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**Proposed Amendment of Rule 16 and Proposed Addition of Rule 20 of the Rules Concerning the State Bar of Michigan**  
(Dated April 8, 2020)

On order of the Court, this is to advise that the Court is considering an amendment of Rule 16 and a proposed addition of Rule 20 of the Rules Concerning the State Bar of Michigan. 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 16 Unauthorized Practice of the Law**

Sec. 1. The State Bar of Michigan is hereby authorized and empowered to investigate matters pertaining to the unauthorized practice of law and, with the authority of its Board of Commissioners, to file and prosecute actions and proceedings with regard to such matters.

Sec. 2. The State Bar of Michigan has the power to issue subpoenas to require the appearance of a witness or the production of documents or other tangible things concerning its investigation of an unauthorized practice of law complaint. Subpoenas may be prepared by the investigative staff of the State Bar of Michigan and served after approval by the Chairperson of the Standing Committee on Unauthorized Practice of Law. The subpoena may be served by certified mail, return receipt requested, and delivery restricted to the addressee or via hand delivery. The subpoena may also be served by e-mail, if person to be served agrees.

A person who without just cause, after being commanded by a subpoena, fails or refuses to appear or produce documents or tangible things, after being ordered to do so is in contempt. The State Bar of Michigan may initiate a contempt proceeding under MCR 3.606 in the circuit court for the county where the act or refusal to act occurred.

A subpoena issued pursuant to this rule shall be sufficient authorization for seeking the production of documents or other tangible things outside the state of Michigan. If the deponent or the person possessing the subpoenaed information will not comply voluntarily, the proponent of the subpoena may utilize MCR 2.305(C) or any similar provision in a statute or court rule of Michigan or of the state, territory, or country where the deponent or possessor resides or is present.

Sec. 3. A person is absolutely immune from suit for statements and communications transmitted solely to State Bar staff and their agents, the Standing Committee on the Unauthorized Practice of Law or the State Bar of Michigan Board of Commissioners or given in the course of an investigation of an unauthorized practice of law

complaint. State Bar staff and their agents, the Standing Committee on the Unauthorized Practice of Law, and the State Bar of Michigan Board of Commissioners are absolutely immune from suit for conduct arising out of the performance of their duties concerning unauthorized practice of law complaints.

Sec. 4. Notwithstanding the confidentiality provisions of SBR 19, the State Bar of Michigan may disclose information concerning an unauthorized practice of law complaint and information obtained during the investigation of an unauthorized practice of law complaint to persons and entities authorized and empowered to investigate and prosecute unauthorized practice of law complaints in other states.

**[NEW] Rule 20 Client Protection Fund**

Sec. 1. The State Bar of Michigan, through its Board of Commissioners, is authorized and empowered to administer and investigate Client Protection Fund claims and to supervise the Client Protection Fund, which shall include, but not be limited to, receiving, holding, managing, disbursing monies from, and recouping monies paid by the Client Protection Fund.

The Client Protection Fund is a program established to reimburse clients who have been victimized by lawyers who violate the profession's ethical standards and misappropriate funds entrusted to them.

Sec. 2. All members are bound by the Client Protection Fund Rules.

Sec. 3. The State Bar of Michigan has the power to issue subpoenas to require the appearance of a witness or the production of documents or other tangible things concerning its administration and investigation of Client Protection Fund claims. The subpoena may be served by certified mail, return receipt requested, and delivery restricted to the addressee or via hand delivery. The subpoena may also be served by e-mail or other electronic form, if person to be served agrees.

A person who without just cause, after being commanded by a subpoena, fails or refuses to appear or produce documents or tangible things, after being ordered to do so is in contempt. The State Bar of Michigan may initiate a contempt proceeding under MCR 3.606 in the circuit court for the county where the act or refusal to act occurred.

A subpoena issued pursuant to this rule shall be sufficient authorization for seeking the production of documents or other tangible things outside the state of Michigan. If the deponent or the person possessing the subpoenaed information will not comply voluntarily, the proponent of the subpoena may utilize MCR 2.305(C) or any similar provision in a statute or court rule of Michigan or of the state, territory, or country where the deponent or possessor resides or is present.

