

Order

Michigan Supreme Court
Lansing, Michigan

June 5, 2019

Bridget M. McCormack,
Chief Justice

ADM File No. 2002-37

David F. Viviano,
Chief Justice Pro Tem

Amendment of Rule 1.109
of the Michigan Court
Rules

Stephen J. Markman
Brian K. Zahra
Richard H. Bernstein
Elizabeth T. Clement
Megan K. Cavanagh,
Justices

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 amendment of Rule 1.109 of the Michigan Court Rules is adopted, effective September 1, 2019.

[Additions to the text are indicated in underlining and
deleted text is shown by strikeover.]

Rule 1.109 Court Records Defined; Document Defined; Filing Standards; Signatures;
Electronic Filing and Service; Access

(A)-(F) [Unchanged.]

(G) Electronic Filing and Service.

(1)-(2) [Unchanged.]

(3) Scope and Applicability.

(a)-(f) [Unchanged.]

(g) Where electronic filing is mandated, a party may file paper documents with that court and be served with paper documents according to subrule (G)(6)(a)(ii) if the party can demonstrate good cause for an exemption. For purposes of this rule, a court shall consider the following factors in determining whether the party has demonstrated good cause:

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

(ii) Whether the person must travel an unreasonable distance to access a public computer or has limited access to transportation and is unable to access the e-Filing system from home;

- (iii) Whether the person has the technical ability to use and understand email and electronic filing software;
 - (iv) Whether access from a home computer system or the ability to gain access at a public computer terminal present a safety issue for the person;
 - (v) Any other relevant factor raised by a person.
- (h) Upon request, the following persons are exempt from electronic filing without the need to demonstrate good cause:
- (i) a person who has a disability that prevents or limits the person's ability to use the electronic filing system;
 - (ii) a person who has limited English proficiency that prevents or limits the person's ability to use the electronic filing system;
and
 - (iii) a party who is confined by governmental authority, including but not limited to an individual who is incarcerated in a jail or prison facility, detained in a juvenile facility, or committed to a medical or mental health facility.
- (i) A request for an exemption must be filed with the court in paper where the individual's case will be or has been filed. If the individual filed paper documents at the same time as the request for exemption, the clerk shall process the documents for filing. If the documents meet the filing requirements of subrule (D), they will be considered filed on the day they were submitted.
- (i) The request for an exemption must be on a form approved by the State Court Administrative Office and verified under MCR 1.109(D)(3). There is no fee for the request.
 - (ii) The request must specify the reasons that prevent the individual from filing electronically. The individual may file supporting documents along with the request for the court's consideration.

- (iii) A judge must review the request and any supporting documentation and issue an order granting or denying the request within two business days of the date the request was filed.
- (iv) The clerk of the court must promptly mail the order to the individual. The clerk must place the request, any supporting documentation, and the order in the case file. If there is no case file, the documents must be maintained in a group file.
- (v) An exemption granted under this rule is valid only for the court in which it was filed and for the life of the case unless the individual exempted from filing electronically registers with the electronic-filing system. In that event, the individual waives the exemption and becomes subject to the rules of electronic filing and the requirements of the electronic-filing system. An individual who waives an exemption under this rule may file another request for exemption.

(4)-(7) [Unchanged.]

Staff Comment: The amendment of MCR 1.109 provides a single statewide process for requesting an exemption from the requirement to e-File, including both an automatic exemption for certain persons, and a list of factors for the court to consider when determining whether to exempt a person from the requirement to e-File.

The staff comment is not an authoritative construction by the Court. In addition, adoption of an amendment in no way reflects a substantive determination by this Court.



I, Larry S. Royster, Clerk of the Michigan Supreme Court, certify that the foregoing is a true and complete copy of the order entered at the direction of the Court.

June 5, 2019

A handwritten signature in black ink, appearing to read "Larry S. Royster".

Clerk