training be measurable and validated. A report regarding these data shall be submitted to the Court annually by April 1 for the previous calendar year.

Comment:

The minimum of twelve hours of training represents typical national and some local county requirements, and is accessible in existing programs offered statewide.

Standard 2

Initial Interview

The MIDC Act requires adherence to the principle that "[d]efense counsel is provided sufficient time and a space where attorney-client confidentiality is safeguarded for meetings with defense counsel's client." MCL 780.991(2)(a). United States Supreme Court precedent and American Bar Association Principles recognize that the "lack of time for adequate preparation and the lack of privacy for attorney-client consultation" can preclude "any lawyer from providing effective advice." *See United States v Morris*, 470 F3d 596, 602 (CA 6, 2006) (citing *United States v Cronic,* 466 US 648; 104 S Ct 2039; 80 L Ed 2d 657 (1984)). Further, the Fourth Principle of The American Bar Association's *Ten Principles of a Public Defense Delivery System* provides that a public defense system, in order to provide effective assistance of counsel, must ensure that "Defense counsel is provided sufficient time and a confidential space within which to meet with the client."

The MIDC proposed a minimum standard for the initial client interview. The version conditionally approved by the Court is as follows:

A. Timing and Purpose of the Interview: Counsel shall conduct a client interview as soon as practicable after appointment to represent the defendant in order to obtain information necessary to provide quality representation at the early stages of the case and to provide the client with information concerning counsel's representation and the case proceedings. The purpose of the initial interview is to: (1) establish the best possible relationship with the indigent client; (2) review charges; (3) determine whether a motion for pretrial release is appropriate; (4) determine the need to start-up any immediate investigations; (5) determine any immediate mental or physical health needs or need for foreign language interpreter assistance; and (6) advise that clients should not discuss the circumstances of the arrest or allegations with cellmates, law

enforcement, family or anybody else without counsel present. Counsel shall conduct subsequent client interviews as needed. Following appointment, counsel shall conduct the initial interview with the client sufficiently before any subsequent court proceeding so as to be prepared for that proceeding. When a client is in local custody, counsel shall conduct an initial client intake interview within three business days after appointment. When a client is not in custody, counsel shall promptly deliver an introductory communication so that the client may follow-up and schedule a meeting. If confidential videoconference facilities are made available for trial attorneys, visits should at least be scheduled within three business days. If an indigent defendant is in the custody of the Michigan Department of Corrections (MDOC) or detained in a different county from where the defendant is charged, counsel should arrange for a confidential client visit in advance of the first pre-trial hearing.

B. Setting of the interview: All client interviews shall be conducted in a private and confidential setting to the extent reasonably possible. The indigent criminal defense system shall ensure the necessary accommodations for private discussions between counsel and clients in courthouses, lock-ups, jails, prisons, detention centers, and other places where clients must confer with counsel.

C. Preparation: Counsel shall obtain copies of any relevant documents which are available, including copies of any charging documents, recommendations and reports concerning pretrial release, and discoverable material.

D. Client status:

1. Counsel shall evaluate whether the client is capable of participation in his/her representation, understands the charges, and has some basic comprehension of criminal procedure. Counsel has a continuing responsibility to evaluate, and, where appropriate, raise as an issue for the court the client's capacity to stand trial or to enter a plea pursuant to MCR 6.125 and MCL 330.2020. Counsel shall take appropriate action where there are any questions about a client's competency.

2. Where counsel is unable to communicate with the client because of language or communication differences, counsel shall take whatever steps are necessary to fully explain the proceedings in a language or form of communication the client can understand. Steps include seeking the appointment of an interpreter to assist with pre-trial preparation, interviews, investigation, and in-court proceedings, or other accommodations pursuant to MCR. 1.111.

Comments:

1. The MIDC recognizes that counsel cannot ensure communication prior to court with an out of custody indigent client. For out of custody clients the standard instead requires the attorney to notify clients of the need for a prompt interview.

2. The requirement of a meeting within three business days is typical of national requirements (Florida Performance Guidelines suggest 72 hours; in Massachusetts, the Committee for Public Counsel Services Assigned Counsel Manual requires a visit within three business days for custody clients; the Supreme Court of Nevada issued a performance standard requiring an initial interview within 72 hours of appointment).

3. Certain indigent criminal defense systems only pay counsel for limited client visits in custody. In these jurisdictions, compliance plans with this standard will need to guarantee funding for multiple visits.

4. In certain systems, counsel is not immediately notified of appointments to represent indigent clients. In these jurisdictions, compliance plans must resolve any issues with the failure to provide timely notification.

5. Some jurisdictions do not have discovery prepared for trial counsel within three business days. The MIDC expects that this minimum standard can be used to push for local reforms to immediately provide electronic discovery upon appointment.

6. The three-business-day requirement is specific to clients in "local" custody because some indigent defendants are in the custody of the Michigan Department of Corrections (MDOC) while other defendants might be in jail in a different county from the charging offense.

7. In jurisdictions with a large client population in MDOC custody or rural jurisdictions requiring distant client visits compliance plans might provide for visits through confidential videoconferencing.

8. Systems without adequate settings for confidential visits for either in-custody or out-of-custody clients will need compliance plans to create this space.

9. This standard only involves the initial client interview. Other confidential client interviews are expected, as necessary.

Standard 3

Investigation and Experts

The United States Supreme Court has held: (1) "counsel has a duty to make reasonable investigations or to make a reasonable decision that makes particular investigations unnecessary." *Strickland v Washington*, 466 US 668, 691; 104 S Ct 2052, 2066; 80 L Ed 2d 674 (1984); and (2) "[c]riminal cases will arise where the only reasonable and available defense strategy requires consultation with experts or introduction of expert evidence, whether pretrial, at trial, or both." *Harrington v Richter*, 562 US 86, 106; 131 S Ct 770, 788; 178 L Ed 2d 624 (2011). The MIDC Act authorizes "minimum standards for the local delivery of indigent criminal defense services providing effective assistance of counsel…" MCL 780.985(3).

The MIDC proposed a minimum standard for investigations and experts. The version conditionally approved by the Court is as follows:

A. Counsel shall conduct an independent investigation of the charges and offense as promptly as practicable.

B. When appropriate, counsel shall request funds to retain an investigator to assist with the client's defense. Reasonable requests must be funded.

C. Counsel shall request the assistance of experts where it is reasonably necessary to prepare the defense and rebut the prosecution's case. Reasonable requests must be funded as required by law.

D. Counsel has a continuing duty to evaluate a case for appropriate defense investigations or expert assistance. Decisions to limit investigation must take into consideration the client's wishes and the client's version of the facts.

Comments:

1. The MIDC recognizes that counsel can make "a reasonable decision that makes particular investigations unnecessary" after a review of discovery and an interview with the client. Decisions to limit investigation should not be made merely on the basis of discovery or representations made by the government.

2. The MIDC emphasizes that a client's professed desire to plead guilty does not automatically alleviate the need to investigate.

3. Counsel should inform clients of the progress of investigations pertaining to their case.

4. Expected increased costs from an increase in investigations and expert use will be tackled in compliance plans.

Standard 4

Counsel at First Appearance and other Critical Stages

The MIDC Act provides that standards shall be established to effectuate the following: (1) "All adults, except those appearing with retained counsel or those who have made an informed waiver of counsel, shall be screened for eligibility under this act, and counsel shall be assigned as soon as an indigent adult is determined to be eligible for indigent criminal defense services." MCL 780.991(1)(c); (2) "A preliminary inquiry regarding, and the determination of, the indigency of any defendant shall be made by the court not later than at the defendant's first appearance in court. MCL 780.991(3)(a); (3) . . . counsel continuously represents and personally appears at *every court appearance* throughout the pendency of the case." MCL 780.991(2)(d)(emphasis added).

The MIDC proposed a minimum standard on counsel at first appearance and other critical stages. The version conditionally approved by the Court is as follows:

A. Counsel shall be assigned as soon as the defendant is determined to be eligible for indigent criminal defense services. The indigency determination shall be made and counsel appointed to provide assistance to the defendant as soon as the defendant's liberty is subject to restriction by a magistrate or judge. Representation includes but is not limited to the arraignment on the complaint and warrant. Where there are case-specific interim bonds set, counsel at arraignment shall be prepared to make a de novo argument regarding an appropriate bond regardless of and, indeed, in the face of, an interim bond set prior to arraignment which has no

precedential effect on bond-setting at arraignment. Nothing in this paragraph shall prevent the defendant from making an informed waiver of counsel.

B. All persons determined to be eligible for indigent criminal defense services shall also have appointed counsel at pre-trial proceedings, during plea negotiations and at other critical stages, whether in court or out of court.

Comments:

1. The proposed standard addresses an indigent defendant's right to counsel at every court appearance and is not addressing vertical representation (same defense counsel continuously represents) which will be the subject of a future minimum standard as described in MCL 780.991(2)(d).

2. One of several potential compliance plans for this standard may use an on-duty arraignment attorney to represent defendants. This appointment may be a limited appearance for arraignment only with subsequent appointment of different counsel for future proceedings. In this manner, actual indigency determinations may still be made during the arraignment.

3. Among other duties, lawyering at first appearance should consist of an explanation of the criminal justice process, advice on what topics to discuss with the judge, a focus on the potential for pre-trial release, or achieving dispositions outside of the criminal justice system via civil infraction or dismissal. In rare cases, if an attorney has reviewed discovery and has an opportunity for a confidential discussion with her client, there may be a criminal disposition at arraignment.

4. The MIDC anticipates creative and cost-effective compliance plans like representation and advocacy through videoconferencing or consolidated arraignment schedules between multiple district courts.

5. This standard does not preclude the setting of interim bonds to allow for the release of in-custody defendants. The intent is not to lengthen any jail stays. The MIDC believes that case-specific interim bond determinations should be discouraged. Formal arraignment and the formal setting of bond should be done as quickly as possible.

6. Any waiver of the right to counsel must be both unequivocal and knowing, intelligent, and voluntary. People v Anderson, 398 Mich 361; 247 NW2d 857 (1976). The uncounseled defendant must have sufficient information to make an intelligent choice dependent on a range of case-specific factors, including his education or sophistication, the complexity or easily grasped nature of the charge, and the stage of the proceeding.

AO No. 2016-3 — Prisoner Electronic Filing Program with the Michigan Supreme Court and the Michigan Department of Corrections

[Entered November 2, 2016.]

On order of the Court, effective immediately, the Michigan Supreme Court ("Court") is authorized to implement a Prisoner Electronic Filing Program with the Michigan Department of Corrections.

Participants in the Prisoner Electronic Filing Program consist of the Clerk's Office of the Michigan Supreme Court, the correctional facilities operated by the Michigan Department of Corrections ("MDOC") identified in Exhibit A to this order, and the prisoner litigants housed in the identified correctional facilities who are or who seek to be parties to litigation filed in the Michigan Supreme Court. Additional facilities may be made part of this program at the discretion of the Clerk's Office and the MDOC.