Sec. 4. A person is absolutely immune from suit for statements and communications transmitted solely to State Bar staff and their agents, the Standing Committee on the Client Protection Fund or the State Bar of Michigan Board of Commissioners or given in the course of an investigation of a Client Protection Fund claim. State Bar staff and their agents, the Standing Committee on the Client Protection Fund, and the State Bar of Michigan Board of Commissioners are absolutely immune from suit for conduct arising out of

the performance of their duties and responsibilities regarding the Client Protection Fund.

Sec. 5. Notwithstanding the confidentiality provisions of SBR 19, the State Bar of Michigan may disclose information concerning Client Protection Fund claims and information obtained during the investigation of Client Protection Fund claims to persons and entities authorized and empowered to investigate and administer Client Protection Fund claims in other states.

STAFF COMMENT: The proposed amendment of Rule 16 and proposed addition of Rule 20 of the Rules Concerning the State Bar of Michigan would clarify the process of investigation of unauthorized practice of law claims and outline procedures for the Client Protection Fund.

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 August 1, 2020, at P.O. Box 30052, Lansing, MI 48909, or ADMcomment@courts.mi.gov. When filing a comment, please refer to ADM File No. 2019-36. 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.

### Amendment of Administrative Order No. 2020-3 Order Extending Deadline for Commencement of Actions (Dated May 1, 2020)

On order of the Court, the following amendment of Administrative Order No. 2020-3 is adopted, effective immediately.

[Additions to the text are indicated in underlining]

In light of the continuing COVID-19 pandemic and to ensure continued access to courts, the Court orders that:

For all deadlines applicable to the commencement of all civil and probate case-types, including but not limited to the deadline for the initial filing of a pleading under MCR 2.110 or a motion raising a defense or an objection to an initial pleading under MCR 2.116, and any statutory prerequisites to the filing of such a pleading or motion, any day that falls during the state of emergency declared by the Governor related to COVID-19 is not included for purposes of MCR 1.108(1).

This order is intended to extend all deadlines pertaining to case initiation and the filing of initial responsive pleadings in civil and probate matters during the state of emergency declared by the Governor related to COVID-19. Nothing in this order precludes a court from ordering an expedited response to a complaint or motion in order to hear and resolve an emergency matter requiring immediate attention. We continue to encourage courts to conduct hearings remotely using two-way interactive video technology or other remote participation tools whenever possible.

This order in no way prohibits or restricts a litigant from commencing a proceeding whenever the litigant chooses, nor does it suspend or toll any time period that must elapse before the com-

mencement of an action or proceeding. Courts must have a system in place to allow filings without face-to-face contact to ensure that routine matters, such as filing of estates in probate court and appointment of a personal representative in a decedent's estate, may occur without unnecessary delay and be disposed via electronic or other means.

STAFF COMMENT: The amendment of Administrative Order No. 2020-3 is intended to make the order more consistent with Executive Order 2020-58.

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.

### Administrative Order No. 2020-6 Order Expanding Authority for Judicial Officers to Conduct Proceedings Remotely (Dated April 7, 2020)

In response to the extraordinary and unprecedented events surrounding the COVID-19 pandemic in Michigan, the Court has adopted a number of administrative orders authorizing courts to implement emergency measures to mitigate the transmission of the virus and provide the greatest protection possible to those who work and have business in our courts. During the past few weeks, Michigan's judges, court administrators, court staff, court clerks, attorneys, law enforcement officers, probation staff and many others who support our courts have continued to serve the public with courage and conviction and have shown they are up to the challenge of both limiting foot traffic in our courts while creatively adopting new business methods and implementing new technologies to conduct the court's business and ensure that our courts remain accessible to the public to the greatest extent possible during this crisis.

Although our highest priority during this crisis is for courts to continue to be vigilant and protect against further spread of the coronavirus, we must also continue to ensure that our courts operate as efficiently and effectively as possible under the circumstances, continue to ensure timely hearing and disposition of essential matters, and make our best efforts to provide timely justice in all other matters. The purpose of the order is to empower our courts and judges to meet this challenge by allowing them to use innovative ways to conduct court business remotely, including best practices as identified by the State Court Administrative Office.

