



Michigan Supreme Court
State Court Administrative Office
Trial Court Services Division
Michigan Hall of Justice
P.O. Box 30048
Lansing, MI 48909

February 22, 2008

TO: Michigan Court Forms Committee (Friend of the Court representatives only)

FROM: Amy L. Byrd, Forms and Records Manager
Traci Gentilozzi, Forms and Manuals Analyst

RE: Agenda and Materials for **March 20, 2008 Meeting**

PLACE: **Michigan Hall of Justice**, 925 West Ottawa, downtown Lansing (map enclosed)

Below is the agenda for the March 20 meeting for the Friend of the Court Section of the Michigan Court Forms Committee. The meeting starts at 9:30 a.m. and ends at 3:30 p.m. **Luncheon reservations have been made for you; if you cannot attend, please contact us at least two days before the meeting.** Please note that we are located at 925 W. Ottawa. A map has been provided. Although documentation is provided with the agenda, it would be helpful to bring a copy of the Michigan Court Rules and any other resources you believe are necessary.

Notice of Minor Revisions

Forms requiring minor changes, such as spelling, citations, grammar, punctuation, etc., will be corrected by the State Court Administrative Office and provided with the agenda materials, but do not require discussion or approval by the committee. Any of these forms will be discussed if members raise substantive issues or if also included in the agenda for other purposes. These forms will be corrected and distributed in June 2008: FOC 1a, FOC 1b, FOC 2, FOC 2a, FOC 4, FOC 5, FOC 6, FOC 7, FOC 8, FOC 12, FOC 13, FOC 13a, FOC 16, FOC 17, FOC 18, FOC 19, FOC 21, FOC 22, FOC 22a, FOC 22b, FOC 23, FOC 24, FOC 29, FOC 30, FOC 31, FOC 32, FOC 39a, FOC 39c, FOC 39d, FOC 39d, FOC 40, FOC 43, FOC 45, FOC 46, FOC 47, FOC 48, FOC 50, FOC 51, FOC 53, FOC 54, FOC 55, FOC 56, FOC 57, FOC 58, FOC 60, FOC 61, FOC 62, FOC 63, FOC 64, FOC 65, FOC 66, FOC 67, FOC 68, FOC 69, FOC 70, FOC 71, FOC 72, FOC 72a, FOC 78, FOC 79, FOC 80, FOC 81, FOC 82, FOC 83, FOC 84, FOC 85, FOC 86, FOC 87, FOC 88, FOC 89, FOC 90, FOC 91, FOC 92, FOC 93, FOC 94, FOC 95, FOC 99, FOC 99a, and FOC 108.

1. Declaration Language from MCR 2.114, Proof of Service

MCR 2.107(D) says that proof of service may be by “a statement regarding the service verified under MCR 2.114(B) . . .” This is interpreted to mean the certificate made by the officer should have the declaration, “I declare that the statements above are true to the best of my information, knowledge, and belief.” The following forms, that were reviewed for minor errors, were found to contain a proof of service that should contain this language if the Committee agrees with the above interpretation: FOC 30, FOC 84. There may be other FOC forms that contain a proof of service that are not listed. Also, it was previously agreed by the Circuit and District Court Section of the Michigan Court Forms Committee that a line for the printed name of the process server should be added to the proof.

Also, MCR 2.114(B)(2) states that “If a document is required or permitted to be verified, it may be verified by . . . including the following signed and dated declaration . . .” There are a number of forms that do not need to be verified, but they contain the declaration. Should the declaration be removed from these forms, especially since verification means personal knowledge of the facts, which an attorney almost always will not have? A plan for handling this may be to determine which pleadings must be verified and remove the declaration from all other forms. FOC forms which contain the declaration are: FOC 13, FOC 13a, FOC 21, FOC 24, FOC 40, FOC 43, FOC 45, FOC 47, FOC 50, FOC 51, FOC 61, FOC 65, FOC 66, FOC 68, FOC 78, FOC 79, FOC 81, FOC 85, FOC 87, and FOC 88. FOC 13a is addressed in agenda item 10 for other reasons.