For the initial phase of the Prisoner Electronic Filing Program, the Court will provide to the MDOC, and retain ownership of, digital equipment for use in the identified correctional facilities with the sole purpose of transmitting authorized documents between the Court and the identified correctional facilities. The digital equipment will be programmed with an email address used by the Clerk's Office for receiving electronic filings from the MDOC. The MDOC will provide the Clerk's Office with email addresses for receiving electronic notices from the Court on behalf of the prisoner litigants at the identified correctional facilities.

Filings by prisoner litigants during the initial phase of the program will be limited to applications for leave to appeal and related documents in criminal cases. Prisoner litigants must utilize the form created by the Clerk's Office for self-represented litigants and made available to the MDOC.

All filings by prisoner litigants must be submitted electronically to the Clerk's Office unless the system is not operational when the documents are presented to the MDOC for e-filing. If the system is not operational at the time of presentment, the filing shall be submitted by mail, unless the system is expected to resume operation before the filing deadline. A prisoner litigant transferred from a correctional facility with e-filing capability to a correctional facility without e-filing capability must submit all future filings by mail via the U.S. Postal Service. A prisoner litigant who is transferred into a correctional facility with e-filing capability must electronically transmit all subsequent filings to the Court. The prisoner litigant must notify the Clerk's Office immediately of any change of address.

MDOC staff will scan the prisoner litigant's filings at the correctional facility and transmit them, with a time stamp applied by the digital equipment, to the Clerk's Office email address. An automated email reply will be immediately sent to the MDOC email address acknowledging receipt of the filing. The original documents will be returned to the prisoner litigant, who must retain them in their original form and produce them at a later time if ordered by the Court.

The Clerk's Office will review filings as soon as practicable (usually by 5:00 p.m. if received in the morning on a business day or by 12:00 p.m. the following business day if received

in the afternoon) for jurisdiction and compliance with the court rules. If the Court does not have jurisdiction or if the filing does not substantially comply with the court rules, the Clerk's Office will transmit a Notice of Rejection to the MDOC that specifies the reason(s) for the rejection.

If the filing is accepted, it will be docketed in the Court's case management system and electronically served on those persons or entities that the prisoner litigant has identified as parties to the litigation if they are registered users of TrueFiling or have provided an official email address to the Court. The Clerk's Office will mail copies of the prisoner litigant's filing via the U.S. Postal Service to identified parties who cannot be e-served. For accepted filings, the Clerk's Office will transmit a Notice of Electronic Filing to the MDOC that identifies, among other things, the names and service information of parties who were served with the filing. The Notice of Electronic Filing also will be electronically transmitted or mailed to the Michigan Court of Appeals and the trial court/tribunal as notice of the appeal under MCR 7.305(A)(3).

The MDOC will provide a copy of the Notice of Rejection or Notice of Electronic Filing to the prisoner litigant as soon as practicable.

Exhibit A

Correctional Facilities Participating in the Prisoner Electronic Filing Program:

- Carson City Correctional Facility, 10274 Boyer Road, Carson City, MI 48811
- St. Louis Correctional Facility, 8585 N. Croswell Road, St. Louis, MI 48880

AO No. 2016-4 — Adoption of Administrative Order to Expedite Disposition of Pending Probate Appeals in Circuit Court

[Entered November 23, 2016.]

Expedited Consideration of Probate Appeals in Circuit Court

2016 PA 186 provides that all final orders issued by the probate court are appealable to the Court of Appeals beginning September 27, 2016. To facilitate disposition of the appeals of orders pending in the circuit court on September 27, 2016, each circuit judge is directed to:

(1) Insofar as possible, expedite the consideration of pending appeals from orders of the probate court; and

(2) On March 1, 2017, and every 6 months thereafter, file a report with the State Court Administrator listing each such appeal that remains pending, including a statement of the reasons the appeal has not been concluded.

AO No. 2016-5 — Adoption of New Antinepotism Policy and Rescission of AO No. 1996-11

[Entered December 7, 2016; effective January 1, 2017, except as otherwise provided.]

On order of the Court, notice of the proposed new antinepotism order and an opportunity for comment in writing and at a public hearing having been provided, and consideration having been given to the comments received, Administrative Order No. 2016-5 is adopted and replaces Administrative Order No. 1996-11, which is rescinded, effective January 1, 2017.

Administrative Order No. 2016-5

Antinepotism Order

1. *Policy*. All courts in Michigan are committed to make all business decisions – including decisions regarding employment, contracting with vendors, and selecting interns – on the basis of qualifications and merit, and to avoid circumstances in which the appearance of impropriety or possibility of favoritism exist. On the basis of this policy, the following situations are prohibited:

(a) A superior-subordinate relationship existing at or developing after the time of employment between any related employees;

(b) A related chief judge and a court administrator working in the same court, regardless of whether there is a superior-subordinate relationship;

(c) Except as waived under this order, a related judge and court employee working in the same court.

All other relatives of court personnel who meet established requirements for job vacancies, court contract, or internship opportunities based on their qualifications and performance are eligible for judiciary employment, contracts, or internships in the same court. But advocacy of one relative on behalf of the other is prohibited in all circumstances.

2. *Definitions*. For purposes of this order, the following definitions apply:

(a) "Relative" includes spouse, child, parent, brother, sister, grandparent, grandchild, first cousin, uncle, aunt, niece, nephew, brother-in-law, sister-in-law, daughter-in-law, son-in-law, mother-in-law, and father-in-law, whether natural, adopted, step or foster. The term also includes same-sex or different-sex individuals who have a relationship of a romantic, intimate, committed, or dating nature, which relationship arises after the effective date of this policy. The definition of relative does not include two related judges who are elected to or appointed to serve in the same court.

(b) "Court Administrator" includes the highest level of administrator, clerk, or director of the court who functions under the general direction of the chief justice or chief judge, including but not limited to state court administrator, circuit court administrator, friend of the court, probate

court administrator, juvenile court administrator, probate register and district court administrator/ clerk.

(c) A "superior-subordinate relationship" is one in which one employee is the direct supervisor of the other employee.

(d) An intern is a student or trainee who works for the court, with or without pay, to gain work experience.

(e) A vendor is an individual or someone appearing on behalf of a corporation or other entity that offers to provide or provides goods or services to the court.

3. *Application*. This policy applies to all applicants for employment, as well as all full-time and part-time employees, temporary employees, and contractual employees, including independent contractors, interns, vendors, and personal service contracts.

4. *Affected Employees*. No person shall be transferred, promoted, or rehired following separation in a position that would create a nepotic relationship in violation of this policy.

5. *Collective Bargaining Agreements*. After the date this order enters, chief judges and court administrators are prohibited from entering into collective bargaining agreements inconsistent with this policy.

6. *Conflicts; Waiver*. The chief judge of a court shall resolve any employment situations that conflict with or would conflict with this policy, unless the conflict involves a relative of the chief judge. In such a situation, the State Court Administrator shall resolve the issue.

In making a hiring decision, a chief judge (or the State Court Administrator, if the chief judge of a court is a relative of the prospective employee) may waive the prohibition in Paragraph 1(c) if the following requirements are met:

(a) The position for which the waiver is sought must have been announced or advertised to the public in the same manner and for the same duration as other vacancies within the court.

(b) The prospective employee's judge relative cannot have participated in any way in the selection process.

(c) Other qualified applicants must have been considered.

(d) Selection of a candidate who is related to a judge must have been based on merit and qualifications, including evidence that the candidate meets the minimum requirements for the position.

(e) The chief judge (or the State Court Administrator, if applicable) completes and files with the State Court Administrative Office a form approved by the State Court Administrative Office in which the chief judge affirms that the court has followed this procedure.

If an employee is employed by a court and a relative of the employee subsequently becomes a judge in that court, the prohibition does not apply as long as the judge is not in a superior-subordinate position with the employee and as long as the employee retains the current employment status. If the employee seeks a different position, a court may seek a waiver only if it complies with the waiver procedure outlined above.

In making a decision about a waiver, the chief judge or State Court Administrator must determine whether the requirements listed above have been met, and whether such employment would create an appearance of impropriety or possibility of favoritism.

A decision rendered by a chief judge or the State Court Administrator under this order is not appealable or otherwise subject to review.

7. *Chief Judge Appointments*. Nothing in this policy prohibits the Supreme Court from selecting any judge as a chief judge of a court. If such selection occurs, and such selection creates a nepotic relationship, the putative chief judge shall provide to the Court, and the Court shall approve, an alternative means by which the relative of the chief judge shall be supervised.

8. *No new rights created*. Adoption of this policy creates no new rights for employees or prospective employees.

9. *Grandfather clause*. This policy shall not apply to any person who is an employee of a court on the date this order enters. However, from the date this order enters, no person may be transferred, promoted, or enter into a nepotic relationship in violation of this policy, except as provided herein.

AO No. 2017-1 — Adjustment of Discipline Portion of State Bar of Michigan Dues

[Entered July 12, 2017.]

In light of an attorney discipline system reserve of about $5 million, the Court lowered the discipline portion of the State Bar of Michigan annual dues from $120 to $110 (in 2011) and then to $90 (in 2014), intending that those reserve funds be used to offset annual operating expenses until the fund was reduced to a more reasonable level. With the reserve now projected to be approximately $1.86 million by the end of fiscal year 2016-2017, the Court has determined that bar dues should be restored, albeit in a phased-in fashion.

Therefore, on order of the Court, the amount of discipline dues is increased to $105 in the 2017-18 fiscal year, and further increased to $120 in the 2018-19 fiscal year, unless otherwise ordered by the Court. These changes will be reflected in the dues notices that are communicated to all bar members under Rule 4 of the Rules Concerning the State Bar.

AO No. 2017-2 — Adoption of Concurrent Jurisdiction Plan for the 19th Circuit Court, the 85th District Court, and the Benzie and Manistee County Probate Courts

[Entered September 20, 2017.]

Administrative Order No. 2003-1 and MCL 600.401 *et seq*. authorize Michigan trial courts to adopt concurrent jurisdiction plans within a county or judicial circuit, subject to approval of the Court.

The Court hereby approves adoption of the following concurrent jurisdiction plan effective immediately:

- The 19th Circuit Court, the 85th District Court, and the Benzie and Manistee County Probate Courts.

The plan shall remain on file with the state court administrator.

Amendments to concurrent jurisdiction plans may be implemented by local administrative order pursuant to MCR 8.112. Plan amendments shall conform to the requirements of Administrative Order No. 2003-1 and MCL 600.401 *et seq*.

AO No. 2017-3 — Merger of the State Appellate Defender Office (SADO) and Michigan Appellate Assigned Counsel System (MAACS)

[Entered November 15, 2017.]

Michigan's Appellate Defender Act, 1978 PA 620, established an Appellate Defender Commission to oversee a system of criminal appellate defense services for indigents. The Act provides in part that "[t]he appointment of criminal appellate defense services for indigents shall be made by the trial court from the roster provided by the commission or shall be referred to the office of the state appellate defender." MCL 780.712(6).