On order of the Court, pursuant to Const 1963, art 6, § 4, which provides for the Supreme Court's general superintending control over all state courts, the Court authorizes judicial officers to conduct proceedings remotely (whether physically present in the courtroom or elsewhere) using two-way interactive videoconferencing technology or other remote participation tools under the following conditions:

- any such procedures must be consistent with a party's Constitutional rights;
- the procedure must enable confidential communication between a party and the party's counsel;
- access to the proceeding must be provided to the public either during the proceeding or immediately after via access to a

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video recording of the proceeding, unless the proceeding is closed or access would otherwise be limited by statute or rule;

- the procedure must enable the person conducting or administering the procedure to create a recording sufficient to enable a transcript to be produced subsequent to the activity.

While this order is in effect, and consistent with its provisions, all judges in Michigan are required to make a good faith effort to conduct proceedings remotely whenever possible. Although adjournments are permitted when necessary, courts are directed to implement measures to ensure all matters may proceed as expeditiously as possible under the circumstances, given the particular public health conditions in each locality and the technology resources and staffing situations in place at each court.<sup>1</sup> The Michigan Judicial Institute will continue to provide instruction and other training materials on procedures to conduct remote hearings. Courts should also consult with their regional administrators in working toward this goal.

A judge who wishes to participate from a location other than the judge's courtroom shall do so only with the written permission of the court's chief judge (email is sufficient). The chief judge shall grant such permission whenever the circumstances warrant, unless the court does not have and is not able to obtain any equipment or licenses necessary for the court to operate remotely.

Judges who conduct remote proceedings must provide notice of the time and procedure for participating in the remote hearing, and verify that all participants are able to proceed in this manner. Judges who operate under this method must comply with any standards promulgated by the State Court Administrative Office for purposes of this order. Courts may only operate remotely as long as they can do so safely and consistent with the Governor's recent executive orders relating to the COVID-19 pandemic.

This order is effective during the period of the state of emergency declared by Governor Whitmer under Executive Order 2020-33 or as further ordered by the Court.

1. To the extent Administrative Order No. 2020-2 may be interpreted to require the adjournment of some matters, this order replaces that directive.

### Administrative Order No. 2020-7 Extension of Administrative Order Nos. 2020-1, 2020-2, and 2020-6 (Dated April 10, 2020)

On order of the Court, in light of Executive Order 2020-33, Executive Order 2020-42 and Senate Concurrent Resolution 24, the expiration dates in Administrative Order Nos. 2020-1, 2020-2, and 2020-6 are extended through April 30, 2020, or until further order of the Court.

### Administrative Order No. 2020-8 Additional Verification Required for Landlord-Tenant Cases (Dated April 16, 2020)

The federal Coronavirus Aid, Relief, and Economic Security Act ("CARES Act"), Public Law No. 116-136, imposes a moratorium, until July 25, 2020, on the filing of summary proceeding actions to recover possession of premises for nonpayment of rent that meet certain parameters.

Therefore, on order of the Court, pursuant to Const 1963, art 6, § 4, which provides for the Supreme Court's general superintending control over all state courts, a complainant who files a summary proceeding action before July 25, 2020 under MCR 4.201 for possession of premises for nonpayment of rent also must submit verification indicating whether the property is exempt from the moratorium provided for under the CARES Act. The verification shall be made on a SCAO-approved form.

This order is effective until July 25, 2020, or as further ordered by the Court.

### Administrative Order No. 2020-9 Temporary Amendments and Extensions Related to Continuing Work in Courts (Dated April 17, 2020)

On order of the Court, except as otherwise provided by this order, and consistent with Administrative Order No. 2020-6, courts (including judicial officers and staff), attorneys, parties, and other participants in the judicial system are expected to proceed with activities related to all pending legal proceedings to the greatest extent possible.

In pursuit of that goal, the following rules are temporarily amended to enable the work of the courts to continue while also complying with the restrictions on leaving home and accessing private facilities (such as office space) and public facilities including courthouses, post offices, and other common services pursuant to EO 2020-42 and 2020-36, and other executive orders that may be issued, during the state of emergency.

#### Rules Temporarily Amended During State of Emergency

During the state of emergency established by Governor Whitmer under Executive Order 2020-33, the following rules are temporarily amended:

MCR 2.002: Courts must enable a litigant who seeks a fee waiver to do so by an entirely electronic process.