2. Standard Language for Certificate of Mailing/Service

In reviewing the forms for minor errors, it was noted that several different standards are still being applied to the Certificate of Mailing. The Committee approved a standard several years ago to be applied to the forms as they are revised. However, even some recent revisions do not use the same language; in some instances this is appropriate, but in others it may not be. The Committee is asked to review all forms containing the Certificate of Mailing to determine the appropriate language for each form. The following forms contain a certificate of mailing: FOC 2, FOC 2a, FOC 5, FOC 7, FOC 10/52, FOC 10a/52a, FOC 10b, FOC 10c, FOC 21, FOC 24, FOC 40, FOC 43, FOC 45, FOC 47, FOC 50, FOC 51, FOC 53, FOC 54, FOC 61, FOC 65, FOC 66, FOC 67, FOC 68, FOC 71, FOC 78, FOC 79, FOC 81, FOC 85, FOC 86, FOC 87, FOC 88, FOC 91, and FOC 92. Forms FOC 21, FOC 24, FOC 40, FOC 43, FOC 45, FOC 47, FOC 50, FOC 51, FOC 61, FOC 65, FOC 66, FOC 68, FOC 78, FOC 79, FOC 81, FOC 85, FOC 87, and FOC 88 are already included in agenda item 1. Forms FOC 2 and FOC 2a are addressed in agenda item 5 for other reasons. Forms FOC 10/52 and FOC 10a/52a are addressed in agenda item 8 for other reasons. Forms FOC 10b and FOC 10c are addressed in agenda item 9 for other reasons. Form FOC 92 is addressed in agenda item 15 for other reasons.

Proposed language for the certificate of mailing is “I certify that on this date I served a copy of this [name of document] on the parties [and/or] their attorneys by first-class mail addressed to their last-known addresses as defined in MCR 3.203.” This language would change depending on who is being served (single party versus multiple parties, etc.).

3. Standard Masthead

The standard masthead for motions and orders should include a designation for the court address rather than the friend of the court address. Many of the motions and orders contain the incorrect designation and should be modified accordingly. Any form that is filed with the court should also contain the parties’ telephone numbers in the case name. Many of these same forms do not include designations for the telephone numbers. The Committee is asked to review these forms to determine if there is any reason the masthead should not be changed. They are FOC 2, FOC 2a, FOC 5, FOC 6, FOC 12, FOC 19, FOC 21, FOC 29, FOC 30, FOC 40, FOC 43, FOC 45, FOC 47, FOC 55, FOC 56, FOC 57, FOC 58, FOC 60, FOC 62, FOC 63, FOC 64, FOC 72a, FOC 84, FOC 85, FOC 86, FOC 87, FOC 88, FOC 89, FOC 94, FOC 95, FOC 99, and FOC 99a. Forms FOC 5, FOC 21, FOC 30, FOC 40, FOC 43, FOC 45, FOC 47, FOC 84, FOC 85, FOC 86, FOC 87, and FOC 88 are already included in agenda items 1 and/or 2. Forms FOC 2 and FOC 2a are addressed in agenda item 5 for other reasons. Form FOC 6 is addressed in agenda item 6 for other reasons. Form FOC 19 is addressed in agenda item 11 for other reasons. Forms FOC 63 and FOC 64 are addressed in agenda item 13 for other reasons.

4. FOC 1a, Friend of the Court Grievance

A request has been made to advise the complainant to contact the friend of the court if the complainant wants to file a grievance with a local citizen advisory committee because not every county has a citizen advisory committee. A draft is provided.

5. FOC 2, Motion and Order to Show Cause for Contempt (Support) and FOC 2a, Motion and Order to Show Cause for Contempt (Medical)

MCR 2.107(B)(1)(b) says “When a contempt proceeding for disobeying a court order is initiated, the notice or order must be personally delivered to the party, unless the court orders otherwise.” Should this form contain language ordering service by mail pursuant to this rule? See MC 230, Order to Show Cause, for an example. Other revisions to consider are specified in agenda items 1, 2, and 3.

