

Plain Language

Supreme Court and Court of Appeals Move to Simplify

Letter Size v Legal Size: The Short and Long of It

By William F. Haggerty

The idea that less is more can be traced to Hesiod of the eighth century B.C.¹ Of late, especially after the adoption of letter-size paper by the federal courts, there has been much ballyhoo surrounding its use in legal circles. It was inevitable that when the question was addressed in Michigan more, rather than less, would be made about the use of less (length), rather than more.

On October 22, 1987, the Michigan Supreme Court issued Administrative Order No. 1987-8 regarding the

use of 8½ by 11-inch paper by the bench and bar for pleadings and other papers filed in the courts of Michigan.² At that time, the Court determined not to mandate use of letter-size paper by court rule, and instead encouraged voluntary use whenever practicable. To facilitate use, the Court emphasized that filings on letter-size paper could not be rejected by any Michigan court.

Shortly thereafter, the Court began issuing formal materials — orders,³ slip opinions, syllabi — in the letter-size format. In addition, the State Court Administrative Office has made available all approved court forms in letter size.

Earlier, on September 30, 1987, the court rule on preparing and filing

briefs and appendices in calendar cases in the Supreme Court was amended, enabling filings to be made on 8½ by 11-inch paper.⁴ The combination of the administrative order and the amended court rule has markedly increased the use of letter-size paper in briefs and applications for leave to appeal filed with the Supreme Court.

Neither the administrative order nor the court rule require any changes in practice. The decision whether to use the letter-size format is left to the individual. What is desirable and practical in one setting, may not meet needs in another.

It is important to put use of letter-size paper in proper perspective, however, and at this point, the true believer and the faint of heart may wince. Even though it well may educe cries of "heresy," the point needs must be made: Use of letter-size paper per se will not a better writer (legal or otherwise) make! Writers who aspire to excellence still will have to analyze, organize, write, and rewrite. An option in paper sizes adds nothing to content.

Letter-size paper is a tool, nothing more. To equate its use with excellence in legal writing is to miss the point. A tool is an extension of its user, and the end product depends primarily on skill and effort. The user of letter-size paper rightly can expect shorter page lengths, narrower manila folders and file cabinets, and, in some instances, greater convenience. The careful legal writer still can expect to work.

The tools having been given, the artisan must finish the job.

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Footnotes

1. *The Theogony*, 1. 40.
2. 429 Mich xcvi.
3. See Davis, *New form for certification of Supreme Court orders*, 67 Mich B J 167 (1988).
4. MCR 7.309(A)(1)(b). 429 Mich cxxvii.

Revision of the Format for Court of Appeals Decisions

By Norbert G. Jaworski

The use of plain language and letter-size paper for orders began in the Michigan Court of Appeals in 1980. At that time, the Court created the administrative motion docket which is now formally established by MCR 7.211(E)(2).

Routine motions that are not substantive are submitted on the administrative motion docket to the chief judge sitting alone.¹ Occasionally, the chief judge designates another judge, usually the chief judge pro tem, to decide these motions. The orders that are issued from this motion docket have always been produced on 8-1/2 by 11-inch paper, originally in the form of a letter. More recently, an order format was adopted that eliminated the traditional reference to a session of the Court in a particular city, as well as the boiler-plate certification by the chief clerk. In addition, the language of the order itself was revised to simply state the Court's decision. No mention is made of any answer to the motion.

Mr. Haggerty is Reporter of Decisions for the Michigan Supreme Court. Mr. Jaworski is Assistant Clerk of the Court of Appeals.

"Plain Language" is a regular feature of the *Michigan Bar Journal*, edited by Joseph Kimble for the State Bar Plain English Committee. Through this column the Committee hopes to promote the use of plain English in the law. Want to contribute a Plain English article? Contact Prof. Kimble at Cooley Law School, P.O. Box 13038, Lansing, MI 48901.

With the experience of these letter-size orders, and in recognition of Administrative Order No. 1987-8, the judges of the Court of Appeals decided at a meeting of the full bench in March of 1988 to adopt letter-size paper for all orders. The Court decided also to print its opinions on the smaller paper. This change will be coordinated with a similar change by the Michigan Supreme Court.²

The Court's standard, pre-printed order form was also revised. Reference to the session and city have been eliminated. The date on which the decision is made is no longer recited. The only significant date is retained, that is, the date the order is entered in the Court's records and mailed to the parties.³ The form of the date is clarified to eliminate archaic phraseology. The certification language is made plain and quite simple. The seal is retained as the primary indication of authenticity.