MCR 2.107(C): Because people may not be physically present to receive mail at a particular location, all service of process under this rule must be performed using electronic means (e-Filing where available, email, or fax, where available) to the greatest extent possible. Email transmission does not require agreement by the other party(s) during the effective period of this order, but should otherwise comply as much as possible with the provisions of MCR 2.107(C)(4).

MCR 2.305, 2.506, 2.621(C), 9.112(D), 9.115(I)(1), 9.212: Subpoenas issued under these rules may require a party or witness to appear by telephone, by two-way interactive video technology, or by other remote participation tools.

MCR 3.904: Courts may use two-way videoconferencing technology or other remote participation tools where the court orders a more restrictive placement or more restrictive treatment.

#### Extension of Deadlines During Stay Home, Stay Safe Order

Consistent with AO No. 2020-3 (excluding days in the state of emergency in computing the deadline for case initiation filings) and AO No. 2020-4 (extending the filing deadlines in the Michigan Supreme Court and Court of Appeals for the period of the Executive

Order 2020-21 and 2020-42), the following deadlines are likewise suspended as of March 24, 2020, the effective date of Executive Order 2020-21, and will be extended until the expiration of Executive Order 2020-42 or a subsequent Executive Order that extends the period in which citizens are required to suspend activities that are not necessary to sustain or protect life:

MCR 2.102(D): Expiration of summons.

MCR 2.614: A stay of proceedings to enforce judgement.

MCR 3.216(G)(3) and MCR 2.411(F)(4): Two-year period in which to complete advanced mediation training.

Postjudgment motions filed in the trial court as well as circuit court appeals and appeals of agency determinations.

This order is effective as provided herein or as otherwise provided by subsequent order of the Court.

#### Administrative Order No. 2020-10 Delay of Jury Trials (Dated April 23, 2020)

On order of the Court, pursuant to Const 1963, art 6, § 4, which provides for the Supreme Court's general superintending control over all state courts, all jury trials are delayed for a period of 60 days from the date of this administrative order (until June 22, 2020), or as otherwise provided for by local order, whichever date is later.

Further, the State Court Administrative Office is authorized to initiate pilot projects regarding practices related to how to conduct remote jury trials. The pilot courts will test and evaluate innovative jury procedures to allow for appropriate social distancing while also protecting the parties' Constitutional and statutory rights. After the pilot projects are complete, the State Court Administrative Office shall provide recommendations to assist all courts in providing jury trials that promote public health and safety as well as protect people's rights.

This order shall remain in effect through June 22, 2020, or until further order of the Court.

#### Administrative Order No. 2020-11 Extension of Personal Protection Orders that Expire During the State of Emergency (Dated April 27, 2020)

During the continuing COVID-19 pandemic, the Michigan Supreme Court has directed courts to work to protect public health and mitigate the transmission of the coronavirus while also ensuring continued access to the judicial system for those who need it. Although electronic access to courts has increased dramatically over the last several weeks, most courts are currently operating with limited onsite staff. As a result, many interactions that would occur by face-to-face encounter have become impossible, including those that are geared toward protecting vulnerable individuals.

For that reason, on order of the Court, pursuant to Const 1963, art 6, § 4, which provides for the Supreme Court's general superintending control over all state courts, any personal protection order that expires during the period from the date of entry of this administrative order through June 1, 2020, is automatically extended to July 21, 2020. A respondent who objects to the extension may file a motion to modify or terminate the personal protection order and request a hearing under MCR 3.707. For a hearing under this

order, the court shall schedule the hearing and notify the parties at least 7 days before the date of the hearing by the means most likely to provide actual notice. The extension set forth in this order does not limit in any way a judge's authority and ability to hold a hearing on respondent's motion and determine whether the extension should continue or the personal protection order should be modified or terminated.

Nothing in this order prohibits a petitioner from consenting to termination of the personal protection order.

#### Administrative Order No. 2020-12 Extension of Administrative Order Nos. 2020-1, 2020-2, 2020-6, 2020-9 (Dated April 27, 2020)

On order of the Court, pursuant to Const 1963, art 6, § 4, which provides for the Supreme Court's general superintending control over all state courts, the expiration dates in Administrative Order Nos. 2020-1, 2020-2, 2020-6, and 2020-9 are extended until further order of the Court.

