

Amendment of Administrative Order No. 2011-4
E-filing Rules for the 20th Circuit Court,
the Ottawa County Probate Court and the
58th District Court (Dated October 17, 2018)

On order of the Court, the following order amending Administrative Order No. 2011-4 is adopted, effective immediately.

[The present language is amended as indicated below by underlining for new text and strikeover for text that has been deleted.]

1. [Unchanged.]

2. Definitions

a.–d. [Unchanged.]

e. “Transition e-filing program” or “project” means the e-filing initiative of the participating courts, the County Clerk, and the Ottawa County Information Technology Department in conjunction with ImageSoft, 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 during the period after enactment of statutory authority to fund and operate a statewide electronic filing system in the following case types:

i. ~~The 20th Circuit pilot program will begin testing with adoption case types AB, AC, AD, AF, AG, AM, AN, AO, AY; civil case types ND, NF, NH, NI, NM, NO, NP, NS, NZ, CB, CC, CD, CE, CF, CH, CK, CL, CP, CR, CZ, PC, PD, PR, PS, PZ, eriminal case types FC and FH; and domestic relations case types DC, DM, DO, DP, DS, DZ, UD, UE, UF, UI, UM, UN, UT, and UW; and neglect/abuse case type NA.~~

ii. ~~The Ottawa County Probate Court will begin testing with civil case type CZ.~~

iii. ~~The 58th District Court will begin testing with general civil case type GC as part of Phase I and additionally in other case types as follows:~~

1. ~~Phase II: Summary proceedings case types, including LF and SP, beginning with the effective date of this order.~~

2. ~~Phase III: Post disposition collection proceedings in small claims proceedings (“SC”) beginning with the effective date of this order.~~

3. ~~Phase IV: Criminal proceedings case types, including EX, FY, OM, SM, FD, FT, OD, OI, OT, SD, SI, ST, OK, ON, SK, and SN, beginning not less than six months after implementation of Phase II and III.~~

f.–g. [Unchanged.]

3. Participation in the Program

a. ~~Participation in Ottawa County’s program is elective for all case types identified in Section 2.e, above. Participation may be initiated with new case filings or existing case files. At the discretion of the judge, participation may also include post-disposition proceedings in qualifying case types. Beginning December 1, 2018, and to the extent that the system accommodates it, participation in the program shall be mandatory in all pending cases assigned to participating circuit judges~~

for the case types identified in Section 2. Until the 20th Circuit Court begins electronic case initiation for specific case-type codes, participation shall be assigned following the filing and service of the initial complaint or other initial filing and assignment of the case to a participating judge. 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 voluntary e-filing project, however, once a case is designated as part of the e-filing project, it is presumed that all further documents will be filed electronically. However, Ottawa County recognizes that circumstances may arise preventing one from e-filing. To ensure all parties retain access to the participating courts, parties that demonstrate good cause will be permitted to file documents with the clerk, who will then file the documents electronically. Among the factors the participating courts will consider in determining whether good cause exists to excuse a party from e-filing is a party’s access to the Internet.~~

4.–15. [Unchanged.]

Proposed Amendment of Rule 3.993
of the Michigan Court Rules (Dated October 17, 2018)

On order of the Court, this is to advise that the Court is considering an amendment of Rule 3.993 of the Michigan Court Rules. Before determining whether the proposal should be adopted, changed before adoption, or rejected, this notice is given to afford interested persons the opportunity to comment on the form or the merits of the proposal or to suggest alternatives. The Court welcomes the views of all. This matter will also be considered at a public hearing. The notices and agendas for public hearings are posted at Administrative Matters & Court Rules page.

Publication of this proposal does not mean that the Court will issue an order on the subject, nor does it imply probable adoption of the proposal in its present form.

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

Rule 3.993 Appeals

(A) The following orders are appealable to the Court of Appeals by right:

(1)–(2) [Unchanged.]