In Administrative Order No. 1981-7, this Court directed the Commission to "establish an Appellate Assigned Counsel Administrator's Office which shall be coordinated with but separate from the State Appellate Defender Office." The office was "to compile and maintain a statewide roster of attorneys eligible and willing to accept criminal appellate defense assignments," and the Court approved regulations to govern both the appointment process and the assigned counsel roster. In 1985, however, the Court determined that under the Appellate Defender Act, "the regulations governing a system for appointment of appellate counsel for indigents in criminal cases" should fall to "the Appellate Defender Commission and not to this Court." See Administrative Order No. 1985-3. See also Administrative Order No. 1989-3. The same year, the Michigan Appellate Assigned Counsel System (MAACS) began operating as an independent state agency under regulations adopted by the Commission.

In 2014, at the request of the Appellate Defender Commission, the Court ordered an operational merger of MAACS with the State Appellate Defender Office (SADO) under the management of the State Appellate Defender "to promote efficiency and improve the administration of assigned appellate counsel for indigent defendants." Administrative Order No. 2014-18. The Court directed the Commission "to review operations of the MAACS and submit a proposed administrative order that reflects the consolidation of the two offices and incorporates proposed updates or revisions that the commission recommends."

The Commission has overseen the merger of SADO and MAACS and conducted an exhaustive review of operations to improve indigent criminal appellants' access to competent counsel with shared resources and expertise. As part of that review, the Commission has monitored a pilot project approved by the Court to "assess the feasibility, costs, and benefits associated with structural reforms" including the regional consolidation of trial court assignment lists, the voluntary implementation of a uniform attorney fee policy, the trial courts' delegation of certain administrative responsibilities to MAACS, the pre-screening of counsel, and the electronic transfer of documents related to the appointment process. See Administrative Order No. 2015-9. The Commission reports that these reforms have improved the speed and efficiency of the assignment process as well as the quality of assigned appellate representation, and have been well received by courts and counsel alike.

Therefore, at the request of the Appellate Defender Commission, the Court orders that the Commission shall remain responsible for enacting regulations to govern the MAACS roster and the selection of felony appellate assigned counsel, including SADO's appropriate share of appellate appointments under MCL 780.716(c). The Commission may approve policies to

facilitate the regional consolidation of appellate assignment lists for private assigned counsel, including a voluntary attorney fee and expense policy for participating trial courts.

Trial courts shall address all requests for the appointment of felony appellate counsel under the regulations and procedures approved by the Commission and in conformity with applicable court rules. The Court has reviewed the regulations adopted by the Commission on September 20, 2017, and directs the Commission to notify the Court of any updates or changes to these regulations.

This Order supersedes Administrative Orders 1981-7, 1985-3, and 1989-3.

AO No. 2018-1 — Adoption of Concurrent Jurisdiction Plan for the 34th Circuit Court, the 82nd District Court, the Ogemaw and Roscommon County Probate Courts

[Entered March 14, 2018.]

Administrative Order No. 2003-1 and MCL 600.401 *et seq*. authorize Michigan trial courts to adopt concurrent jurisdiction plans within a county or judicial circuit, subject to approval of the Court.

The Court hereby approves adoption of the following concurrent jurisdiction plan, effective immediately:

• The 34th Circuit Court, the 82nd District Court, and the Ogemaw County and Roscommon County Probate Courts.

The plan shall remain on file with the state court administrator.

Amendments to concurrent jurisdiction plans may be implemented by local administrative order pursuant to MCR 8.112. Plan amendments shall conform to the requirements of Administrative Order No. 2003-1 and MCL 600.401 *et seq*.

AO No. 2018-2 — Adoption of Concurrent Jurisdiction Plan for the 8th Circuit Court, the 64th District Court, the Ionia and Montcalm County Probate Courts

[Entered May 16, 2018.]

Administrative Order No. 2003-1 and MCL 600.401 *et seq*. authorize Michigan trial courts to adopt concurrent jurisdiction plans within a county or judicial circuit, subject to approval of the Court.

The Court hereby approves adoption of the following concurrent jurisdiction plan, effective immediately:

• The 8th Circuit Court, the 64th District Court, and the Ionia County and Montcalm County Probate Courts.

The plan shall remain on file with the state court administrator.

Amendments to concurrent jurisdiction plans may be implemented by local administrative order pursuant to MCR 8.112. Plan amendments shall conform to the requirements of Administrative Order No. 2003-1 and MCL 600.401 *et seq*.

AO No. 2019-1 — Establishment of Court Security Committees

[Entered March 13, 2019.]

The issue of courthouse security is of vital importance to ensure the safety of the public, litigants, and the judicial employees of this state. Therefore, it is ordered that each chief judge or, in any facility with multiple chief judges, one chief judge as designated by consensus of the chief judges, establish a standing courthouse security committee to be chaired by the chief judge or his/her designee. The members of the committee shall include representatives of the court's funding unit, local law enforcement, the Clerk of Court, and other facility stakeholders. The courthouse security committee is responsible for creating and promoting policies and procedures to improve the safety and security of the courthouse.

Each court shall submit to the State Court Administrative Office (SCAO) a local administrative order that establishes the courthouse security committee in accordance with the model local administrative order developed by the SCAO. Courts with multiple chief judges in one location and courts that have multiple locations must follow the instructions provided by the SCAO for establishing the standing courthouse security committee. In developing the security committee, courts are directed to work with local funding units and to collaborate with other entities in shared facilities, where appropriate.

Proposed local administrative orders must be submitted to the SCAO no later than September 1, 2019.

AO No. 2019-2 — Requirements for E-Filing Access Plans

[Entered June 5, 2019.]

On order of the Court, notice of the proposed changes and an opportunity for comment in writing and at a public hearing having been provided, and consideration having been given to the comments received, the following addition of Administrative Order No. 2019-2 is adopted, effective September 1, 2019.

AO No. 2019-2 — Trial Court Requirements for Providing Meaningful Access to the Court for Mandated Electronic Filers

To ensure that those individuals required to electronically file court documents have meaningful access to Michigan courts, the Michigan Supreme Court adopts this order requiring courts that seek permission to mandate that all litigants e-File to first submit an e-Filing Access Plan for approval by the State Court Administrative Office.

Each plan must conform to the model promulgated by the State Court Administrator and ensure access to at least one computer workstation per county. The plan shall be submitted to and approved by the State Court Administrative Office as a local administrative order under MCR 8.112. The State Court Administrative Office may revoke approval of an e-Filing Access Plan due to litigant grievances.

AO No. 2019-3 — Adoption of Concurrent Jurisdiction Plan for the 41st Circuit Court, the 95A District Court, the 95B District Court, and the Dickinson, Iron, and Menominee County Probate Courts

[Entered August 14, 2019.]

Administrative Order No. 2003-1 and MCL 600.401 *et seq*. authorize Michigan trial courts to adopt concurrent jurisdiction plans within a county or judicial circuit, subject to approval of the Court.

The Court hereby rescinds Administrative Order No. 2005-1 and approves adoption of the following concurrent jurisdiction plan, effective immediately:

• The 41st Circuit Court, the 95A District Court, the 95B District Court, and the Dickinson, Iron, and Menominee County Probate Courts.

The plan shall remain on file with the State Court Administrator.

Amendments to concurrent jurisdiction plans may be implemented by local administrative order pursuant to MCR 8.112. Plan amendments shall conform to the requirements of Administrative Order No. 2003-1 and MCL 600.401 *et seq*.

AO No. 2019-4 — Electronic Filing in the 3rd, 6th, 13th, 20th, and 16th Circuit Courts

[Entered October 23, 2019.]

On order of the Court, the 3rd, 6th, 13th, 16th, and 20th Circuit Courts are authorized to continue their e-Filing programs in accordance with this order while the State Court Administrative Office develops and implements a statewide e-Filing system (known as MiFILE). This order rescinds and replaces Michigan Supreme Court Administrative Orders 2007-3 (Oakland County), 2010-4 (the 13th Judicial Circuit), 2010-6 (the 16th Judicial Circuit), 2011-1 (the 3rd Circuit Court), and 2011-4 (Ottawa County).

1. Construction.

Until each court is fully implemented on MiFILE, each court shall operate its current e-Filing system in accordance with this order and Michigan Court Rules 1.109(G) and 8.119. This includes that each court may continue to exercise its discretion to grant necessary relief to avoid the consequences of error so as not to affect the substantial rights of the parties until the court is fully implemented on MiFILE. The Michigan Rules of Court govern all other aspects of the cases that are required to be filed electronically.

2. Participation in E-Filing.

a. Mandatory Participation.

Participation in the e-Filing system is mandatory for the case types in place and for parties currently required to e-File in each court, as of the date of this order. Each court shall post on its website and in the clerk's office a list of the case types, mandated filers, and types of filings as specified in State Court Administrative Office Memo 2019-4. The State Court Administrative Office shall also maintain this information on its One Court of Justice website.

On or before the date a pilot court is transitioned to MiFILE, the court must have in place an approved e-Filing access plan as required by Administrative Order 2019-2. Approval of the e-Filing plan means that the court has demonstrated full access for self-represented litigants. Nothing in this order precludes a court from implementing an e-Filing access plan before full implementation of MiFILE.

b. Exemption from E-Filing Participation.

Circumstances may arise that will prevent a party from e-Filing where e-Filing is mandated by these courts. A filer may file a request for exemption from e-Filing under MCR 1.109(G)(3). The court shall consider those requests with factors described in MCR 1.109(G)(3)(g)-(h) and shall comply with all other requirements in the rule. The clerk of the court must promptly mail or hand-deliver the order of exemption to the individual.

3. E-Filing Rules, Standards, and Local Requirements

a. Court Responsibility.

With the exception of the e-Filing requirements in the Michigan Court Rules and any e-Filing standards prescribed by the State Court Administrative Office, each court will comply with the requirements of this order and, to the extent possible, continue to accept and process e-Filed documents for the case types, case initiation procedures, subsequent filing procedures, and filer requirements in place in each court as of the date of this order. Each court shall make this information readily available to filers from the court's website and at the clerk's office.

b. Filer Responsibility.

With the exception of the e-Filing requirements in the Michigan Court Rules and any e-Filing standards prescribed by the State Court Administrative Office, filers will comply with the requirements of this order and the e-Filing procedures and requirements in place in each court as of the date of this order.