#### Administrative Order No. 2020-13 Order Authorizing Courts to Collect Contact Information (Dated April 29, 2020)

On order of the Court, in light of Administrative Order No. 2020-2, Administrative Order No. 2020-6, and Administrative Order No. 2020-9, and under Const 1963, art 6, § 4, which provides for the Supreme Court's general superintending control over all state courts, a court may collect contact information, including mobile phone number(s) and email address(es), from any party or witness to a case to facilitate scheduling of and participation in remote hearings or facilitate case processing. A court may collect the contact information using a SCAO-approved form. To protect privacy and address security concerns, the contact information shall be confidential. An email address for an attorney must be the same address as the one on file with the State Bar of Michigan.

This order is effective until further order of the Court.

#### Administrative Order No. 2020-14 Continued Status Quo Court Operations and Phased Return to Full Court Operations (Dated May 6, 2020)

The Michigan Supreme Court has made clear that during the health crisis relating to the coronavirus pandemic, courts must continue to conduct essential functions, and are expected to use their best efforts to provide timely justice in all other matters. To achieve this goal, the Court has authorized judicial officers to conduct proceedings remotely to the greatest extent possible, and several administrative orders have been adopted to help courts and litigants navigate more efficiently and effectively.

Keeping the public and court staff safe and reducing the risk of spreading the virus will remain a critical focus of our efforts. However, nearly two months after the first case of coronavirus was identified in Michigan, we don't know how long this effort will last. Moreover, the spread of the virus presents challenges that are different in each community as case counts rise in some areas and fall in others.



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There is some consensus—nationally and locally—about the best way to approach returning to more normal work practices in a way that ensures access to necessary services while also protecting against the risk of further infection. This approach involves meeting various benchmarks based on local public health data as public facilities gradually phase in operations. Courts should consider expanding in person operations with diligent regard for health and safety practices as determined in consultation with local health officials and considering the capacity of the community's health system, and as approved by SCAO.

Therefore, on order of the Court, pursuant to Const 1963, art 6, § 4, which provides for the Supreme Court's general superintending control over all state courts, courts must adhere to the phased return to operations as determined by policy guidelines established by the State Court Administrative Office. Such policies will include but may not be limited to:

- Continued use and expansion of remote hearings as practicable and increase of the court's capacity to conduct business online, including increased remote work by employees.
- Continued limited access to courtrooms and other spaces to no more than 10 persons, including staff.
- Imposition of social distancing practices of at least 6 feet for both employees and visitors.
- Limited in-person court activity to essential functions that cannot be conducted remotely.
- In accordance with CDC guidelines,
  - Adoption of policies that ensure appropriate cleaning and sanitation.
  - Adoption of policies that appropriately protect vulnerable individuals.
  - Adoption of policies to safely screen employees and the public for potential cases of illness.
- Courts must maintain their current level of operations until SCAO approves a court's plan to expand in-court proceedings. Courts in each circuit may work together to submit to SCAO at each gating level a single plan wherever possible consistent with the SCAO guidelines for returning to full capacity. Conditions may also require a court to move to a previous access level, depending on local conditions.

These conditions remain in effect until further order of the Court.

#### Administrative Order No. 2020-15 Revised Format for July 2020 Michigan Bar Examination (Dated May 18, 2020)

In recognition of the continuing COVID-19 pandemic, in light of various current and projected pandemic-related restrictions, and pursuant to the Court's constitutional and statutory authority to supervise and regulate the practice of law, Const 1963, art 6, § 5, and MCL 600.904, and in consultation with the Board of Law Examiners (Board), the Court orders that in lieu of the two-day exam previously scheduled for July 28–29, 2020, a one-day exam will be administered on July 28, 2020. The exam will be conducted online, and will consist solely of the essay portion of the traditional exam.

The Board will inform applicants of the specific instructions for the online exam no later than July 1, 2020. Any applicant receiving accommodations under the Americans with Disabilities Act that would preclude remote testing will be allowed to test in person at a location to be determined, assuming that federal and state restrictions permit such examination. Any applicant that did not register to use a laptop for the exam must contact the Board if the applicant is unable to take the exam on a computer.