(3) any order required by law to be appealed to the Court of Appeals, ~~and~~

(4) any order involving an Indian child that is subject to potential invalidation under the Michigan Indian Family Preservation Act section MCL 712B.39 or the Indian Child Welfare Act section 25 USC 1914, which includes, but is not limited to, an order regarding:

(a) recognition of the jurisdiction of a tribal court pursuant to MCL 712B.7, MCL 712B.29, or 25 USC 1911;

(b) transfer to tribal court pursuant to MCL 712B.7 or 25 USC 1911;

- (c) intervention pursuant to MCL 712B.7 or 25 USC 1911;
- (d) extension of full faith and credit to public acts, records, and judicial proceedings of an Indian tribe pursuant to MCL 712B.7 or 25 USC 1911;
- (e) removal of a child from the home, placement into foster care, or continuance of an out-of-home placement pursuant to MCL 712B.9, MCL 712B.15, MCL 712B.25, MCL 712B.29, or 25 USC 1912;
- (f) termination of parental rights pursuant to MCL 712B.9, MCL 712B.15, or 25 USC 1912;
- (g) appointment of counsel pursuant to MCL 712B.21 or 25 USC 1912;
- (h) examination of reports pursuant to MCL 712B.11 or 25 USC 1912;
- (i) voluntary consent to or withdrawal of a voluntary consent to a foster care placement or to a termination of parental right pursuant to MCL 712B.13, MCL 712B.25, MCL 712B.27, or 25 USC 1913;
- (j) foster care, pre-adoptive, or adoptive placement of an Indian child pursuant to MCL 712B.23; and

(54) any final order.

(B)–(C) [Unchanged.]

STAFF COMMENT: The proposed amendment of MCR 3.993, recommended by the State Bar of Michigan, would establish a list of specific orders that can be appealed by right regarding an Indian child subject to a child protective proceeding.

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.

A copy of this order will be given to the Secretary of the State Bar and to the State Court Administrator so that they can make the notifications specified in MCR 1.201. Comments on the proposal may be sent to the Supreme Court Clerk in writing or electronically by February 1, 2019, at P.O. Box 30052, Lansing, MI 48909, or ADMcomment@courts.mi.gov. When filing a comment, please refer to ADM File No. 2018-07. Your comments and the comments of others will be posted under the chapter affected by this proposal at Proposed & Recently Adopted Orders on Admin Matters page.

Proposed Amendment of Rule 6.425 of the Michigan Court Rules (Dated October 17, 2018)

On order of the Court, this is to advise that the Court is considering an amendment of Rule 6.425 of the Michigan Court Rules. Before determining whether the proposal should be adopted, changed before adoption, or rejected, this notice is given to afford interested persons the opportunity to comment on the form or the merits of the proposal or to suggest alternatives. The Court welcomes the views of all. This matter will also be considered at a public hearing. The notices and agendas for public hearings are posted at Administrative Matters & Court Rules page.

Publication of this proposal does not mean that the Court will issue an order on the subject, nor does it imply probable adoption of the proposal in its present form.

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

Rule 6.425 Sentencing; Appointment of Appellate Counsel

(A)–(D) [Unchanged.]

(E) Sentencing Procedure.

- (1) The court must sentence the defendant within a reasonably prompt time after the plea or verdict unless the court delays sentencing as provided by law. At sentencing, the court must, on the record:

(a)–(d) [Unchanged.]

- (e) if the sentence imposed is not within the guidelines range, articulate the substantial and compelling reasons justifying that specific departure, and

(f) [Unchanged.]

(2)–(3) [Unchanged.]

(F) Advice Concerning the Right to Appeal; Appointment of Counsel.

- (1) In a case involving a conviction following a trial, immediately after imposing sentence, the court must advise the defendant, on the record, that

(a)–(b) [Unchanged.]

- (c) the request for a lawyer must be ma~~de~~filed with the court within 42 days after sentencing.

- (2) In a case involving a conviction following a plea of guilty or nolo contendere, immediately after imposing sentence, the court must advise the defendant, on the record, that

(a)–(b) [Unchanged.]

- (c) the request for a lawyer must be ma~~de~~filed with the court within 42 days after sentencing.