4. Personal Identifying Information

a. With respect to any document submitted through the e-Filing system, the following requirements for personal identifying information apply:

i. Social Security Numbers: Pursuant to Administrative Order No. 2006-2, full social security numbers shall not be included in public documents. If an individual's social security number must be referenced in a public document, only the last four digits of that number may be used, with the number specified in the following format: XXX-XX-1234.

ii. Names of Minor Children: Unless named as a party or otherwise required by statute, court rule, or administrative order, the identity of minor children shall not be included in a public document. If a non-party minor child must be mentioned, only the initials of that child's name may be used.

iii. Dates of Birth: Except as required by statute, court rule, or administrative order, an individual's full birth date shall not be included in a public document. If an individual's date of birth must be referenced in a public document, only the year may be used, with the date specified in the following format: XX/XX/1998.

iv. Financial Account Numbers: Full financial account numbers shall not be included in public documents unless required by statute, court rule, or other authority. If a financial account number must be referenced in a public document, only the last four digits of these numbers may be used, with the number specified in the following format: XXXXX1234.

v. Driver's License Numbers and State-Issued Personal Identification Card Numbers: A person's full driver's license number and state issued personal identification number shall not be included in a public document. If an individual's driver's license number or state-issued personal identification card number must be referenced in a public document, only the last four digits of that number may be used, with the number specified in the following format: X-XXX-XXX-XX1-234.

vi. Home Addresses: With the exception of a self-represented party, full home addresses shall not be included in e-Filings. If an individual's home address must be referenced in an e-Filing, only the city and state should be used. For a party whose address has been made confidential by court order pursuant to MCR 3.203(F), the alternate address shall be treated as specified above.

b. Parties wanting to file a pleading containing a complete personal data identifier as listed above may:

i. Pursuant to and in accordance with the MCR and the LAO, file a motion to file a traditional paper version of the document under seal. The court, in granting the motion to file the document under seal, may still require that an e-Filing that does not reveal the complete personal data identifier be filed for the public files; or,

ii. Pursuant to and in accordance with the applicable MCR and LAO, obtain a court order to file a traditional paper reference list under seal. The reference list shall contain the complete personal data identifiers and the redacted identifiers used in the e-Filing. All references in the case to the redacted identifiers included in the reference list shall be construed to refer to the corresponding complete personal data identifiers. The reference list must be filed under seal, and may be amended as of right.

c. Parties should exercise caution when filing papers that contain private or confidential information, including, but not limited to, the information covered above and listed below:

i. Medical records, treatment, and diagnosis;

ii. Employment history;

iii. Individual financial information;

iv. Insurance information;

v. Proprietary or trade secret information;

vi. Information regarding an individual's cooperation with the government; and

vii. Personal information regarding the victim of any criminal activity.

d. These rules are designed to protect the private personal identifiers and information of individuals involved or referenced in actions before the court. Nothing in these rules should be interpreted as authority for counsel or a self-represented litigant to deny discovery to the opposing party.

e. These rules regarding personal information will remain in effect until they are superseded by amendments of MCR 1.109, MCR 8.119, and Administrative Order 1999-4. Those amendments, adopted by the Court on May 22, 2019, are effective on January 1, 2021.

AO No. 2019-5 — Adoption of Concurrent Jurisdiction Plan for the 17th Circuit Court and the Kent County Probate Court

[Entered October 23, 2019.]

Administrative Order No. 2003-1 and MCL 600.401 *et seq*. authorize Michigan trial courts to adopt concurrent jurisdiction plans within a county or judicial circuit, subject to approval of the Court.

The Court hereby approves adoption of the following concurrent jurisdiction plan, effective immediately:

• The 17th Circuit Court and the Kent County Probate Court.

The plan shall remain on file with the State Court Administrator.

Amendments to concurrent jurisdiction plans may be implemented by local administrative order pursuant to MCR 8.112. Plan amendments shall conform to the requirements of Administrative Order No. 2003-1 and MCL 600.401 *et seq*.

AO No. 2019-6 — Briefs Formatted for Optimized Reading on Electronic Displays

[Entered October 23, 2019.]

On order of the Court, effective immediately, the Michigan Supreme Court and Court of Appeals are authorized to implement a pilot program in which lawyers and self-represented parties may file briefs that are formatted, within the parameters set forth below, to be more readable on electronic displays, such as computer monitors, laptops, and tablets, instead of complying with the current formatting rules. This pilot program will run for two years from the effective date above, after which the Courts will make recommendations for future practice. The Courts have the discretion to terminate the pilot program early.

(A) Application.

(1) This pilot program shall apply to the length and formatting of briefs, applications for leave to appeal, responses, replies, and other pleadings (collectively "briefs") that are required to be filed in conformity with MCR 7.212 or 7.312.

(2) Filing briefs under the pilot program is optional. Briefs filed under the pilot program must include the words, in bold, "Filed under AO 2019-6" on the caption of the brief and must comply with the following requirements in place of MCR 7.212(B) or 7.312(A). Any requirements not addressed by subsection (B) of this administrative order shall be governed by MCR 7.212 or 7.312.

(B) Length and Format of Briefs.

(1) Length. Unless otherwise lengthened or shortened by the Court of Appeals on motion, the principal briefs of the appellant(s) and appellee(s) and the briefs of amici curiae shall be no longer than 16,000 words, and the reply briefs of the appellant shall be no longer than 3,200 words. Briefs shall contain pagination as specified by MCR 7.212(B). The title page, table of contents, index of authorities, statement of the basis of jurisdiction, statement of the questions involved, signature block and listing of counsel at the end of the brief, certificate of compliance, proof of service, exhibits, and appendices do not count toward the word limit. Footnotes within the non-excluded sections also count toward the word total, as do any words contained in embedded graphics.

Each brief shall contain a certificate of compliance after the signature block, signed by the attorney or self-represented party, stating the number of countable words in the document and the typeface and size used. The person preparing the certificate may rely on the word count of the word-processing system used to prepare the document.

(2) Font. The body text of briefs shall be set in a proportional font no smaller than 12 point. Narrow-style or compressed fonts and condensed spacing are prohibited. Other fonts may be used in captions and headings.

(3) Line Spacing. The line spacing of all text must be set between 133% and 150% of the point size of the text. For example, text set in a 12-point font must be set with line spacing between 16 and 18 points. There shall be a minimum of 6 points of additional spacing between paragraphs and around headings.

(4) Line Length and Margins. The left and right side margins may not be less than 1.5 inches each. This does not apply to captions or headings, which may be formatted with 1-inch side margins.

(5) Electronic format. Briefs must be filed in a text-searchable PDF format that is created electronically by a word processor or similar program. An unsearchable image file of a scanned document is not acceptable.

The electronic brief must be bookmarked to include, at a minimum, all major divisions and headings, and should track the table of contents.

Page numbers in the electronic brief must correspond to the PDF page numbers.

AO No. 2020-1 — In re Emergency Procedures in Court Facilities

[Entered March 15, 2020.]

Governor Whitmer having declared a state of emergency in response to the serious health risks posed by COVID-19, trial courts are authorized to implement emergency measures to reduce the risk of transmission of the virus and provide the greatest protection possible to those who work and have business in our courts. In support of this goal, on order of the Court, each trial court judge may implement emergency measures regarding court operations to enable continued service while also mitigating the risk of further transmission of the virus. Subject to constitutional and statutory limitations, such emergency measures may include:

1. Trial courts may adjourn any civil matters and any criminal matters where the defendant is not in custody; where a criminal defendant is in custody, trial courts should expand the use of videoconferencing when the defendant consents;

2. In civil cases, trial courts should maximize the use of technology to enable and/or require parties to participate remotely. Any fees currently charged to allow parties to participate remotely should be waived;

3. Trial courts may reduce the number of cases set to be heard at any given time to limit the number of people gathered in entranceways, lobbies, corridors, or courtrooms;

4. Trial courts should maximize the use of technology to facilitate electronic filing and service to reduce the need for in-person filing and service;

5. Trial courts should, wherever possible, waive strict adherence to any adjournment rules or policies and administrative and procedural time requirements;

6. Trial courts should coordinate with the local probation departments to allow for discretion in the monitoring of probationers' ability to comply with conditions without the need for amended orders of probation;

7. Trial courts should take any other reasonable measures to avoid exposing participants in court proceedings, court employees, and the general public to the COVID-19 virus;

8. In addition to giving consideration to other obligations imposed by law, trial courts are urged to take into careful consideration public health factors arising out of the present state of emergency: a) in making pretrial release decisions, including in determining any conditions of release, b) in determining any conditions of probation;

9. If a Chief Judge or the court's funding unit decides to close the court building to the public, the Chief Judge shall provide SCAO with the court's plan to continue to provide critical services, including handling emergency matters.

The emergency measures authorized in this order are effective until close of business Friday, April 3, 2020, or as provided by subsequent order.

During the state of emergency, trial courts should be mindful that taking reasonable steps to protect the public is more important than strict adherence to normal operating procedures or time guidelines standards. The Court encourages trial courts to cooperate as much as possible with the efforts of the Governor and other state and local officials to mitigate the spread of COVID-19, consistent with our duty to provide essential court services, protect public safety, and remain accessible to the public.

It is so ordered, by unanimous consent.

AO No. 2020-2 — [Rescinded] Order Limiting Activities/Assemblages in Court Facilities

[Entered March 18, 2020; rescinded by AO No. 2020-19, entered June 26, 2020.]

To confront this unprecedented public health crisis, Michigan trial courts must ensure that court facilities are taking every measure possible to protect the public and court personnel. In EO 2020-11, Governor Whitmer ordered restrictions on assemblages to no more than 50 people. President Trump has issued guidelines urging the public to avoid assemblages of more than 10 people and practice social distancing.

Pursuant to 1963 Const, Art VI, §4, which provides for the Supreme Court's general superintending control over all state courts, **trial courts are ordered to limit access to courtrooms and other spaces to no more than 10 persons, including staff, and to practice social distancing and limit court activity to only essential functions**, which include the following:

I. **CIRCUIT COURTS**

A. **Criminal Proceedings**

1. To the extent possible and consistent with MCR 6.006 and a defendant's constitutional and statutory rights, courts should conduct the following hearings remotely using two-way interactive video technology or other remote participation tools:

a. For in-custody criminal defendants, pleas, sentencings, arraignments on the information under MCR 6.113 (unless waived), probation violation arraignments under MCR 6.445(B), and emergency motions regarding bond. If the defendant is not in custody, these matters should be adjourned.

b. Processing of criminal extradition matters for in-custody defendants pursuant to MCL 780.9. The issue of bail should be addressed for those eligible defendants as provided in MCL 780.14.

2. All other criminal matters, including all non-emergency matters where the defendant is not in custody, shall be adjourned. All criminal jury trials shall be adjourned until after April 3, 2020.

3. With regard to matters involving forensic evaluations of juveniles or adults for competence to stand trial, competence to waive Miranda rights, and criminal responsibility, courts shall permit the use of video technology. The evaluator shall note in the forensic opinion whether the use of video technology impeded an impartial and accurate clinical assessment, and, if so, notify the court that an in-person evaluation must be scheduled.

B. **General Civil and Business Court Cases**

1. Infectious disease (ID) proceedings under MCL 333.5201 *et seq*.

2. Limited proceedings regarding personal protection orders (PPOs):

a. Review and determination of requests for personal protection orders (PPO) under MCL 600.2950 and 600.2950a;

b. Review and determination of emergency request to extend a PPO pursuant to MCR 3.707(B);

c. Initial hearing for in-custody respondent arrested for alleged violation of PPO to allow court to address issue of bond under MCL 764.15b.

