

Appointment of Chief Judges of Michigan Courts

To read ADM File No. 2019-24, dated November 22, 2019, visit <http://courts.michigan.gov/courts/michigansupremecourt> and click “Administrative Matters & Court Rules” and “Proposed & Recently Adopted Orders on Admin Matters.”

Amendment of Rule 2 of the Rules Concerning the State Bar of Michigan (Dated November 20, 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 amendment of Rule 2 of the Rules Concerning the State Bar of Michigan is adopted, effective January 1, 2020.

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

Rule 2 Membership

Those persons who are licensed to practice law in this state shall constitute the membership of the State Bar of Michigan, subject to the provisions of these rules. Law students may become ~~law student~~ section members of the State Bar Law Student Section. None other than a member's correct name shall be entered upon the official register of attorneys of this state. Each member, upon admission to the State Bar and in the annual dues ~~notice statement~~, must provide the State Bar with the member's correct name, physical address, and email address, that can be used, among other things, for the annual dues notice and to effectuate electronic service as authorized by court rule, and such additional information as may be required. If the physical address provided is a mailing address only, the member also must provide a street or building address for the member's business or residence. No member shall practice law in this state until such information required in this Rule has been provided. Members shall ~~notify the State Bar~~ promptly update the State Bar within writing of any change of name, physical address, or email address. The State Bar shall be entitled to due notice of, and to intervene and be heard in, any proceeding by a member to alter or change the member's name. The name and address on file with the State Bar at the time shall control in any matter arising under these rules involving the sufficiency of notice to a member or the propriety of the name used by the member in the practice of law or in a judicial election or in an election for any other public office. Every active member shall annually provide a certification as to whether the member or the member's law firm has a policy to maintain interest-bearing trust accounts for deposit of client and third-party funds. The certification shall be included ~~placed on the face of the annual dues notice~~ and shall require the member's signature or electronic signature.

STAFF COMMENT: The amendment of Rule 2 of the Rules Concerning the State Bar of Michigan updates and expands the rule slightly to include reference to a member's email address.

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.

Amendment of LCR 2.119 for the Court of Claims

(Dated November 20, 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 amendment of Local Court Rule 2.119 for the Court of Claims is adopted, effective January 1, 2020.

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

Rule 2.119 Motion Practice

(A) Form of Motions.

(1) [Unchanged.]

(2) The moving party must affirmatively state that he or she requested opposing counsel's concurrence in the relief sought on a specified date, and that opposing counsel has denied or not acquiesced in the relief sought, and therefore, that it is necessary to present the motion.

(2)–(6) [Renumbered (3)–(7) but otherwise unchanged.]

(B)–(G) [Unchanged.]

STAFF COMMENT: The amendment of LCR 2.119 for the Court of Claims requires a moving party to affirmatively state that he or she has sought concurrence in the relief sought on a specific date, and opposing counsel denied concurrence in the relief sought.

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.

Amendment of Rule 3.206 of the Michigan Court Rules

(Dated November 13, 2019)

On order of the Court, the following amendment of Rule 3.206 of the Michigan Court Rules is adopted, effective January 1, 2020. The amendments in this order replace the separate amendments of MCR 3.206 included as part of ADM File No. 2002-37 (entered on 9/18/19) and ADM File No. 2018-19 (entered on 6/19/19).

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

Rule 3.206 Initiating a Case

(A) Information in Case Initiating Document.

(1) The form, captioning, signing, and verifying of documents are prescribed in MCR 1.109(D) and (E).

(2)–(6) [Unchanged.]

(B) [Unchanged.]

(C) Verified Statement and Verified Financial Information Form.