- (3) The court also must give the defendant a request for counsel form containing an instruction informing the defendant that the form must be com~~pleted and returned to~~filed with the court within 42 days after sentencing if the defendant wants the court to appoint a lawyer.

(4) [Unchanged.]

(G) [Unchanged.]

STAFF COMMENT: The proposed amendment of MCR 6.425 would make the rule consistent that requests for counsel must be filed within 42 days, as opposed to simply “made” or “completed and returned.” It would also remove the requirement for a sentencing judge to articulate substantial and compelling reasons to deviate from the guidelines range, pursuant to *People v Lockridge*, 498 Mich 358; 870 NW2d 502 (2015).

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.

A copy of this order will be given to the Secretary of the State Bar and to the State Court Administrator so that they can make the notifications specified in MCR 1.201. Comments on the proposal may be sent to the Supreme Court Clerk in writing or electronically by February 1, 2019, at P.O. Box 30052, Lansing, MI 48909, or ADMcomment@courts.mi.gov. When filing a comment, please refer to ADM File No. 2017-27. Your comments and the comments of others will be posted under the chapter affected by this proposal at Proposed & Recently Adopted Orders on Admin Matters page.

Proposed Amendments of Rules 7.212 and 7.312 of the Michigan Court Rules (Dated October 17, 2018)

On order of the Court, this is to advise that the Court is considering amendments of Rules 7.212 and 7.312 of the Michigan Court Rules. Before determining whether the proposal should be adopted, changed before adoption, or rejected, this notice is given to afford interested persons the opportunity to comment on the form or the merits of the proposal or to suggest alternatives. The Court welcomes the views of all. This matter also will be considered at a public hearing. The notices and agendas for public hearings are posted at Administrative Matters & Court Rules page.

Publication of this proposal does not mean that the Court will issue an order on the subject, nor does it imply probable adoption of the proposal in its present form.

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

Rule 7.212 Briefs

(A)–(G) [Unchanged.]

(H) Amicus Curiae.

(1)–(2) [Unchanged.]

(3) Except for briefs presented on behalf of amicus curiae listed in MCR 7.312 (H)(2), a brief filed under this rule shall indicate whether counsel for a party authored the brief in whole or in part and whether such counsel or a party made a monetary contribution intended to fund the preparation or submission of the brief, and shall identify every person other than the amicus curiae, its members, or its counsel, who made such a monetary contribution. The disclosure shall be made in the first footnote on the first page of text.

(I)–(J) [Unchanged.]

Rule 7.312 Briefs and Appendixes in Calendar Cases

(A)–(G) [Unchanged.]

(H) Amicus Curiae Briefs and Argument.

(1)–(3) [Unchanged.]

(4) Except for briefs presented on behalf of amicus curiae listed in subrule (H)(2), a brief filed under this rule shall indicate whether counsel for a party authored the brief in whole or in part and whether such counsel or a party made a monetary contribution intended to fund the preparation or submission of the brief, and shall identify every person other than the amicus curiae, its members, or its counsel, who made such a monetary contribution. The disclosure shall be made in the first footnote on the first page of text.

(5) [Renumbered but otherwise unchanged.]

(I)–(J) [Unchanged.]

STAFF COMMENT: The proposed amendments of MCR 7.212 and 7.312 would require amicus briefs to indicate certain information regarding the preparation of the brief and disclosure of monetary contributions. The proposal would be similar to Supreme Court Rule 37.6.

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

A copy of this order will be given to the Secretary of the State Bar and to the State Court Administrator so that they can make the notifications specified in MCR 1.201. Comments on the proposal may be sent to the Supreme Court Clerk in writing or electronically by February 1, 2019 at P.O. Box 30052, Lansing, MI 48909, or ADMcomment@courts.mi.gov. When filing a comment, please refer to ADM File No. 2018-04. Your comments and the comments of others will be posted under the chapter affected by this proposal at Proposed & Recently Adopted Orders on Admin Matters page.