3. All other civil and business court matters, including trials, must be conducted remotely using two-way interactive video technology or other remote participation tools or they must be adjourned until after April 3, 2020.

C. **Family Court Matters**

1. Review and determine requests for ex parte relief in domestic relations proceedings necessary for the safety and well-being of a litigant and/or children under MCR 3.207.

2. Safe delivery of newborn child (NB) proceedings under MCL 712.1 *et seq*.

3. Waiver for parental consent (PW) proceedings under the Parental Rights Restoration Act, MCL 722.901, *et seq*.

4. Juvenile delinquency proceedings:

a. hearings required within 24 hours of a juvenile's apprehension or detention pursuant to MCR 3.935 and MCR 3.944

b. arraignments for in-custody designated and adult court waiver proceedings pursuant to MCR 3.951 (designated) and MCR 3.950 (waiver, circuit court arraignment).

5. Child protective proceedings:

a. hearings required within 24 hours of taking a child into protective custody pursuant to MCR 3.965 and MCR 3.974;

b. permanency planning hearings that are required pursuant to MCL 712A.19a.

6. Friend of the court arraignments on bench warrants pursuant to MCR 3.221(B). An arrested individual must be promptly arraigned if the underlying contempt hearing cannot be held within 48 hours. In addition, Friend of the Court offices should set priorities to continue the following services:

a. Courts should continue to make staff available to record child support orders in MiCSES as long as there are unrecorded orders so the SDU can send out child support payments.

b. To the extent it is safely possible, courts should continue to make staff available to implement income withholding notices so payments can be deducted and paid automatically. To the extent it is not safely possible to make staff available for this purpose, most income withholding notices should be issued automatically when there is a New Hire Directory match.

c. To the extent it is safely possible, courts should continue to make staff available to implement national medical support notices to allow health care coverage to be implemented as quickly as possible.

7. All other family court matters, including trials, must be conducted remotely using two-way interactive video technology or other remote participation tools or they must be adjourned until after April 3, 2020.

D. Other emergency motions in the discretion of the court.

II. **DISTRICT COURTS**

A. **Criminal Matters** – To the extent possible and consistent with MCR 6.006 and a defendant's constitutional and statutory rights, courts should conduct the following hearings remotely using two-way interactive video technology or other remote participation tools:

1. For in-custody criminal defendants, pleas, sentencings, arraignments under MCR 6.104, bond motions under MCR 6.106 or MCR 6.108, probable cause conferences under MCR 6.108, and preliminary examinations under MCR 6.110.

2. Processing of criminal extradition matters for in-custody defendants pursuant to MCL 780.9. The issue of bail should be addressed for those eligible defendants as provided in MCL 780.14.

3. With regard to matters involving forensic evaluations of juveniles or adults for competence to stand trial, competence to waive Miranda rights, and criminal responsibility, courts shall permit the use of video technology. The evaluator shall note in the forensic opinion whether the use of video technology impeded an impartial and accurate clinical assessment, and, if so, notify the court that an in-person evaluation must be scheduled.

4. Review and determination of requests for search warrants should continue pursuant to MCL 780.651.

5. Review and issuance of arrest warrants pursuant to MCL 764.1a for crimes that present a danger to public safety.

6. All other criminal matters, including all non-emergency matters where the defendant is not in custody, shall be adjourned. All criminal jury trials shall be adjourned until after April 3, 2020.

B. **Civil Matters** – All matters must be conducted remotely using twoway interactive video technology or other remote participation tools or they must be adjourned until after April 3, 2020.

C. **Traffic Matters** – All civil infractions, including trials, must be conducted remotely using two-way interactive video technology or other remote participation tools or they must be adjourned until after April 3, 2020. No bench warrants shall be issued for individuals failing to appear during the state of emergency.

D. Other emergency motions in the discretion of the court.

III. **PROBATE COURTS**

A. Proceedings regarding involuntary mental health treatment under Chapter 4 of the Mental Health Code, including the following:

1. Pick-up / transportation orders pursuant to MCL 330.1436 and 330.1426;

2. Petitions for initial or continuing involuntary hospitalization pursuant to MCL 330.1472a.

B. Petitions for immediate funeral / burial arrangements pursuant to MCL 700.3206 and 700.3614.

C. Emergency petitions filed by Adult Protective Services under MCL 400.11b(6).

D. Emergency petitions for guardianship pursuant to MCL 700.5312.

E. Emergency conservatorships and other protective orders pursuant to MCL 700.5407 in those cases with immediate pending evictions/foreclosures/shut off notices.

F. Estates where immediate access to residence is necessary under MCL 700.5407.

G. Ex-parte requests for temporary restraining orders.

H. With regard to proceedings involving mental health and guardianship matters, courts shall permit the use of video technology unless a health and safety issue requires an in-person appearance.

I. All other probate court matters must be conducted remotely using two-way interactive video technology or other remote participation tools or they must be adjourned until after April 3, 2020.

J. Other emergency motions in the discretion of the court.

Further, the court must work with the county clerk to ensure that if in-person filing of court pleadings is limited due to the state of emergency, court pleadings will continue to be accepted for filing by other means, such as U.S. mail, e-Filing, email, or facsimile.

Further, with regard to all courts, all matters that are resolved by agreement of the parties and with approval of the court that do not involve any appearance at the court may proceed during the pendency of this order. Such agreement may be documented using technology as authorized in

AO No. 2020-1, dated March 15, 2020. This authority does not extend to any matters suspended by executive action of the Governor.

This order shall remain in effect until the close of business Friday, April 3, 2020, or as provided by subsequent order.

AO No. 2020-3 — [Rescinded] Order Extending Deadlines for Commencement of Actions

[Entered March 23, 2020, as amended by order entered May 1, 2020; rescinded effective June 20, 2020, by order entered on June 12, 2020.]

In light of the continuing COVID-19 pandemic and to ensure continued access to courts, the Court orders that:

For all deadlines applicable to the commencement of all civil and probate casetypes, including but not limited to the deadline for the initial filing of a pleading under MCR 2.110 or a motion raising a defense or an objection to an initial pleading under MCR 2.116, and any statutory prerequisites to the filing of such a pleading or motion, any day that falls during the state of emergency declared by the Governor related to COVID-19 is not included for purposes of MCR 1.108(1).

This order is intended to extend all deadlines pertaining to case initiation and the filing of initial responsive pleadings in civil and probate matters during the state of emergency declared by the Governor related to COVID-19. Nothing in this order precludes a court from ordering an expedited response to a complaint or motion in order to hear and resolve an emergency matter requiring immediate attention. We continue to encourage courts to conduct hearings remotely using two-way interactive video technology or other remote participation tools whenever possible.

This order in no way prohibits or restricts a litigant from commencing a proceeding whenever the litigant chooses, nor does it suspend or toll any time period that must elapse before the commencement of an action or proceeding. Courts must have a system in place to allow filings without face-to-face contact to ensure that routine matters, such as filing of estates in probate court and appointment of a personal representative in a decedent's estate, may occur without unnecessary delay and be disposed via electronic or other means.

AO No. 2020-4 — [Rescinded] Order Suspending Filing Deadlines in the Michigan Supreme Court and Court of Appeals

[Entered March 26, 2020; rescinded by AO NO. 2020-16, entered June 3, 2020.]

The deadlines for all filings, jurisdictional and non-jurisdictional, in the Michigan Supreme Court and Court of Appeals are suspended as of March 24, 2020, the effective date of Executive Order 2020-21, and will be tolled until the expiration of EO 2020-21 or a subsequent EO that extends the period in which citizens are required to suspend activities that are not necessary to sustain or protect life. This AO gives filers the same number of days to submit their filings after the EO expires as they had before the suspension went into effect. For example, if the deadline for filing an application for leave to appeal with the Michigan Supreme Court is March 26, 2020, the filer would have three days after the EO expires to timely submit the application with the Court.

AO No. 2020-5 — Order Extending Administrative Order Nos. 2020-1 and 2020-2 Until at Least April 14, 2020

[Entered March 27, 2020.]

In light of Governor Whitmer's Executive Order No. 2020-21 that temporarily suspends activities that are not necessary to sustain or protect life until at least April 13, 2020, at 11:59 pm, the Court directs that the expiration date of April 3, 2020, in Administrative Order Nos. 2020-1 and 2020-2 is extended until April 14, 2020, or as provided by further order of the Court.

AO No. 2020-6 — Order Expanding Authority for Judicial Officers to Conduct Proceedings Remotely

[Entered April 7, 2020.]

In response to the extraordinary and unprecedented events surrounding the COVID19 pandemic in Michigan, the Court has adopted a number of administrative orders authorizing courts to implement emergency measures to mitigate the transmission of the virus and provide the greatest protection possible to those who work and have business in our courts. During the past few weeks, Michigan's judges, court administrators, court staff, court clerks, attorneys, law enforcement officers, probation staff and many others who support our courts have continued to serve the public with courage and conviction and have shown they are up to the challenge of both limiting foot traffic in our courts while creatively adopting new business methods and implementing new technologies to conduct the court's business and ensure that our courts remain accessible to the public to the greatest extent possible during this crisis.

Although our highest priority during this crisis is for courts to continue to be vigilant and protect against further spread of the coronavirus, we must also continue to ensure that our courts operate as efficiently and effectively as possible under the circumstances, continue to ensure timely hearing and disposition of essential matters, and make our best efforts to provide timely justice in all other matters. The purpose of the order is to empower our courts and judges to meet this challenge by allowing them to use innovative ways to conduct court business remotely, including best practices as identified by the State Court Administrative Office.

On order of the Court, pursuant to 1963 Const, Art VI, Sec 4, which provides for the Supreme Court's general superintending control over all state courts, the Court authorizes judicial officers to conduct proceedings remotely (whether physically present in the courtroom or elsewhere) using two-way interactive videoconferencing technology or other remote participation tools under the following conditions:

• any such procedures must be consistent with a party's Constitutional rights;

• the procedure must enable confidential communication between a party and the party's counsel;

• access to the proceeding must be provided to the public either during the proceeding or immediately after via access to a video recording of the proceeding, unless the proceeding is closed or access would otherwise be limited by statute or rule;

• the procedure must enable the person conducting or administering the procedure to create a recording sufficient to enable a transcript to be produced subsequent to the activity.

While this order is in effect, and consistent with its provisions, all judges in Michigan are required to make a good faith effort to conduct proceedings remotely whenever possible. Although adjournments are permitted when necessary, courts are directed to implement measures to ensure all matters may proceed as expeditiously as possible under the circumstances, given the particular public health conditions in each locality and the technology resources and staffing

situations in place at each court.[1] The Michigan Judicial Institute will continue to provide instruction and other training materials on procedures to conduct remote hearings. Courts should also consult with their regional administrators in working toward this goal.

A judge who wishes to participate from a location other than the judge's courtroom shall do so only with the written permission of the court's chief judge (email is sufficient). The chief judge shall grant such permission whenever the circumstances warrant, unless the court does not have and is not able to obtain any equipment or licenses necessary for the court to operate remotely.

