

April 11, 2019

In Re: ADM File No. 2017-28

Proposed Amendments of Rules 1.109 and 8.119 of the Michigan Court Rules, Rescission of Administrative Order 2006-2, and Amendment to Administrative Order No. 1999-4

Dear Supreme Court Clerk and Justices,

The Oakland County Clerk's Office submits the following comments regarding the proposed amendments.

In general we agree that Personal Identifying Information should be defined, protected, and prohibited from being filed in the court's public file when not required by court rule or statute. However, we strongly disagree that it should be the court's (in our case the clerk of the court's) responsibility to review documents prior to fulfilling copy requests. This will create an enormous burden on our staff. And while the thought may be PII's would no longer be filed in the court file based on this proposed court rule, the reality is that filers – attorneys as well as self-represented persons – will continue to include PII. Administrative Order 2006-2 is a prime example of this. Social Security Numbers continue to be filed in the court file even though it is prohibited by Admin Order 2006-2.

Specifically, our comments are as follows:

1. 1.109(9)(a)(vi) – Phone numbers are helpful when the court/clerk need to contact a filer regarding their document. If it is removed from forms and requirements, it will be difficult to correct errors. Our Case Management System does not capture phone numbers; we obtain them directly from the documents filed.
2. 1.109(9)(b) – Is there further clarification as to who “...other legally defined interested persons” are?
3. 1.109(9)(d) – Where would the confidential reference list reside? In the court file? With the judicial file? If this is to be filed in the court file, would this be maintained as a non-public document?
4. 1.109(10)(b) – As previously stated in the paragraph above, it would be a huge burden to require staff to review each page of every document prior to providing copies. The clerk of the court's office fulfills copy orders all day long. On average we produce over 1,300 pages in copy orders per day. Filers include PII in many different types of documents. In circuit filings, it is often found in the attachments or exhibits filed with pleadings, but it can be located in the pleading as well. We do not have the resources available to review every document at the level of detail required to adhere to this proposal.
5. 1.109(10)(b) – Is there any liability on the court or clerk of the court if PII is overlooked and not redacted when fulfilling a copy request? Knowing there will

- be filers who fail to adhere to these proposed changes, will there be further responsibilities when allowing the public to review the court file on site? Is the expectation that court/clerk staff will review and redact PII information from filings that are not required by law or court rule before allowing public review of the case file?
6. 1.109(10)(c)(i) – Why is the request for redaction form required to be non-public? An individual can request their SSN removed from a document without listing the actual SSN number.
 7. 1.109(10)(c)(ii) – Does a motion fee apply here? Is this a non-public document?
 8. 1.109(10)(c) – (i) and (ii) What is the intention of the two methods to remove PII, when does one option apply versus another?

Thank you for your consideration in advance.

/s/ Jennifer Howden

Jennifer Howden
Chief Deputy County Clerk
Oakland County Clerk's Office
1200 N. Telegraph Rd.
Pontiac, MI 48341