6. FOC 6, Enforcement Order

The “payable” line in item 12 used to say “immediately,” but it was changed to a blank line in 1988. Is it unclear that this line is intended for indicating the frequency with which payment is to be made? Other revisions to consider are specified in agenda item 3.

7. FOC 8, Order for Release for Work or to Seek Work

Is it preferable to replace the term “inmate” with the term “respondent” in items 5a through 5i and item 6?

8. FOC 10/52, Uniform Child Support Order and
FOC 10a/52a, Uniform Child Support Order, No Friend of Court Services

Draft revisions are provided based on upcoming revisions to the Child Support Formula, effective October 1, 2008.

Also for discussion is a request considered by the committee last year, but which had not been published for comment. The requester, Keith Heiber of Lapeer, Michigan, asked that his concerns be published for comment and his request reconsidered by the committee. A follow-up e-mail from Mr. Heiber regarding the interpretation of MCL 552.605b is provided. The committee had responded at its 2007 meeting that the language on the form is an appropriate interpretation of the law.

A suggestion from Dan Fojtik regarding item 12, which sometimes conflicts with separate orders providing for waiver of the arrearage, is to delete this item.

Finally, it is suggested that friends of the court are required to attach calculations to the order when the order serves as the recommendation pursuant to MCL 552.505(1)(h) and/or MCL 552.517b. Therefore, the check box option at the top of the order should include the following parenthetical statement: “(Attached are the calculations.)”

9. FOC 10b, Uniform Spousal Support Order and
FOC 10c, Uniform Spousal Support Order, No Friend of the Court Services

A request has been made to add signature lines for attorneys when the order is the result of a stipulation.

10. FOC 13a, Complaint for Enforcement of Health Care Expense Payment

Should item 2 be changed to say, “This request is for expenses that are more than the ordinary medical amount that can be collected as specified in my support order?” Other revisions to consider are specified in agenda items 1 and 2.

11. FOC 19, Motion and Order to Show Cause for Contempt (Custody/Parenting Time)

MCR 2.107(B)(1)(b) says “When a contempt proceeding for disobeying a court order is initiated, the notice or order must be personally delivered to the party, unless the court orders otherwise.” Should this form contain language ordering service by mail pursuant to this rule? See MC 230, Order to Show Cause, for an example. Other revisions to consider are specified in agenda items 1 and 3.

12. FOC 22, FOC 22a, Employer's Disclosure of Income and Health Insurance Information

A request has been made to add a field for the employer's federal identification number. Also, would it be helpful to remove reference to "Income" from the title of FOC 22a and add a distribution reference for "Copy for Department of Human Services," since that is the purpose of FOC 22a?

13. FOC 63, Agreement Suspending Immediate Income Withholding and FOC 64, Order Suspending Immediate Income Withholding

A suggestion has been made to update the instructions to keep the friend of the court informed of certain changes in information regarding the parties. Other revisions to consider are specified in agenda item 3.

14. FOC 70, Determination on Arrearage

A suggestion has been made to revise the form to comply with the version used by MiCSES. This would involve removing the parenthetical statement about sending a copy of the notice to the payee, adding an account summary (new item 4), and adding an option about intent to levy (new item 8). A copy of the MiCSES form is provided.

15. FOC 90, Notice of Lien, FOC 92, Notice to Release Lien, and FOC 93, Notice of Intent to Levy

It has been suggested that references to "child support" be replaced with "support" because a lien can also be placed on property for payment of spousal support.

16. FOC 108, Change in Personal Information

A suggestion has been made to modify item 8. A draft is provided.

Attachments

cc: Regional Administrators



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February 22, 2008

Hon. William C. Buhl
Chair, Michigan Court Forms Committee
36th Circuit Court
Courthouse
Paw Paw, MI 49079

Dear Judge Buhl:

Enclosed is the agenda and all materials for the March 20, 2008 Michigan Court Forms Committee. As in 2007, you will be presiding over the entire meeting as Chairperson. Thank you for continuing in this position.

If you have any questions, please call me at 517-373-4864 or Traci Gentilozzi at 517-373-2217.

Sincerely,

Amy L. Byrd
Forms and Records Manager
Trial Court Services

Enclosures