

Request for Hearing on a Motion

By George Hathaway, Keith Beasley,
and Judge S. J. Elden

Macomb County Circuit Court has recently revised its Request for Hearing on a Motion form. See Figure 1. This new one-page form replaces what was previously called a Praecepte. It also includes a notice of hearing (which typically required two additional pages) and a proof of service (which also typically required two additional pages). So, the new form replaces five pages with one page. Furthermore, the new form is written in plain English without legalese. It contains no formalisms such as *Now comes*, archaic words such as *hereby*, redundancies such as *any and all*, or Latin words such as *praecipere*. (We might quibble with "above referenced motion.") Consequently, we give a Clarity Award to Keith Beasley, court administrator of Macomb County Circuit Court, for developing this form. According to Mr. Beasley:

The court had used a Praecepte for decades. But the form had many problems. First, no one knew what "praecipere" meant. Second, attorneys used many versions of the form with differing language. Third, many of the forms listed judges who had long ago left the bench. Fourth, the forms referred to a non-existent local court rule. Finally, the forms contained a concurrence requirement, even though there was no legal support for requiring concurrence, and few lawyers ever bothered to seek concurrence. Therefore, I designed a Request for Hearing on a Motion form to replace the Praecepte, and sought input from judges, staff, and members of the Macomb County Bar Association. After a series of redrafts to

make improvements, the court approved the new form. The court also improved motion practice by a) clarifying when fees are charged, b) placing requests for hearing on the court's computer system, and c) filing the requests in the court files so that a permanent record exists. Although there was initial skepticism because "we had always done it the praecipere way," practitioners and staff have accepted the new form. I save electronic copies of the form on disk for practitioners who bring disks by my office, so they can use the form in their word processors.

The court has continued to develop its own forms where appropriate. It recently created one to arraign persons accused of violating personal protection orders and to schedule hearings on violations. This is an area not covered by state-promulgated forms. The court also created a simple check-box form to request attorney fees for representing indigent defendants. This form greatly helped the processing of payments. Local forms such as these can be quickly developed on a personal computer, economically printed, and quickly changed.

History of Court-Form Development

This form follows a series of improvements in court forms that was begun more than 20 years ago.¹ According to a June 1992 letter to the Plain English Committee by (now-retired) District Court Judge S. J. Elden:

In 1974, I became chair of the Rules and Forms Committee of the Michigan District Judges Association. Judge Roy Daniels, a committee member, had seen some plain English, letter-sized forms from the state of Alabama. We secured a packet of their forms, and it appeared that we could do the same thing for Michigan; we began our work. The Michigan District Court Administrators Association had a parallel committee at about the same time. We asked them to join our efforts in this exciting endeavor. Out of this arrangement arose a novel but cumbersome system.

Our committee would develop and approve a form. We would then send it over to the Administrators Association, and they would rework the form and send it back. It thus took months to develop a single form to pre-

sent to the board of the District Judges Association for approval. In 1975, it was decided to merge the committees. I continued to serve as chair (and did so for over 15 years).

Obviously, our work accelerated at a rapid pace with this new production system. A representative from Doubleday (Erika DeVries) was invited to join the committee as a consultant, and Doubleday began to produce the forms developed. They developed the color-coding system that is still generally in use.

In 1977, we invited an SCAO representative to meet with our committee in an effort to develop state uniformity. Betty Court was assigned as a consultant to this group. To Betty we owe the credit for compiling the committee's written standards. Over the early years, she did Trojan work! Because of the heavy workload, the rules portion of the committee was split off, and a separate MDJA/MCAA forms committee was constituted. Over the next few years, that group developed most of the basic forms package. Another independent consultant by the name of Bill Frysinger joined us and gave significant technical assistance to the committee....

It was years later before circuit and probate court-forms committees were organized. SCAO acted as the catalyst in promoting the establishment of these committees.

In later years, SCAO created a forms committee made up of all three judicial disciplines (probate, district and circuit). I chaired this group for a number of years.... Today, the forms committee is, in fact, an SCAO committee that meets several times a year. The staff does a good portion of the work under Amy Byrd (who does a great job). The judges are called in several times a year to go over pending matters. Judge William Buhl serves as chair.