The substantive language of the Court's orders should also be made more plain. Unlike the practice in the trial courts,⁴ the Court of Appeals prepares all its orders. After submission of an application for leave to appeal or a motion on a motion docket, the votes of the judges are sent to the presiding judge. To assist in preparing orders and to encourage standard, clear language, a form book of common orders has been made available to all judicial secretaries and other staff members.

The order form book suggests a number of simplifications. The customary introductory paragraph which noted the filing of an answer has been deleted. A single paragraph is suggested to state the nature of the motion or application and the Court's decision. Redundant phrases have been eliminated and the decisional language has been standarized. The judges have agreed to use the standard language whenever possible to increase uniformity in the Court's decisions.

Of course, the panel of judges issuing an order has complete discretion over the form and language of the

order. Nevertheless, the existence of a convenient source of recommended language may serve to increase the clarity and simplicity of the Court's orders.

See forms on the following page ►

Footnotes

1. In addition to the motions specifically listed in MCR 7.211(E)(2), the following motions are also decided on the Administrative Motion Docket.
 1. Motion to expedite decision.
 2. Motion to hold in abeyance.
 3. Consolidation on the Court's own motion.
 4. Motion to shorten time to file a transcript. MCR 7.210(B)(3)(b).
 5. Motion to shorten time for filing appellant's or appellee's brief. MCR 7.212(A)(3).
 6. Motion to exceed the 50-page brief limitation. MCR 7.212(B).
 7. Motion to waive the copy requirements.
 8. Motion to extend the time for oral argument when the case is not on a case call calendar. MCR 7.214(B).
 9. Motion by incarcerated party in a civil case to:
 - waive fees
 - appoint counsel.
 10. Motion for temporary stay in Public Service Commission appeals.
 11. Motion by indigent defendant to file a supplemental brief when counsel refuses to raise issue. Administrative Order 1981-7, Minimum standard for assigned counsel No. 11, 412 Mich lxxxix.
 12. Requests by indigent criminal defendants for substitution of counsel when efforts by the defendant to have the trial court decide the request have been unsuccessful.
2. Once a case has been placed on a case call calendar, every motion, including any motion that would otherwise have been submitted on the Administrative Motion Docket, is submitted to the case call panel.
3. Haggerty, *Letter Size v Legal Size: The Short and Long of It*, ante.
4. MCR 7.215(H); MCR 7.302(C).
5. MCR 2.602.

► Plain Language

Court of Appeals, State of Michigan

ORDER

John Smith v Jane Doe

Docket # 99999

L.C. # 99-99999

Robert J. Danhof, C.J.
Presiding Judge
John H. Gillis
Donald E. Holbrook, Jr.

Judges

The Court orders that the application for leave to appeal is DENIED for lack of merit in the grounds presented.



A true copy entered and certified by Ronald L. Dzierbicki, Chief Clerk, on

March 31, 1988
Date

Chief Clerk

AT A SESSION OF THE COURT OF APPEALS OF THE STATE OF MICHIGAN, Held at the Court of Appeals in the City of Lansing, on the thirtieth day of March in the year of our Lord one thousand nine hundred and eighty-eight.

Present the Honorable

Robert J. Danhof, C.J.
Presiding Judge
John H. Gillis
Donald E. Holbrook, Jr.

Judges

JOHN SMITH,

Plaintiff-Appellee,

JANE DOE,

Docket No. 99999

Defendant-Appellant.

L.C. No. 99-99999

In this cause an application for leave to appeal is filed by plaintiff, and an answer in opposition thereto having been filed, and due consideration thereof having been had by the Court;

IT IS ORDERED that the application be, and the same is hereby DENIED for lack of merit in the grounds presented.

Chief Judge

STATE OF MICHIGAN—ss.

I, Ronald L. Dzierbicki, Clerk of the Court of Appeals of the State of Michigan, do hereby certify that the foregoing is a true and correct copy of an order entered in said court in said cause; that I have compared the same with the original, and that it is a true transcript therefrom, and the whole of said original order.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the seal of said Court of Appeals at Lansing, this 31st day of March in the year of our Lord one thousand nine hundred and eighty-eight.

Chief Clerk

Casefile

IN THE MICHIGAN COURT OF APPEALS

ORDER

March 31, 1988

Re: John Smith v Jane Doe
Docket No. 99999
L.C. No. 99-99999

Robert J. Danhof Chief Judge, acting pursuant to MCR 7.211(E)(2), orders:

The motion to extend time is GRANTED. The time for filing appellant's brief is extended to March 4, 1988.

Chief Judge