

**From:** [Marlaine Teahan](#)  
**To:** [ADMcomment](#)  
**Subject:** ADM File No. 2018-19 Comment  
**Date:** Friday, March 01, 2019 4:18:18 PM

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Dear Mr. Royster:

I am a Michigan attorney with a probate litigation practice. After reviewing ADM File No. 2018-19, with a particular focus on the probate court rules, I have a comment regarding the proposed rule change to **MCR 5.131(B)(2)(c)(i)**. See page 45 of ADM File No. 2018-19:

Proposed Rule as found in the ADM File:

MCR 5.131(B)(2)(a) provides that mandatory disclosures are required "if, by the time of the **first hearing**" if an interested person files a demand with notice, or objects or otherwise contests the petition.

MCR 5.131(B)(2)(c)(i) provides that "[t]he petitioner must serve initial disclosures within 14 days after the **first scheduled hearing** on the petition subject to a demand or objection."

Suggested modification

A redline of MCR 5.131(B)(2)(c)(i) follows:

The petitioner must serve initial disclosures within 14 days after the first ~~scheduled~~ hearing on the petition subject to a demand or objection.

The term "first scheduled hearing" in MCR 5.131(B)(2)(c)(i) should mirror the term "first hearing" in MCR 5.131(B)(2)(a) to both provide uniformity within the rule and to prevent an adjourned first scheduled hearing from beginning the petitioner's 14 days to serve initial disclosures on a petition subject to a demand or objection.

It would not make sense to require the petitioner to serve initial disclosures within 14 days after the first scheduled hearing if that hearing did not happen. This is particularly true for petitions involving an interested person who objects orally or in writing, but does not file a demand under MCR 5.131(B)(2)(a)(i). In cases of mere objections or other contests, MCR 5.131(B)(2)(a)(ii) provides that, among other requirements, the court must determine the appropriateness of requiring mandatory initial disclosure. The rule presumes that a hearing will be held for such a judicial determination to be made. Thus, the 14 day period should not begin until after the first hearing is held and the word "scheduled" should be stricken from MCR 5.131(B)(2)(c)(i).

Thank you for your consideration,



Marlaine C. Teahan



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