Judges who conduct remote proceedings must provide notice of the time and procedure for participating in the remote hearing, and verify that all participants are able to proceed in this manner. Judges who operate under this method must comply with any standards promulgated by the State Court Administrative Office for purposes of this order. Courts may only operate remotely as long as they can do so safely and consistent with the Governor's recent executive orders relating to the COVID-19 pandemic.

This order is effective during the period of the State of Emergency declared by Governor Whitmer under Executive Order 2020-33 or as further ordered by the Court.

[1]To the extent Administrative Order No. 2020-2 may be interpreted to require the adjournment of some matters, this order replaces that directive.

AO No. 2020-7 — Extension of Administrative Order Nos. 2020-1, 2020-2, and 2020-6

[Entered April 10, 2020.]

On order of the Court, in light of Executive Order 2020-33, Executive Order 2020-42 and Senate Concurrent Resolution 24, the expiration dates in Administrative Order Nos. 2020-1, 2020-2, and 2020-6 are extended through April 30, 2020, or until further order of the Court.

AO No. 2020-8 — Additional Verification Required for Landlord Tenant Cases

[Entered April 16, 2020.]

The federal Coronavirus Aid, Relief, and Economic Security Act ("CARES Act"), Public Law No. 116-136, imposes a moratorium, until July 25, 2020, on the filing of summary proceeding actions to recover possession of premises for nonpayment of rent that meet certain parameters.

Therefore, on order of the Court, pursuant to 1963 Const, Art VI, Sec 4, which provides for the Supreme Court's general superintending control over all state courts, a complainant who files a summary proceeding action before July 25, 2020 under MCR 4.201 for possession of premises for nonpayment of rent also must submit verification indicating whether the property is exempt from the moratorium provided for under the CARES Act. The verification shall be made on a SCAO-approved form.

This order is effective until July 25, 2020, or as further ordered by the Court.

AO No. 2020-9 — Temporary Amendments and Extensions Related to Continuing Work in Courts

[Entered April 17, 2020.]

On order of the Court, except as otherwise provided by this order, and consistent with Administrative Order No. 2020-6, courts (including judicial officers and staff), attorneys, parties, and other participants in the judicial system are expected to proceed with activities related to all pending legal proceedings to the greatest extent possible.

In pursuit of that goal, the following rules are temporarily amended to enable the work of the courts to continue while also complying with the restrictions on leaving home and accessing private facilities (such as office space) and public facilities including courthouses, post offices, and other common services pursuant to EO 2020-42 and 2020-36, and other executive orders that may be issued, during the state of emergency.

Rules Temporarily Amended During State of Emergency

During the state of emergency established by Governor Whitmer under Executive Order 2020-33, the following rules are temporarily amended:

MCR 2.002: Courts must enable a litigant who seeks a fee waiver to do so by an entirely electronic process.

MCR 2.107(C): Because people may not be physically present to receive mail at a particular location, all service of process under this rule must be performed using electronic means (e-Filing where available, email, or fax, where available) to the greatest extent possible. Email transmission does not require agreement by the other party(s) during the effective period of this order, but should otherwise comply as much as possible with the provisions of MCR 2.107(C)(4).

MCR 2.305, 2.506, 2.621(C), 9.112(D), 9.115(I)(1), 9.212: Subpoenas issued under these rules may require a party or witness to appear by telephone, by two-way interactive video technology, or by other remote participation tools.

MCR 3.904: Courts may use two-way videoconferencing technology or other remote participation tools where the court orders a more restrictive placement or more restrictive treatment.

Extension of Deadlines During Stay Home Stay Safe Order

Consistent with AO No. 2020-3 (excluding days in the State of Emergency in computing the deadline for case initiation filings) and AO No. 2020-4 (extending the filing deadlines in the Michigan Supreme Court and Court of Appeals for the period of the Executive Order 2020-21 and 2020-42), the following deadlines are likewise suspended as of March 24, 2020, the effective date of Executive Order 2020-21, and will be extended until the expiration of Executive Order 2020-42 or a subsequent Executive Order that extends the period in which citizens are required to suspend activities that are not necessary to sustain or protect life:

MCR 2.102(D): Expiration of summons.

MCR 2.614: A stay of proceedings to enforce judgment.

MCR 3.216(G)(3) and MCR 2.411(F)(4): Two-year period in which to complete advanced mediation training.

Postjudgment motions filed in the trial court as well as circuit court appeals and appeals of agency determinations.

This order is effective as provided herein or as otherwise provided by subsequent order of the Court.

AO No. 2020-10 — Delay of Jury Trials

[Entered April 23, 2020.]

On order of the Court, pursuant to 1963 Const, Art VI, §4, which provides for the Supreme Court's general superintending control over all state courts, all jury trials are delayed for a period of 60 days from the date of this administrative order (until June 22, 2020), or as otherwise provided for by local order, whichever date is later.

Further, the State Court Administrative Office is authorized to initiate pilot projects regarding practices related to how to conduct remote jury trials. The pilot courts will test and evaluate innovative jury procedures to allow for appropriate social distancing while also protecting the parties' Constitutional and statutory rights. After the pilot projects are complete, the State Court Administrative Office shall provide recommendations to assist all courts in providing jury trials that promote public health and safety as well as protect people's rights.

This order shall remain in effect through June 22, 2020, or until further order of the Court.

AO No. 2020-11 — Extension of Personal Protection Orders that Expire During the State of Emergency

[Entered April 27, 2020.]

During the continuing COVID-19 pandemic, the Michigan Supreme Court has directed courts to work to protect public health and mitigate the transmission of the coronavirus while also ensuring continued access to the judicial system for those who need it. Although electronic access to courts has increased dramatically over the last several weeks, most courts are currently operating with limited onsite staff. As a result, many interactions that would occur by face-to-face encounter have become impossible, including those that are geared toward protecting vulnerable individuals.

For that reason, on order of the Court, pursuant to 1963 Const, Art VI, §4, which provides for the Supreme Court's general superintending control over all state courts, any personal protection order that expires during the period from the date of entry of this administrative order through June 1, 2020, is automatically extended to July 21, 2020. A respondent who objects to the extension may file a motion to modify or terminate the personal protection order and request a hearing under MCR 3.707. For a hearing under this order, the court shall schedule the hearing and notify the parties at least 7 days before the date of the hearing by the means most likely to provide actual notice. The extension set forth in this order does not limit in any way a judge's authority and ability to hold a hearing on respondent's motion and determine whether the extension should continue or the personal protection order should be modified or terminated.

Nothing in this order prohibits a petitioner from consenting to termination of the personal protection order.

AO No. 2020-12 — Extension of Administrative Order Nos. 2020-1, 2020-2, 2020-6, and 2020-9

[Entered April 27, 2020.]

On order of the Court, pursuant to 1963 Const, Art VI, §4, which provides for the Supreme Court's general superintending control over all state courts, the expiration dates in Administrative Order Nos. 2020-1, 2020-2, 2020-6, and 2020-9 are extended until further order of the Court.

AO No. 2020-13 — Order Authorizing Courts to Collect Contact Information

[Entered April 29, 2020; language as amended by AO No. 2020-19, entered June 26, 2020.]

On order of the Court, in light of Administrative Order No. 2020-2, Administrative Order No. 2020-6, and Administrative Order No. 2020-9, and under 1963 Const, Art VI, Sec 4, which provides for the Supreme Court's general superintending control over all state courts, a court may collect contact information, including mobile phone number(s) and email address(es), from any party or witness to a case to facilitate scheduling of and participation in remote hearings or facilitate case processing. A court may collect the contact information using a SCAO-approved form. The form used under this administrative order to collect the information shall be confidential. An email address for an attorney must be the same address as the one on file with the State Bar of Michigan.

This order is effective until further order of the Court.

AO No. 2020-14 — Continued Status Quo Court Operations and Phased Return to Full Court Operations

[Entered May 6, 2020.]

The Michigan Supreme Court has made clear that during the health crisis relating to the coronavirus pandemic, courts must continue to conduct essential functions, and are expected to use their best efforts to provide timely justice in all other matters. To achieve this goal, the Court has authorized judicial officers to conduct proceedings remotely to the greatest extent possible, and several administrative orders have been adopted to help courts and litigants navigate more efficiently and effectively.

Keeping the public and court staff safe and reducing the risk of spreading the virus will remain a critical focus of our efforts. However, nearly two months after the first case of coronavirus was identified in Michigan, we don't know how long this effort will last. Moreover, the spread of the virus presents challenges that are different in each community as case counts rise in some areas and fall in others.

There is some consensus—nationally and locally—about the best way to approach returning to more normal work practices in a way that ensures access to necessary services while also protecting against the risk of further infection. This approach involves meeting various benchmarks based on local public health data as public facilities gradually phase in operations. Courts should consider expanding in person operations with diligent regard for health and safety practices as determined in consultation with local health officials and considering the capacity of the community's health system, and as approved by SCAO.

Therefore, on order of the Court, pursuant to 1963 Const, Art VI, Sec. 4, which provides for the Supreme Court's general superintending control over all state courts, courts must adhere to the phased return to operations as determined by policy guidelines established by the State Court Administrative Office. Such policies will include but may not be limited to:

- Continued use and expansion of remote hearings as practicable and increase of the court's capacity to conduct business online, including increased remote work by employees.

- Continued limited access to courtrooms and other spaces to no more than 10 persons, including staff.

- Imposition of social distancing practices of at least 6 feet for both employees and visitors.

- Limited in-person court activity to essential functions that cannot be conducted remotely.

- In accordance with CDC guidelines,

    - Adoption of policies that ensure appropriate cleaning and sanitation.

    - Adoption of policies that appropriately protect vulnerable individuals.

- o Adoption of policies to safely screen employees and the public for potential cases of illness.

- Courts must maintain their current level of operations until SCAO approves a court's plan to expand in-court proceedings. Courts in each circuit may work together to submit to SCAO at each gating level a single plan wherever possible consistent with the SCAO guidelines for returning to full capacity. Conditions may also require a court to move to a previous access level, depending on local conditions.

These conditions remain in effect until further order of the Court.

AO No. 2020-15 — Revised Format for July 2020 Michigan Bar Examination

[Entered May 18, 2020.]

In recognition of the continuing COVID-19 pandemic, in light of various current and projected pandemic-related restrictions, and pursuant to the Court's constitutional and statutory authority to supervise and regulate the practice of law, 1963 Const, Art VI, Sec 5, and MCL 600.904, and in consultation with the Board of Law Examiners (Board), the Court orders that in lieu of the two-day exam previously scheduled for July 28-29, 2020, a one-day exam will be administered on July 28, 2020. The exam will be conducted online, and will consist solely of the essay portion of the traditional exam.

The Board will inform applicants of the specific instructions for the online exam no later than July 1, 2020. Any applicant receiving accommodations under the Americans with Disabilities Act that would preclude remote testing will be allowed to test in person at a location to be determined, assuming that federal and state restrictions permit such examination. Any applicant that did not register to use a laptop for the exam must contact the Board if the applicant is unable to take the exam on a computer.

