



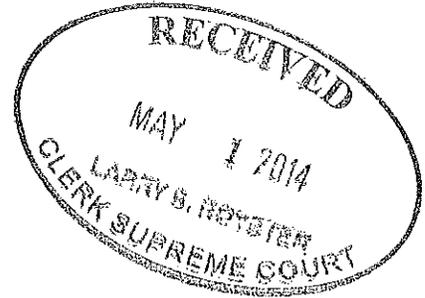
COUNTY of
KALKASKA

Mike Perreault, Prosecuting Attorney

605 N. Birch • Kalkaska, Michigan 49646
(231) 258-3325 • Fax (231) 258-3339

April 29, 2014

Mr. Larry S Royster
Clerk of the Court
Michigan Supreme Court
PO Box 30052
Lansing, MI 48909



RE: ADM File No 2010-32

Dear Mr. Royster,

This letter is to voice my disagreement with the proposed amendment of MCR 3.210 as is currently written in ADM 2010-32. This proposed rule would create a large amount of additional and unnecessary hearings, for my office in Kalkaska County, as it requires a court hearing to enter judgments obtained through the default of a party and hearings to admit stipulated consent judgments entered between the parties. Those hearings would require prosecuting attorneys, prosecutor's staff, court staff, bailiffs, judges or referees, and parties tremendous inconvenience with little benefit in return. The additional time spent by the prosecutor's office and the court will cause difficulty in meeting SCAO recommended guidelines not only in Family Court domestic cases, but will have a ripple effect into meeting time requirements for neglect and abuse matters as well. Finite court resources will need to be expended to meet the new hearing requirements in domestic relations cases, necessarily limiting opportunities for other more pressing issues.

As it pertains to default judgments in domestic relations cases, the proposed rule requires hearings in all types of domestic cases. The statutes for divorce, annulment and separate maintenance (MCL 552.1 et seq) already require hearings in open court and current rules provide for that. The proposed rule would require hearings in cases brought under the Family Support Act, (MCL 552.451 et seq), the Uniform Interstate Support Act (MCL 552.1101 et seq) the Status and Emancipation of Minors Act, (MCL 722.1 et seq) and the Paternity Act (MCL 722.711) as well. This would be true despite the specific language of the Paternity Act which states, "If the defendant does not file and serve a responsive pleading as required by the court rules, the court may enter a default judgment. Neither party is required to testify before entry of a default judgment in a proceeding under this act." MCL 722.714(6).

As it pertains to consent judgments the proposed rule again requires hearings in every case, even though the parties have stipulated to the judgment. Notices, prosecuting attorney and prosecutor staff time, court staff, bailiffs, judges or referees, and the parties will be required to participate in these hearings.

I propose that if the existing rules regarding the entry of judgments are modified that the new rules either allow actions brought by IV-D funded agencies to continue using the current rules, or that the new rule would not apply to actions brought under the Family Support Act, the Uniform Interstate Family Support Act, the Status and Emancipation of Minors Act, and the Paternity Act.

It has been proposed that the Court revise proposed subsections (B)(1) as follows:

"Default cases under the Family Support Act, MCL 552.451 et seq, the Uniform Interstate Family Support Act, MCL552.1101 et seq the Status and Emancipation of Minors Act, MCL 722.1 et seq, and the Paternity Act, MCL722.711 et seq, are governed by MCR 2.603. This subrule applies to the entry of a default and a default judgment under all other cases governed by this subchapter."

And that subsection (E)(1) be changed to:

"At a hearing or at any other time if the case filed under the Family Support Act, MCL 552.451 et seq, the Uniform Interstate Family Support Act MCL 522.1101 et seq, the Status and Emancipation of Minors Act, MCL 722.1 et seq, and the Paternity Act, MCL 722.711 et seq, any party may present to the court for entry of judgment approved as to form and content and signed by all parties and their attorneys of record."

Additionally, a statewide group of assistant prosecuting attorneys along with the Tom Robertson, Executive Director of the Prosecuting Attorneys Association of Michigan have collaborated to suggest another alternative to the rule modification as currently proposed. That suggests as an alternative to the proposal that, regarding default judgments:

(B)(4) Notice of Hearing and Motion for Entry of Default Judgment.

- (a) A party moving for default judgment must schedule a hearing and serve the motion, notice of hearing, and a copy of the proposed judgment upon the defaulted party at least 14 days before the hearing on entry of the default judgment, and promptly file a proof of service. The proposed judgment may include uncompleted provisions if accompanied by notice that blank provisions will or may be addressed by the court at the hearing. If the action involves custody, parenting time, or support but does not require a hearing under subrule (B)(5)(a) and the proposed judgment is not different than the relief requested in the complaint or the relief can be determined based on information available to the moving party and stated in or attached to the motion or complaint, the moving party for default judgment may serve a verified motion for default judgment supporting the relief requested and a copy of the proposed judgment upon the defaulted party, along with a notice that it will be submitted to the court for signing if no written objections are filed with the court clerk within 14 days. If no written objections are filed within 14 days, the moving party may submit the judgment or order to the court for entry. If objections are filed, the moving party shall notice the motion for entry of default judgment for hearing as stated in this subrule.

And regarding consent judgments:

E(1) At a hearing, or at any other time if the case filed under the Family Support Act, MCL552.451 et seq, the Uniform Interstate Family Support Act MCL552.1101 et seq, the Status and Emancipation of Minors Act, MCL 722.1 et seq and the Paternity Act MCL 722.711 et seq,

any party may present to the court for entry a judgment approved as to form and content and signed by all parties and their attorneys of record.
We would support any of the three alternative proposals.

ADM File No 2010-32 as proposed for comment would needlessly add delay, cost and inconvenience to prosecutors, courts and litigants for the benefit primarily to defendants who have not ever bothered to even file an answer to a lawsuit in which they have been served. Current rules allow for due process for both parties and for late responses and participation when appropriate.

Thank you for your time and consideration. If you have any questions or concerns or wish to discuss this matter further, please feel free to contact me.

A handwritten signature in black ink, appearing to read 'M. Perreault', with a long horizontal line extending to the right.

Michael L. Perreault
Prosecuting Attorney
Kalkaska County