(1) Verified Statement. In an action involving a minor, or if child support or spousal support is requested, the party seeking relief must provide to the friend of the court ~~attach~~

a verified statement containing, at a minimum, personal identifying, financial, and health care coverage information of the parties and minor children. A copy of the Verified Statement must ~~beto the copies of the papers served on the other party and provided to the friend of the court.~~ The Verified Statement must be completed on a form approved by the State Court Administrative Office, ~~stating~~

- (a) ~~the last known telephone number, post office address, residence address, and business address of each party;~~
- (b) ~~the social security number and occupation of each party;~~
- (c) ~~the name and address of each party's employer;~~
- (d) ~~the estimated weekly gross income of each party;~~
- (e) ~~the driver's license number and physical description of each party, including eye color, hair color, height, weight, race, gender, and identifying marks;~~
- (f) ~~any other names by which the parties are or have been known;~~
- (g) ~~the name, age, birth date, social security number, and residence address of each minor involved in the action, as well as of any other minor child of either party;~~
- (h) ~~the name and address of any person, other than the parties, who may have custody of a minor during the pendency of the action;~~
- (i) ~~the kind of public assistance, if any, that has been applied for or is being received by either party or on behalf of a minor, and the AFDC and recipient identification numbers; if public assistance has not been requested or received, that fact must be stated; and~~
- (j) ~~the health care coverage, if any, that is available for each minor child; the name of the policyholder; the name of the insurance company; health care organization, or health maintenance organization; and the policy, certificate, or contract number.~~

- (2) Verified Financial Information Form. Unless waived in writing by the parties, or unless a settlement agreement or consent judgment of divorce or other final order disposing of the case has been signed by both parties at the time of filing, and except as set forth below, each party must serve a Verified Financial Information Form (as provided by SCAO) within 28 days following the date of service of defendant's initial responsive pleading. If a party is self-represented and his or her address is not disclosed due to domestic violence, the parties' Verified Financial Information forms will be exchanged at the first scheduled matter involving the parties or in another manner as specified by the court or stipulated to by the parties. A party who is a victim of domestic violence, sexual assault or stalking by another party to the case, may omit any information which might lead to the location of where the victim lives or works, or where a minor child may be found. Failing to provide this Verified Financial Information form may be addressed by the court or by motion consistent with MCR 2.313. The Verified Financial Information form does not preclude other discovery. A proof of service must be filed when Verified Financial Information forms are served.

- (23) The information in the Verified Statement and Verified Financial Information forms is confidential, and is not to be released other than to the court, the parties, or the attorneys for the parties, except on court order. For good cause, the addresses of a party and minors may be omitted from the copy of the Verified Statement and Verified Financial Information forms that are served on the other party. If a party excludes his or her address for good cause, that party shall either:

- (a) submit to electronic filing and electronic service under MCR 1.109(G), or
- (b) provide an alternative address where mail can be received.

- (34) If any of the information required to be in the Verified Statement or Verified Financial Information forms is omitted, the party seeking relief must explain the reasons for the omission in those forms a sworn affidavit, or in a separate statement, verified under MCR 1.109(D)(3)(b) to be filed with the court by the due date of the form.

- (5) A party who has served a Verified Financial Information form must supplement or correct its disclosure as ordered by the court or otherwise in a timely manner if the party learns that in some material respect the Verified Financial Information form is incomplete or incorrect, and if the additional or corrective information has not otherwise been made known to the other parties during the action or in writing.

- (6) When the action is to establish paternity or child support and the pleadings are generated from Michigan's automated child support enforcement system, the party is not required to comply with subrule (C)(1) or (C)(2). However, the party may comply with subrule (C)(1) and (C)(2) to provide the other party an opportunity to supply any omissions or correct any inaccuracies.

(D) Attorney Fees and Expenses.

- (1) [Unchanged.]
- (2) A party who requests attorney fees and expenses must allege facts sufficient to show that
 - (a) the party is unable to bear the expense of the action, including the expense of engaging in discovery appropriate for the matter, and that the other party is able to pay, or
 - (b) the attorney fees and expenses were incurred because the other party refused to comply with a previous court order, despite having the ability to comply, or engaged in discovery practices in violation of these rules.

STAFF COMMENT: This amendment of MCR 3.206 combines and harmonizes two amendments issued in separate ADM files (ADM File No. 2002-37 and ADM File No. 2019-18) amending the same rule.