Applicants who complete the test in person will be required to adhere to federal and state health recommendations and requirements. Such requirements will, at a minimum, likely require the applicant to answer health-related screening questions, use personal protective equipment, and comply with staggered test times to ensure social distancing mandates.

For applicants who do not wish to test in July 2020, applications to sit for the July 2020 bar examination will automatically be transferred to the next available 2021 bar exam. In addition, applicants who wish to transfer their application to the next available exam should notify the Board no later than July 1, 2020, by email at BLE-Info@courts.mi.gov. Transfer fees will not be charged. Applicants who wish to withdraw from the process and notify the Board of that withdrawal no later than July 1, 2020, by email, will have their exam fees refunded by the Board and their character and fitness fees refunded by the State Bar of Michigan.

Applicants have the affirmative obligation to frequently check the Board's website, where updates, instructions, and other vital information will be provided.

AO No. 2020-16 — Order Resuming Filing Deadlines in the Michigan Supreme Court and Court of Appeals

[Entered June 3, 2020.]

Effective Monday, June 8, 2020, Administrative Order No. 2020-4 that tolled the filing deadlines in the Michigan Supreme Court and Court of Appeals is rescinded, and the periods for all filings, jurisdictional and non-jurisdictional, in those Courts shall resume. For time periods that started before AO No. 2020-4 took effect, the filers shall have the same number of days to submit their filings on June 8, 2020, as they had when the tolling went into effect. For filings with time periods that did not begin to run because of the tolling period, the filers shall have the full periods for filing beginning on June 8, 2020.

AO No. 2020-17 — Priority Treatment and New Procedure for Landlord/ Tenant Cases

[Entered June 9, 2020; language as amended by order entered June 24, 2020.]

Since the early days of the pandemic, state and national authorities have imposed restrictions on the filing of many landlord/tenant cases. As those restrictions are lifted and courts return to full capacity and reopen facilities to the public, many will experience a large influx of landlord/tenant case filings. Traditionally, the way most courts processed these types of cases relied heavily on many cases being called at the same time in the same place, resulting in large congregations of individuals in enclosed spaces. That procedure is inconsistent with the restrictions that will be in place in many courts over the coming weeks and months as a way to limit the possibility of transmission of COVID-19. In addition, courts are required to comply with a phased expansion of operations as provided under Administrative Order No. 2020-14, which may also impose limits on the number of individuals that may congregate in public court spaces.

Therefore, the Court adopts this administrative order under 1963 Const, Art VI, Sec 4, which provides for the Supreme Court's general superintending control over all state courts, directing courts to process landlord/tenant cases using a prioritization approach. This approach will help limit the possibility of further infection while ensuring that landlord/tenant cases are able to be filed and adjudicated efficiently. All courts having jurisdiction over landlord/tenant cases must follow policy guidelines established by the State Court Administrative Office. Courts should be mindful of the limitations imposed by federal law (under the CARES Act) as these cases are filed and processed, and follow the guidance in Administrative Order No. 2020-8 in determining the appropriate timing for beginning to consider these cases.

For courts that are able to begin conducting proceedings, the following provisions apply to landlord/tenant actions.

(1) Each Trial Court with jurisdiction over cases filed under the Summary Proceedings Act, MCL 600.5701, *et seq*., may accept new filings and begin to schedule hearings as follows:

a. In a manner that is consistent with the Return to Full Capacity (RTFC) guidelines referenced in Administrative Order No. 2020-14,

b. In a manner that is consistent with each court's most recently-approved local administrative order regarding Return to Full Capacity.

(2) When a trial court resumes scheduling hearings for recovery of possession of premises under MCL 600.5714 and MCL 600.5775, the following operational priorities apply:

a. First priority: complaints alleging illegal activity under MCL 600.5714(1)(b), complaints alleging extensive and continuing physical injury to the premises under MCL 600.5714(1)(d), complaints alleging that the tenant or someone in the tenant's household has caused or threatened physical injury to an individual while on the leased property under MCL 600.5714(1)(e), and complaints alleging that the tenant is trespassing or squatting under MCL 600.5714(1)(f).

b. Second priority: complaints alleging nonpayment of rent for 120 days or more.

c. Third priority: complaints alleging nonpayment of rent for 90 days or more.

d. Fourth priority: complaints alleging nonpayment of rent for 60 days or more.

e. Fifth priority: complaints alleging nonpayment of rent for 30 days or more.

f. Sixth priority: All cases described in First Priority through Fifth Priority that are filed after a court has moved to the next priority designation, and any case for recovery of possession of premises where the complaint alleges nonpayment of rent of less than 30 days. Cases filed in a lower numerical priority designation (e.g., a second priority case filed during a court's priority five period) shall be given first consideration in order of priority.

g. Courts should proceed to a subsequent priority when all cases in the higher priority have been scheduled for hearing.

h. Instead of setting many cases for one hearing time as has traditionally been common, each case must be scheduled for a particular date and time (whether held in-person or remotely) to allow in-person proceedings to be held safely.

i. A filer who filed a case before April 16, 2020 (the date Administrative Order No. 2020-8 entered) must update the factual allegations in the complaint and file the verification form required by Administrative Order No. 2020-8 before a hearing will be scheduled. The form will allow a filer to indicate that the case was filed before the moratorium period began and therefore, even if a covered dwelling, is not foreclosed from proceeding. If the filer must remove any fees or costs that are prohibited under the CARES Act, the filer must file an amended complaint for any action that proceeds during the moratorium period. The court shall not require an additional filing fee.

(3) Except as otherwise provided, trial courts must schedule cases filed for an alleged termination of tenancy (as opposed to cases for nonpayment of rent) pursuant to MCL 600.5714 during or after the fifth level of priority described above or after the statutorily required notice period has elapsed, whichever comes later. A court may consider a termination case before the fifth level of priority upon motion by plaintiff alleging that there is good cause to consider the case earlier for reasons of public safety or other just cause, including but not limited to matters brought under MCL 600.5775.

(4) Courts are authorized to proceed with these actions by way of remote participation tools, and encouraged to do so to the greatest extent possible. Administrative Order No. 2020-6 requires that the court scheduling a remote hearing must "verify that all participants are able to proceed in this manner." Therefore, the summons for each case filed under the Summary Proceedings Act must provide the date and time for remote participation in the scheduled hearing. In addition, the summons must be accompanied by any written information about the availability of counsel and housing assistance information as provided by legal aid or local funding agencies. If a remote hearing is scheduled for the first proceeding, the defendant received personal service pursuant to MCR 2.105(A), and the defendant fails to appear, a default may enter. If a remote hearing is scheduled for the first proceeding and the defendant fails to appear and has not been served under

MCR 2.105(A), the court may not enter a default but must reschedule the hearing and mail notice for that rescheduled hearing as an in-person proceeding. Under these conditions, a notice of rescheduled hearing mailed by the court within 24 hours after the initial hearing date is sufficient notice of the rescheduled hearing, notwithstanding any other court rule. Other parties or participants may proceed remotely.

(5) All local administrative orders requiring a written answer pursuant to MCL 600.5735(4) are suspended.[1] Unless otherwise provided by this order, a court must comply with MCR 4.201 with regard to summary proceedings.

(6) At the initial hearing noticed by the summons, the court must conduct a pretrial hearing consistent with SCAO guidance. At the pretrial hearing the parties must be verbally informed of all of the following:

a. Defendant has the right to counsel. MCR 4.201(F)(2).

b. The Michigan Department of Health and Human Services (MDHHS), the local Coordinated Entry Agency (CEA), or the federal Help for Homeless Veterans program may be able to assist the parties with payment of some or all of the rent due.

c. Defendants DO NOT need a judgment to receive assistance from MDHHS or the local CEA. The Summons and Complaint from the court case are sufficient.[2]

d. The availability of the Michigan Community Dispute Resolution Program (CDRP) and local CDRP Office as a possible source of case resolution. The court must contact the local CDRP to coordinate resources. The CDRP may be involved in the resolution of Summary Proceedings cases to the extent that the chief judge of each court determines, including conducting the pretrial hearing.

e. The possibility of a Conditional Dismissal pursuant to MCR 2.602 if approved by all parties. The parties must be provided with a form to effectuate such Conditional Dismissal.

(7) The pretrial required under this subsection may be conducted by the assigned judge, a visiting judge appointed by SCAO, a magistrate (as long as that magistrate is a lawyer) or a CDRP mediator.

(8) Except as provided below, all Summary Proceeding Act cases must be adjourned for seven days after the pretrial hearing is conducted. MCL 600.5732. Any party who does not appear at the adjourned date will be defaulted. Cases need not be adjourned for seven days if: the plaintiff dismisses the complaint, with or without prejudice, and without any conditions, if defendant was personally served under MCR 2.105(A) and fails to appear, or where both plaintiff and defendant are represented by counsel and a consent judgment or conditional dismissal is filed with the court. Where plaintiff and defendant are represented by counsel, the parties may submit a conditional dismissal or consent judgment in lieu of appearing personally at the second hearing.

(9) The court may require remote participation in the second, and any subsequent, proceedings, and the court must verify that participants are able to proceed in that manner under

Administrative Order No. 2020-6. If a party cannot appear remotely, in-person proceedings must be scheduled that provide for the safety of all parties.

(10) MCR 4.201(F)(3) is temporarily suspended to the extent that a jury demand must be made in the first response. Instead, if the defendant wants a jury trial, he or she must demand it within seven days of the first response. The jury trial fee, if not waived by the court, must be paid when the demand is made.

(11) A court shall discontinue compliance with this order when it has proceeded through all priority phases and no longer has any landlord/tenant filings that allege a breach of contract for the time period between March 20, 2020, and June 30, 2020 (the period in which there was a statewide moratorium on evictions). At that point, the court may notify the regional administrator of its completion of the process and will not be required to return to the procedure even if a subsequent case is filed that alleges rent owing during the period of the eviction moratorium.

This order is effective until further order of the Court.

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[1] The local administrative orders include: 1st District Court (Monroe County); 2a District Court (Lenawee County); 12th District Court (Jackson County); 18th District Court (City of Westland); 81st District Court (Alcona, Arenac, Iosco, and Oscoda Counties); 82nd District (Ogemaw County); and 95b District Court (Dickinson and Iron Counties).

[2] See State Emergency Relief Manual, Relocation Services, ERM 303, ERB 2019-005, Page 3 of 7.

Guidance Document Issued in Conjunction with Administrative Order No. 2020-17

The Court adopted Administrative Order No. 2020-17 in order to both protect public health and to protect rights while helping courts more efficiently handle the expected backlog of more than 75,000 landlord/tenant cases. First, in order to protect public health, the administrative order requires courts to set priorities in scheduling cases and to give each case a scheduled time. This approach will allow courts to maintain compliance with Return to Full Capacity Guidelines designed to protect litigants, staff, and the public. Second, the order requires that defendants in these cases be advised of their right to counsel and be made aware that they may be eligible for assistance in paying back rent. Representation and assistance not only help defendants but are also beneficial to plaintiffs. Therefore, the order requires the presiding official to conduct a pretrial at the initial hearing in all Summary Proceedings Act cases to advise defendants of various rights, and then to adjourn the hearing for one week, enabling the defendant to access those rights.