For years, we unsuccessfully attempted to get Supreme Court endorsement for our labors. Under Chief Justice Williams, the court finally agreed to "suggest" the use of our forms. Finally, under the leadership of Justice (then Chief Justice) Riley and her colleagues, the use of plain-language, letter-sized forms was mandated. You might recall that the Bar was originally against these reforms, but they finally joined the new wave (and we thank them wholeheartedly for their final support).

The real heroes of the development of clear, simple, letter-sized forms are: Court Administrators Dave Recher (Centerville), Jean Holt

"Plain Language" is a regular feature of the **Michigan Bar Journal**, edited by Joseph Kimble for the State Bar's Plain English Committee. The assistant editor is George Hathaway, chair of the Committee. The Committee seeks to improve the clarity of legal writing and the public opinion of lawyers by eliminating legalese. Want to contribute a plain English article? Contact Prof. Kimble at Thomas Cooley Law School, P.O. Box 13038, Lansing, MI 48901.

(St. Joseph), Sandy Shippers (Allegan), and John Barry (Flint); and Judges Ben Franklin (Stanton), Pat Murray (Gaylord), Bob Anderson (Pontiac), and Paul Wright (Grand Rapids). Over the years, a host of other court personnel and judges added their input, and each one of them shares part of the credit.

As Paul Harvey says, "And that's the rest of the story!"

Conclusion

According to a November 13, 1995 letter from Judge Elden:

I acknowledge receipt of your draft article for the Michigan Bar Journal. You have done your usual excellent job in presenting the facts, and it certainly meets my approval.

While I have you on the line, I should mention a disturbing matter to you. As I sit as a visiting judge in various courts throughout the state, I am painfully aware of the number of lawyers and judges who constantly still use archaic language such as At a session of said court, whereas, Now therefore, and the like. I routinely cross them off.

Keith Beasley did a Trojan job on his new form and is to be congratulated. Now if we could only get the masses out there to think PLAIN LANGUAGE!

Regular readers of this column might like to consider joining an international organization called CLARITY. Its aim is to promote better, clearer writing by the legal profession. The dues are a bargain at \$25. For more information and a sample copy of the journal, *Clarity*, write to Joseph Kimble, Thomas Cooley Law School, P.O. Box 13038, Lansing, MI 48901. ■

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Judge S. J. Elden is a former judge of the 15th Judicial District Court in Ann Arbor, and former chair of the State Court Administrative Office Forms Committee.

Footnote

1. Ulrich, *Plain English in Judicial Administration*, 63 Mich BJ 390 (May 1984); Conley, Batty, Young, and Hathaway, *Request for Hearing on a Motion Form*, Judicial Notice (Summer 1988); Plain English Committee, *The Clarity Award*, 71 Mich BJ 430 (May 1992).

Figure 1

STATE OF MICHIGAN COUNTY OF MACOMB CIRCUIT COURT	REQUEST FOR HEARING ON A MOTION NOTICE OF HEARING PROOF OF SERVICE	Circuit Court No: _____
Plaintiff Name: _____	v	Defendant Name: _____
1. Motion(s): _____		
2. Relief sought: _____ (You must describe the nature of the relief sought)		
3. Moving Party: _____ Attny for moving party: _____ (P) Phone No. of Attny/Moving Party _____		
4. Responding parties/attorneys (include Bar No.(s)) _____ _____ _____		
5. NOTICE OF HEARING: The above referenced motion(s) will be heard as follows:		
Judge _____	Date _____	Time _____
Note: Motions before Judges Bruff, Bucci, Chrzanowski, Montgomery and Steeh will be heard at 8:30 a.m. All other Judges hear motions at 9:00 a.m. Please note: Per LCR 2.119 and MCR 2.116(G)(1)(c) and MCR 2.119(A)(2), a copy of a motion or response must be provided to the office of the judge hearing the motion! Judge's copy must be clearly marked "JUDGE'S COPY."		
_____ Signature of moving attorney or party Date		
FOR COURT USE ONLY		
Adj to: _____ <input type="checkbox"/> THIS MOTION IS REFERRED TO A FRIEND OF THE COURT REFEREE		
6. PROOF OF SERVICE: I certify that I mailed a copy of this document and the motion(s) referred to in paragraph 1 to the attorneys or parties of record by ordinary mail addressed to their last known addresses. I declare that the statements above are true to the best of my information, knowledge and belief.		
_____ Signature of person serving document Date		
MC-288		



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