Applicants who complete the test in person will be required to adhere to federal and state health recommendations and requirements. Such requirements will, at a minimum, likely require the applicant to answer health-related screening questions, use personal protective equipment, and comply with staggered test times to ensure social distancing mandates.

For applicants who do not wish to test in July 2020, applications to sit for the July 2020 bar examination will automatically be transferred to the next available 2021 bar exam. In addition, applicants who wish to transfer their application to the next available exam should notify the Board no later than July 1, 2020, by email at BLE-Info@courts.mi.gov. Transfer fees will not be charged. Applicants who wish to withdraw from the process and notify the Board of that withdrawal no later than July 1, 2020, by email, will have their exam fees refunded by the Board and their character and fitness fees refunded by the State Bar of Michigan.

Applicants have the affirmative obligation to frequently check the Board's website, where updates, instructions, and other vital information will be provided.

#### Administrative Order No. 2020-16 Order Resuming Filing Deadlines in the Michigan Supreme Court and Court of Appeals (Dated June 3, 2020)

Effective Monday, June 8, 2020, Administrative Order No. 2020-4 that tolled the filing deadlines in the Michigan Supreme Court and Court of Appeals is rescinded, and the periods for all filings, jurisdictional and non-jurisdictional, in those Courts shall resume. For time periods that started before AO No. 2020-4 took effect, the filers shall have the same number of days to submit their filings on June 8, 2020, as they had when the tolling went into effect. For filings with time periods that did not begin to run because of the tolling period, the filers shall have the full periods for filing beginning on June 8, 2020.

#### Proposed Addition of Rule 2.226 of the Michigan Court Rules (Dated May 20, 2020)

On order of the Court, this is to advise that the Court is considering a proposed addition of Rule 2.226 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.

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[New] Rule 2.226 Change of Venue; Transfer of Jurisdiction; Orders.

- (A) The court ordering a change of venue or transfer of jurisdiction shall enter all necessary orders pertaining to the certification and transfer of the action to the court to which the action is transferred on a form approved by the State Court Administrative Office.
- (B) If a change of venue or transfer of jurisdiction order is not prepared as required under subrule (A), and the order lacks the information necessary for the receiving court to determine under which rule the transfer was ordered, the receiving court may refuse to accept the transfer.
- (C) If a receiving court refuses to accept a transfer because of lack of necessary information under subrule (B), the clerk of the court in the receiving court shall prepare a notice of refusal on a form approved by the State Court Administrative Office and promptly return the case to the transferring court for a proper order.
- (D) If a transferring court receives a refusal to accept a transferred case under subrule (C), the transferring court shall prepare a proper order in accordance with subrule (A) and retransfer the case within three business days.

STAFF COMMENT: The proposed addition of MCR 2.226 would clarify the process for change of venue and transfer orders.

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 September 1, 2020, at P.O. Box 30052, Lansing, MI 48909, or ADMcomment@courts.mi.gov. When filing a comment, please refer to ADM File No. 2002-37. 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 3.804, 5.140, and 5.404 and Proposed Addition of Rule 3.811 of the Michigan Court Rules (Dated April 8, 2020)

On order of the Court, this is to advise that the Court is considering amendments of Rules 3.804, 5.140, and 5.404 and a proposed addition of Rule 3.811 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.

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

Rule 3.804 Consent and Release

- (A) [Unchanged.]
- (B) Hearing on Consent to Adopt.
  - (1)–(2) [Unchanged.]
  - (3) Use of Videoconferencing Technology. Videoconferencing technology may not be used~~Except~~ for a consent hearing under this subrule involving an Indian child pursuant to MCL 712B.13, ~~the court may allow the use of videoconferencing technology under this subchapter in accordance with MCR 2.407.~~
- (C)–(D) [Unchanged.]

[New] Rule 3.811 Use of Videoconferencing Technology

Except as otherwise provided, the court may allow the use of videoconferencing technology for proceedings under this subchapter in accordance with MCR 2.407.

Rule 5.140 Use of Videoconferencing Technology

- (A)–(C) [Unchanged.]
- ~~(D) The court may not use videoconferencing technology for a consent hearing required to be held pursuant to the Michigan Indian Family Preservation Act and MCR 5.404(B).~~
- (ED) [Relettered but otherwise unchanged.]