Details Regarding the Advisement

The presiding judicial officer must verbally inform the parties of all of the following:

a. Defendant has the right to counsel. MCR 4.201(F)(2)

b. The Michigan Department of Health and Human Services (MDHHS), the local Coordinated Entry Agency (CEA), or the federal Help for Homeless Veterans program, the Michigan State Housing Development Authority, and other community agencies may be able to assist the parties with payment of some or all of the rent due.

c. Defendants DO NOT need a judgment to receive assistance from MDHHS or the local CEA. The Summons and Complaint from the court case are sufficient.

d. The availability of the Michigan Community Dispute Resolution Program (CDRP) and local CDRP Office as a possible source of case resolution. The court must contact the local CDRP to coordinate resources. The CDRP may be involved in the resolution of Summary Proceedings cases to the extent that the chief judge of each court determines, including conducting the pretrial hearing.

e. The possibility of a Conditional Dismissal pursuant to MCR 2.602 if approved by all parties. The parties must be provided with a form to effectuate such Conditional Dismissal.

With regard to subsection a (defendant's right to counsel), courts must advise defendants of the following:

i. If the defendant does not have an attorney and is financially able to retain one, they might locate an attorney through the State Bar of Michigan or a local lawyer referral service.

ii. If the defendant does not have an attorney and is not financially able to retain one, they might qualify for assistance through a local legal aid office. The court must provide contact information for the local legal aid offices in writing.

Each court is encouraged to have legal services available either in person or through remote technology at the same time as cases filed under the Summary Proceedings Act are scheduled for hearing to facilitate representation.

With regard to referral to an aid agency that may be able to assist defendant (MDHHS, CEA, etc.), the court advisement must include the following:

i. If the defendant has a caseworker at MDHHS, they should contact their worker immediately.

ii. If the defendant does not have a caseworker at MDHHS, the court must provide contact information for a housing specialist or assistance payment worker at the local MDHHS office and instruct defendant to contact that person immediately.

Each court is encouraged to have workers from the local MDHHS and/or the local CEA available either in person or through remote technology at the same time as cases filed under the Summary Proceedings Act are scheduled for hearing.

If a representative of the local MDHHS and/ or the local CEA is not available either in person or through remote technology, the court must provide contact information for the local MDHHS in writing. The court should work with the local MDHHS to provide this writing in as many languages as possible.

Assistance for veterans may be available through the National Call Center for Homeless Veterans at 1-877-4AID-VET (1-877-424-3838) or the Department of Veterans Affairs Homeless Veterans homepage [https://www.va.gov/homeless/].

The person conducting the pretrial must make appropriate referrals to legal services and/or MDHHS, emphasizing that these services are free.

Case Initiation & Scheduling

The procedure for bringing a Summary Proceedings case begins with service of the appropriate notice to quit.[1] This notice must be attached to the complaint and show when and how it was served. Until July 25, 2020, plaintiff must also file VERIFICATION OF COMPLIANCE WITH CARES ACT.[2]

Because courts are steadily expanding proceedings held in courtrooms and those expansion plans rely on continued limitation on large gatherings of individuals, landlord/tenant cases must be scheduled for a specific time and day. Courts may no longer schedule a large number of cases for a several-hour block of time and leave the litigants to collect in clusters waiting to be called. For the foreseeable future, each case will be scheduled at a specific time. Due to still existing social distancing rules within the court house, courts are strongly encouraged to not schedule more than a case or two for each available time slot.

Presiding Officer

In anticipation of a large number of cases to be disposed, the administrative order allows a broader group of persons to preside over the pretrial. The allowable people include judges, a

visiting judge sitting by assignment of SCAO, a magistrate (as long as that magistrate is a lawyer) or a Community Dispute Resolution Program (CDRP) mediator. (Location and contact information for the CDRP Mediation Centers [https://courts.michigan.gov/administration/scao/officesprograms/odr/pages/find-a-mediation-center.aspx].)

In addition to advising defendant of defendant's rights, the presiding officer at the pretrial must identify the disputed issues in each case. The disputed issues can be used by the presiding officer at pretrial to emphasize specific referrals. For example, if the issue is clearly an inability by the defendant to pay, referral to MDHHS and MSHDA can be emphasized. If the presiding officer is a magistrate or judge other than the judge presiding over the case, that person must communicate the disputed issues to the judge in writing. The judge will use this information to begin the inquiry into the existence of a triable issue [MCR 4.201(J)(2)] when the hearing resumes in one week.

Recording

Administrative Order No. 2020-17 requires the court (or other individual as approved by the court) to conduct a pretrial hearing "consistent with SCAO guidance." Because this pretrial hearing is purely advisory, there is no requirement to record the pretrial hearing.

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[1] SCAO Forms DC 100a & DC 100c, see MCR 4.201(B)(1)(c).

[2] SCAO Form DC 504, Rev. 7/20, see AO 2020-8.

(As revised on July 7, 2020.)

AO No. 2020-18 — Order Resuming Usual Computation of Days for Determination of Deadlines Applicable to the Commencement of Civil and Probate Actions

[Entered June 12, 2020.]

In Administrative Order No. 2020-3, the Supreme Court issued an order excluding any days that fall during the State of Emergency declared by the Governor related to COVID-19 for purposes of determining the deadline applicable to the commencement of all civil and probate case types under MCR 1.108(1). Effective Saturday, June 20, 2020, that administrative order is rescinded, and the computation of time for those filings shall resume. For time periods that started before Administrative Order No. 2020-3 took effect, the filers shall have the same number of days to submit their filings on June 20, 2020, as they had when the exclusion went into effect on March 23, 2020. For filings with time periods that did not begin to run because of the exclusion period, the filers shall have the full periods for filing beginning on June 20, 2020.

Staff Comment: Note that although the order regarding computation of days entered on March 23, 2020, it excluded any day that fell during the State of Emergency declared by the Governor related to COVID-19, which order was issued on March 10, 2020. Thus, the practical effect of Administrative Order No. 2020-3 was to enable filers to exclude days beginning March 10, 2020. This timing is consistent with the executive orders entered by the Governor regarding the tolling of statutes of limitation.

AO No. 2020-19 — Continuing Order Regarding Court Operations

[Entered June 26, 2020.]

For the last several months, courts have been operating under special rules to ensure that essential functions continue while also limiting access to physical locations as a way to limit the spread of COVID-19 for both court staff and court visitors. As courts return to full capacity it is now appropriate to revisit those early orders.

In Administrative Order No. 2020-14, the Court made it clear that all courts must adopt a phased approach to a return to full capacity of operations. Courts have been submitting their required local administrative orders and are balancing protecting public health and increasing operations. The technological tools courts used to ensure access during the closure should be maintained and indeed used more frequently to rebuild capacity.

Therefore, on order of the Court:

1. Administrative Order No. 2020-2 is rescinded, with the expectation that courts shall continue to process those cases listed as essential functions in addition to other cases as courts return to full capacity under the terms of Administrative Order No. 2020-14. Courts that have progressed to Phase 3 under the Return to Full Capacity guidance document under Administrative Order No. 2020-14 shall begin holding jury trials using trial standards approved by the State Court Administrative Office. In addition, courts that are not yet at Phase 3 may proceed with jury trials upon approval from the State Court Administrative Office. Further, courts must continue to provide a method or methods for filers to submit pleadings other than by personal appearance at the court.

2. Courts shall continue to expand the use of remote participation technology (video or telephone) as much as possible to reduce any backlog and to dispose of new cases efficiently and safely. As articulated in Administrative Order No. 2020-1 and Administrative Order No. 2020-6, as courts expand their use of remote technology tools, courts must continue to verify that participants are able to proceed remotely, and should permit some participants to appear remotely even if all participants are not able to participate electronically. To enable the greatest participation possible for judicial officers, Administrative Order No. 2012-7 (which limits the circumstances under which judges may preside over remote proceedings) is suspended until further order of the Court.

3. Administrative Order No. 2020-9 adopted temporary amendments that promoted the use of electronic means to access the courts and enabled parties to proceed with litigation, as well as extended some filing deadlines. The amendments of MCR 2.002, MCR 2.107(C), MCR 3.904, and the issuance of subpoenas under MCR 2.305, MCR 2.506, MCR 2.621(C), MCR 9.112(D), MCR 9.115(I)(1), and MCR 9.212 continue in effect until further order of the Court. The time deadlines in MCR 2.102(D), MCR 2.614, MCR 3.216(G)(3), and MCR 2.411(F)(4), are extended 80 days, reflecting the period between March 24, 2020 and June 12, 2020. The time deadlines in rules regarding postjudgment motions filed in the trial court (including motions for appointment of appellate counsel) as well as circuit court appeals and appeals of agency determinations are extended for 76 days, consistent with Administrative Order No. 2020-16.

4. Administrative Order No. 2020-13 allows courts to collect certain information, including mobile phone number(s) and email addresses, to facilitate scheduling of and participation in remote hearings. The order has generated some confusion about how to handle nonconfidential information. To clarify that the form for collecting information (but not the information itself if it is contained elsewhere in a public portion of the file) is nonpublic, the administrative order is amended as follows:

~~To protect privacy and address security concerns, t~~The ~~contact information~~ form used under this administrative order to collect the information shall be confidential.

This order is effective until further order of the Court.

AO No. 2020-20 — Administrative Order Regarding Election-Related Litigation

[Entered September 23, 2020.]

In an effort to promote the efficient and timely disposition of election-related litigation, the Court adopts the following requirements and procedural rules, effective immediately.

1. Court proceedings regarding an election matter lawsuit may not be instituted and orders may not be issued except upon a written complaint filed pursuant to the pertinent MCR provision. A full and complete record of the proceedings must be kept.

2. Upon the filing of a complaint regarding an election matter, the following persons must be notified of the lawsuit as soon as practicable:

(a) Supreme Court Clerk

(b) State Director of Elections

(c) Attorney General Civil Litigation, Employment, & Elections Division (if the complaint is against the state or one of its subdivisions).

The State Court Administrator will circulate a memo before each election that identifies the names and contact information for the individuals and offices listed above.

3. The chief judge or chief judge's designee of the court in which the election matter lawsuit is filed must provide the following information to the Supreme Court Clerk:

(a) Case number and names of parties;

(b) Name of assigned judge and the telephone number where he or she can be reached;

(c) Brief statement of the issues;

(d) Brief statement of the case status; and

(e) An electronic copy of the final order or judgment, or an order granting a stay or injunctive relief at the email address provided in the memo referenced above.

4. On or before the date of an election, the Court of Appeals will publish on the home page of its website information for contacting that court's clerk's office after business hours and the steps required of a party who might wish to seek emergency appellate relief.