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.

72 From the Michigan Supreme Court

Amendment of Rule 3.802 of the Michigan Court Rules
(Dated November 20, 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 amendment of Rule 3.802 of the Michigan Court Rules is adopted, effective January 1, 2020.

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

Rule 3.802 Manner and Method of Service

(A) Service of Documents.

(1) [Unchanged.]

(2) Notice of a petition to identify a putative father and to determine or terminate his rights, or a petition to terminate the rights of a ~~noncustodial~~ parent under MCL 710.51(6), must be served on the individual or the individual's attorney in the manner provided in:

(a)–(b) [Unchanged.]

(3)–(4) [Unchanged.]

(B) Service When Identity or Whereabouts of Father are Unascertainable

(1)–(2) [Unchanged.]

(C) Service When Whereabouts of ~~Noncustodial~~ Parent are Unascertainable. If service of a petition to terminate the parental rights of a ~~noncustodial~~ parent pursuant to MCL 710.51(6) cannot be made under subrule (A)(2) because the whereabouts of ~~that the noncustodial~~ parent have not been ascertained after diligent inquiry, the petitioner must file proof of the efforts made to locate ~~that the noncustodial~~ parent in a statement made under MCR 1.109(D)(3). If the court finds, on reviewing the statement, that service cannot be made because the whereabouts of the person have not been determined after reasonable efforts, the court may direct any manner of substituted service of the notice of hearing, including service by publication.

(D) [Unchanged.]

STAFF COMMENT: The amendment of MCR 3.802 eliminates references to the “noncustodial parent” to make the rule consistent with the statute (MCL 710.51) allowing stepparent adoption when the petitioning stepparent's spouse has joint legal custody, rather than requiring sole legal custody.

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.

Amendment of Rule 5.117 of the Michigan Court Rules
(Dated November 20, 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 amendment of Rule 5.117 of the Michigan Court Rules is adopted, effective January 1, 2020.

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

Rule 5.117 Appearance by Attorneys

(A) [Unchanged.]

(B) Appearance.

(1) In General. An attorney may generally appear by an act indicating that the attorney represents an interested person in the proceeding. A limited appearance may be made by an attorney for an interested person in a civil action or a proceeding as provided in MCR 2.117(B)(2)(c), except that any reference to parties of record in MCR 2.117(B)(2)(c) shall instead refer to interested persons. An appearance by an attorney for an interested person is deemed an appearance by the interested person. Unless a particular rule indicates otherwise, any act required to be performed by an interested person may be performed by the attorney representing the interested person.

(2) [Unchanged.]

(3) Appearance by Law Firm.

(a) [Unchanged.]

(b) The appearance of an attorney is deemed to be the appearance of every member of the law firm. Any attorney in the firm may be required by the court to conduct a court-ordered conference or trial if it is within the scope of the appearance.

(C) Duration of Appearance by Attorney.

(1)–(4) [Unchanged.]

(5) Limited Scope Appearances. Notwithstanding other provisions in this section, limited appearances under MCR 2.117(B)(2)(c) may be terminated in accordance with MCR 2.117(C)(3), except that any reference to parties of record in MCR 2.117(B)(2)(c) shall instead refer to interested persons.

(56) [Renumbered but otherwise unchanged.]

(D) [Unchanged.]

STAFF COMMENT: The amendment of MCR 5.117 clarifies that the rules authorizing limited scope representation are explicitly applicable to civil cases and proceedings in probate court.

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.

Amendment of Rule 9.123 of the Michigan Court Rules
(Dated November 20, 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 amendment of Rule 9.123 of the Michigan Court Rules is adopted, effective January 1, 2020.