Amendments of Canon 3 and Canon 7 of the Michigan Code of Judicial Conduct (Dated October 25, 2018)

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 amendments of Canon 3 and Canon 7 of the Michigan Code of Judicial Conduct are adopted, effective immediately.

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

Canon 3. A Judge Should Perform the Duties of Office Impartially and Diligently

The judicial duties of a judge take precedence over all other activities. Judicial duties include all the duties of office prescribed by law. In the performance of these duties, the following standards apply:

A. Adjudicative Responsibilities.

(1)–(5) [Unchanged.]

(6) ~~A judge should abstain from public comment about a pending or impending proceeding any court, and should require a similar abstention on the part of court personnel subject to the judge's direction and control. This subsection does not prohibit a judge from making public statements in the course of official duties or from explaining for public information the procedures of the court or the judge's holdings or actions.~~ A judge shall not make any public statement that might reasonably be expected to affect the outcome or impair the fairness of a matter pending or impending in any court.

(7) A judge shall not, in connection with cases, controversies, or issues that are likely to come before the court, make pledges, promises, or commitments that are inconsistent with the impartial performance of the adjudicative duties of judicial office.

(8) A judge shall require court staff, court officials, and others subject to the judge's direction and control to refrain from making statements that the judge would be prohibited from making by paragraphs (6) and (7).

(9) Notwithstanding the restrictions in paragraph (6), a judge may make public statements in the course of official duties, may explain court procedures, and may comment on any proceeding in which the judge is a litigant in a personal capacity.

(10) Subject to the requirements of paragraph (6), a judge may respond directly or through a third party to allegations in the media or other forms of communication concerning the judge's conduct in a matter.

(7)–(10) [Unchanged, but renumbered (11)–(14)].

B.–D. [Unchanged.]

Canon 7. A Judge or a Candidate for Judicial Office Should Refrain From Political Activity Inappropriate to Judicial Office

A. [Unchanged.]

B. Campaign Conduct.

(1) A candidate, including an incumbent judge, for a judicial office:

(a)–(b) [Unchanged.]

(c) ~~should~~shall not, in connection with cases, controversies, or issues that are likely to come before the court, make pledges, ~~or~~ promises, or commitments about ~~of~~ conduct in office ~~other than the faithful and~~ that are inconsistent with the impartial performance of the adjudicative duties of ~~the~~judicial office.

(d) [Unchanged.]

(2)–(3) [Unchanged.]

C. [Unchanged.]

STAFF COMMENT: The amendments of Canon 3 and Canon 7 of the Code of Judicial Conduct incorporate most of the ABA Model Code of Judicial Conduct 2.10 language and clarify its application to public comments made by judges.

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.

Appointment of Chief Judge of the 3rd Circuit Court
(Dated October 31, 2018)

On order of the Court, effective January 1, 2019, the Honorable Timothy M. Kenny is appointed chief judge of the 3rd Circuit Court for the remainder of a term ending December 31, 2019.

Assignment of Business Court Judge in the 6th Circuit Court (Oakland County)
(Dated October 25, 2018)

On order of the Court, effective January 1, 2019, the Honorable Martha D. Anderson is assigned to serve in the role of business court judge in the 6th Circuit Court, for the remainder of a six-year term expiring April 1, 2019.

FOCUS ON YOUR PET'S CARE NOT THE COST

Pets' medical emergencies never happen when you expect them. Pet insurance reimburses you for covered vet bills, so you can give your pet the best care possible.

SAVE 10% WITH YOUR MEMBER DISCOUNT*

1-877-343-5314
aspcapetinsurance.com/sbm
Priority Code: SBMPET



PREFERRED PARTNER

ASPCA PET HEALTH INSURANCE

* Discounts apply to base plan premium. Plans are underwritten by the United States Fire Insurance Company and administered by Fairmont Specialty Insurance Agency (FSIA Insurance Agency in CA), companies of Crum & Forster. The ASPCA® does not offer insurance. Through a strategic licensing agreement, in exchange for the use of ASPCA trademarks, the ASPCA is paid a royalty fee of up to 10% of the purchase price, with a minimum of \$335,000 per year.

U0816-SBM04