Rule 5.404 Guardianship of Minor

- (A) [Unchanged]
- (B) Voluntary Consent to Guardianship of an Indian Child.
 

A voluntary consent to guardianship of an Indian child must be executed by both parents or the Indian custodian.

  - (1) Form of Consent. To be valid, the consent must contain the information prescribed by MCL 712B.13(2) and be executed on a form approved by the State Court Administrative Office, in writing, recorded before a judge of a court of competent jurisdiction, and accompanied by the presiding judge's certificate that the terms and consequences of the consent were fully explained in detail and were fully understood by the parent or Indian custodian. The court shall also certify that either the parent or Indian custodian fully understood the explanation in English or that it was interpreted into a language that the parent or Indian custodian understood. Any consent given before, or within 10 days after, the birth of the Indian child is not valid. The court may ~~not~~ use videoconferencing technology for the guardianship consent hearing required to be held under MCL 712B.13(1)~~the Michigan Indian Family Preservation Act~~ and this subrule.

- (2)–(3) [Unchanged.]
- (C)–(H) [Unchanged.]

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STAFF COMMENT: The proposed amendments of MCR 3.804, 5.140, and 5.404 and proposed new MCR 3.811 would allow greater use of videoconferencing equipment in cases involving Indian children.

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 August 1, 2020, at P.O. Box 30052, Lansing, MI 48909, or ADMcomment@courts.mi.gov. When filing a comment, please refer to ADM File No. 2019-47. 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 4.201 of the Michigan Court Rules (Dated May 20, 2020)

On order of the Court, this is to advise that the Court is considering an amendment of Rule 4.201 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.

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Rule 4.201 Summary Proceedings to Recover Possession of Premises  
(A)–(B) [Unchanged.]

(C) Summons.

(1) [Unchanged.]

(2) The summons must state whether or not the action is brought in the county or district in which the premises or any part of the premises is situated.

(32) The summons must also include the following advice to the defendant:

(a)–(d) [Unchanged.]

(e) The defendant has a right to have the case tried in the proper county, district, or court. The case will be transferred to the proper county, district, or court if the defendant moves the court for such transfer.

(D)–(E) [Unchanged.]

(F) Appearance and Answer; Default.

(1)–(2) [Unchanged.]

(3) Right to Proper Venue. If the plaintiff has indicated on the summons that the premises or any part of the premises

is situated in a different county or district, the court must inform the defendant, at the hearing scheduled pursuant to section (C)(1) of this rule, of the right to motion the court to transfer the case to the county or district where the premises or any part of the premises is situated and that such a motion will be granted.

(a) The court may order change of venue on its own motion.

(b) A motion to change venue pursuant to this subrule and MCL 600.5706(4) may be made in writing before the date listed on the summons, pursuant to section (C)(1) of this rule, or orally in response to the court's advisement in this subrule.

(c) Transfer of the case shall be pursuant to MCR 2.223.

(3)–(5) [Renumbered (4)–(6) but otherwise unchanged.]

(G)–(O) [Unchanged.]

STAFF COMMENT: The proposed amendment of MCR 4.201 would require disclosure of the right to object to venue in actions brought under the Summary Proceedings Act for landlord-tenant proceedings in district court, consistent with MCL 600.5706.

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 September 1, 2020, at P.O. Box 30052, Lansing, MI 48909, or ADMcomment@courts.mi.gov. When filing a comment, please refer to ADM File No. 2019-41. 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.

### Appointment of Chief Judge of the 29th District Court (Wayne County) (Dated May 20, 2020)

On order of the Court, effective immediately, the Honorable Laura Mack is appointed chief judge of the 29th District Court until further order of the Court.

### Appointments to the Michigan Tribal State Federal Judicial Forum (Dated May 20, 2020)

On order of the Court, effective July 1, 2020, the following members of the Michigan Tribal State Federal Judicial Forum are reappointed for terms ending July 1, 2023:

Hon. Timothy P. Connors

Hon. W. Clayton Graham

Hon. Cheryl L. Hill

Hon. James P. Lambros

Hon. Anthony Crutchfield

Justice Michael F. Cavanagh (retired)