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

Rule 9.123 Eligibility for Reinstatement

(A) Suspension, 179 Days or Less. An attorney whose license has been suspended for 179 days or less pursuant to disciplinary proceedings may be automatically reinstated in accordance with this rule. The attorney may file, not sooner than 7 days before the last day of the suspension, with the board and serve on the administrator by filing with the Supreme Court clerk, the board, and the administrator an affidavit showing that the attorney has fully complied with all requirements the terms and conditions of the suspension order. The affidavit must contain a statement that the attorney will continue to comply with the suspension order until the attorney is reinstated. A materially false statement contained in the affidavit is ground for disbarment a basis for an action by the administrator and additional discipline. Within 7 days after the filing of the affidavit, the administrator may file with the board and serve on the attorney an objection to reinstatement based on the attorney's failure to demonstrate compliance with the suspension order. If the administrator files an objection, an order of reinstatement will be issued only if the objection is withdrawn or a hearing panel makes a determination that the attorney has complied with the suspension order. An objection which cannot be resolved without the adjudication of a disputed issue of fact shall be promptly referred to a hearing panel for decision on an expedited basis. If the administrator does not file an objection and the board is not otherwise apprised of a basis to conclude that the attorney has failed to comply with the suspension order, the board must promptly issue an order of reinstatement. The order must be filed and served under MCR 9.118(F).

(B)–(D) [Unchanged.]

(E) Abatement or Modification of Conditions of Discipline or Reinstatement. When a condition has been imposed in an order of discipline or in an order of reinstatement, the attorney may request an order of abatement discharging the lawyer from the obligation to comply with the condition, or an order modifying the condition. The attorney may so request either before or with the attorney's affidavit of compliance under MCR 9.123(A) or petition for reinstatement under MCR 9.123(B). The request may be granted only if the attorney shows by clear and convincing evidence that a timely, good-faith effort has been made to meet the condition but it is impractical to fulfill the condition.

STAFF COMMENT: The amendment of MCR 9.123 updates the attorney discipline process for reinstatement of short-term suspensions and allows for abatement or modification of a condition in certain circumstances.

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 Alpena and Montmorency County Courts (Dated November 13, 2019)

On order of the Court, effective immediately, the Honorable Benjamin T. Bolster is appointed as chief judge of the 26th Circuit Court, Alpena County Probate Court, Montmorency County Probate Court, and the 88th District Court for the remainder of a term ending December 31, 2019.

Supreme Court Appointments to the Committee on Model Civil Jury Instructions (Dated December 4, 2019)

On order of the Court, pursuant to Administrative Order No. 2001-6, the following persons are reappointed to the Committee on Model Civil Jury Instructions for terms beginning January 1, 2020, and ending December 31, 2022:

Hon. Kathleen A. Feeney
Daniel J. Schulte
William B. Forrest III
Amy M. Johnston

In addition, the Court appoints Judge Annette M. Jurkiewicz-Berry, Court of Appeals Judge Amy Ronayne Krause, Judge Charles T. LaSata, Emily G. Thomas, and Matthew M. Aneese for terms beginning January 1, 2020, and ending December 31, 2022.

Supreme Court Appointments to the Committee on Model Criminal Jury Instructions (Dated December 4, 2019)

On order of the Court, pursuant to Administrative Order No. 2013-13, the following persons are reappointed to the Committee on Model Criminal Jury Instructions for terms beginning January 1, 2020, and ending December 31, 2022:

Hon. Stacia J. Buchanan
Timothy A. Baughman
Jerome Sabbota
Michael L. Mittlestat
Michael J. McCarthy

In addition, the Court appoints Judge Michael C. Brown and Judge Terry L. Clark for terms beginning January 1, 2020, and ending December 31, 2022. Tamara J. Phillips is appointed for the remainder of a term, effective immediately, and ending on December 31, 2021. Judge Joyce A. Draganchuk is appointed as committee chair.

Supreme Court Appointments to the Foreign Language Board of Review (Dated December 4, 2019)

On order of the Court, pursuant to MCR 8.127, Hon. Tiffany A. Ankley (district court judge), Frank Hardester (court administrator), and Evelyn Villarruel (fully-certified interpreter) are appointed to the Foreign Language Board of Review for terms beginning January 1, 2020, and ending December 31, 2022.