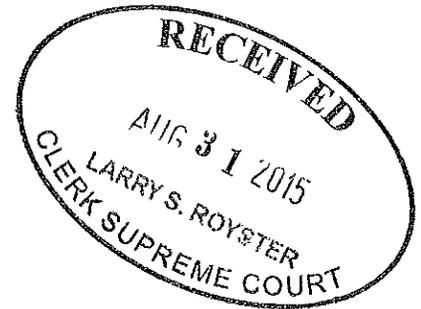




MICHIGAN
CHAMBER
of Commerce

August 20, 2015

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



Dear Clerk Royster:

Thank you for the opportunity to comment on the proposed amendment to MCR 3.101 (ADM File No. 2015-07).

The Michigan Chamber advocated for the changes to MCL 600.4012, which will take effect in September 30, 2015. We believe the proposed amendments to MCR 3.101 are a good starting point; however, we agree with the State Bar of Michigan that the proposed changes do not go far enough to coordinate the rules with expansive changes to the garnishment statute. Additional changes are needed for all parties, including employers, garnishees, creditors and attorneys.

As written, the proposed rule leaves too many grey areas, which will lead to confusion and errors. Therefore, we respectfully request that you adopt the changes suggested by the State Bar of Michigan (submitted by Janet Welch, Executive Director, on July 24, 2015) and also consider addressing the following:

3.101 (B)(1)(c) – This section talks about simultaneous implementation and implementation of the next garnishment upon expiration. Since the statute amended how writs expire (i.e., writs now continue until the debt is paid in full or the employee leaves his or her employment vs. expiring after 180 days), this section should be changed to provide that the next garnishment is implemented only after a release of the prior garnishment.

3.101 (F) – This section should be revised to indicate that failure of service invalidates the garnishment.

3.101(J)(6) – There is nothing in the proposed rule concerning “final statement” from the garnishee. We believe the final statement should remain when the employee leaves, but not after “expiration of the writ.” Instead, the [final] statement process is now assigned to Plaintiff by Sec. 4012(5)(a)-(b).

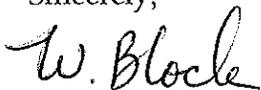
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3.101(S)(3) – This rule provides that the court may impose costs on the garnishee for periodic payments whose default or contempt has imposed expense to other parties. It includes attorney fees and sets the floor as \$100. We believe that the structure of amended MCL 600.4012(6)-(10) clearly established the rights and obligations of the parties when pursuing a garnishee for default judgment. Those provisions expressly limit the exposure of the garnishee and provide it rights to automatic setting aside of default judgments in defined circumstances. Therefore, leaving section (S)(3) unchanged runs contrary to the amendment of MCL 600.4012(6)-(10). We believe that in order to adhere to the explicit provisions of Public Act 14 and its intent, section (3) should not apply to periodic garnishments.

Finally, a new SCAO form should be added for “release” of garnishment (e.g., when a garnishee answers not employed, no longer employed, the garnishment is paid off, or other reasons).

Thank you again for the opportunity to comment. Please do not hesitate to contact me with any questions at 517/371-7678 or wblock@michamber.com.

Sincerely,

A handwritten signature in cursive script that reads "W. Block".

Wendy Block
Director, Health Policy & Human Resources
Michigan Chamber of Commerce