



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

March 18, 2008

MICHIGAN COURT FORMS COMMITTEE
Minutes of March 6, 2008 Meeting

Present: Jeff Albaugh, 37th District Court
Jon M. Haskell, 8th District Court
Hon. John Holmes, 10th District Court
Cheryl Jarzabkowski, 70th District Court
Steve Lockhart, 36th District Court
Kevin McKay, 66th District Court
Porferia Mellado, 6th Circuit Court
Hon. David M. Parrott, 34th District Court
Stacy L. Westra, Kent County Clerk's Office
Jill Booth, State Court Administrative Office (staff)
Amy Byrd, State Court Administrative Office (staff)
Dawn Childress, State Court Administrative Office (staff)
Jay Francisco, State Court Administrative Office, JIS (staff)
Traci Gentilozzi, State Court Administrative Office (staff)

Absent: Hon. William C. Buhl, 36th Circuit Court (chair)
Jerome Fekin, 3rd Circuit Court
Mary Hollinrake, 17th Circuit Court
Sidney McBride, 3rd Circuit Court

Meeting called to order at 9:30 a.m.

Introductions were made.

Although absent, Judge William C. Buhl provided his comments through Amy Byrd.

Notice of Minor Revisions

The committee agreed that forms requiring minor changes, such as spelling, citations, grammar, punctuation, etc., will be corrected by the State Court Administrative Office. These forms will be corrected and distributed in June 2008: MC 02, MC 07a, MC 25, MC 26, MC 28, MC 34, MC 38, MC 39, MC 49, MC 51, MC 56, MC 57, MC 59, MC 60, MC 61, MC 62, MC 63, MC

65, MC 66, MC 67, MC 68, MC 69, MC 74, MC 81, MC 82, MC 83, MC 208, MC 211, MC 219, MC 224, MC 231, MC 254, MC 260, MC 270, MC 271, MC 274, MC 276, MC 277, MC 278, MC 281a, MC 281b, MC 282, MC 284, MC 285, MC 286, MC 287, MC 288, MC 290, MC 292, MC 301, MC 304, MC 307, MC 416, MC 501, MC 502, MC 503, CIA 01, CIA 02, CIA 03, CIA 05, CIA 06, DC 03, DC 44, DC 85, DC 86, DC 90, DC 91, DC 99, DC 99a, DC 100a, DC 100b, DC 100d, DC 101, DC 102a, DC 102b, DC 102d, DC 103, DC 104, DC 105, DC 105A, DC 106, DC 107, DC 118, DC 119, CC 08, CC 08a, CC 20a, CC 58, CC 71, CC 78, CC 79, CC 80, CC 88, CC 89, CC 116, CC 117, CC 219b, CC 236, CC 257, CC 261, CC 268, CC 269, CC 375M, CC 378, CC 379, CC 380, CC 381, CC 383, CC 385, CC 403, and CC 404.

Circuit Court Forms

1. Declaration Language from MCR 2.114, Proof of Service

The committee agreed that 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,” and the following forms were revised accordingly: CC 375, CC 375M, CC 377, CC 377M, CC 380, CC 380M, CC 381, and CC 382. Members agreed other affected forms should be identified by the SCAO and revised accordingly. **Staff Note:** CC 376 and CC 376M were already revised in January to comply with firearms notification requirements and the declaration was added at that time. Based on the joint session discussion regarding the declaration language on pleadings that don’t need to be verified, CC 375, CC 375M, CC 377, and CC 377M are being held for further discussion in 2009.

The committee was advised that a decision had been made by the Michigan Court Forms Committee in 2004 to replace the word “notary” with the word “notarization.” Therefore, all proofs of service will be changed accordingly. Another standard previously approved by the committee in 2007, which is to add a line for the printed name of the process server, will also be applied to all proofs of service.

The forms were approved as revised. In addition, the committee extended its approval to the remaining proofs of service that the SCAO will identify and revise, as agreed to above.

2. Standard Language for Certificate of Mailing/Service

The committee was advised that several different standards have been applied to the Certificate of Mailing/Service over the years and that the SCAO would like to apply a single standard to as many forms as possible, with the understanding that there are some situations where this is impractical. Members reviewed the suggested language provided by the SCAO, consulted the court rule, and suggested that the standard language should reflect the court rule more specifically as follows: “I certify that on this date I served a copy of this [name of document] on the parties or their attorneys by mail, with first-class postage fully prepaid, addressed to their last-known addresses.”

The committee agreed this standard language should be applied to the following forms:

CC 08, CC 08a, CC 58, CC 79, CC 80, CC 88, CC 89, CC 257, CC 268, CC 269, CC 378, CC 383, CC 385, CC 403. and CC 404. Members agreed other affected forms should be identified by the SCAO and revised accordingly.

The forms were approved as revised. In addition, the committee extended its approval to other forms that the SCAO will identify and revise, as agreed to above.

3. CC 219b, Judgment of Sentence, Commitment to Department of Corrections

The committee considered a request from the Department of Corrections to add a check box option for indicating when a conviction requires lifetime electronic monitoring pursuant to MCL 750.520n. Members agreed that statute requires the judge to specify this in the order. Despite space constraints, a new item was added as follows: “__ 11. Defendant is subject to lifetime monitoring pursuant to MCL 780.520n.”

The committee considered a request from the Sex Offender Registry Advisory Committee of the Michigan State Police regarding language about sex offender registration because defendants were failing to register. Members were advised that the department had asked for the creation of a separate order and that the suggestion in the agenda was offered by the SCAO as an alternative if the committee determined it was necessary for the court to add any further language to the judgment of sentence. The committee reviewed the proposed parenthetical statement, which was added to item 3 as a means of reminding the judge to order sex offender registration if the defendant had not yet completed the registration at the time of sentencing. Members were advised that this issue had previously been addressed by SCAO memorandum that can be circulated again, if necessary. The committee was advised that Judge Buhl had responded that the parenthetical should not be added to the form. Members expressed concern about including numerous reminders to the judge by way of the forms and suggested that some of the current findings could even be removed. After further discussion, the committee concluded that the parenthetical should not be included and nothing else changed.

The form was approved as revised.

4. CC 257 and CC 257a, Motion for Relief from Judgment

The committee approved a request to add a signature line at the end of the motion for the defendant to sign, as required by MCR 2.114(C).

There are two versions of the forms, one with two pages and another with four pages. The SCAO indicated it would like to drop one of the versions and asked members which version is most useful. The committee responded that the four-page form is more beneficial than the two-page form.

The committee was informed that Judge Buhl indicated the form should incorporate MCR 6.502(G). Accordingly, the committee agreed the following language should be added at the end of the “INSTRUCTIONS” section of the form: “Only one motion for relief may be filed, except as indicated in MCR 6.502(G)(2).”

Based on this directive, the committee further agreed the following sections should be deleted from the form.

- 1) "Was this issue raised before? ___ Yes ___ No"
- 2) "If yes, at what stage of the proceedings was it raised, and why should it be reconsidered now?"
- 3) "If no, why not?"

The four-page form was approved as revised and the two-page version was deleted.

5. CC 268, Order Regarding Driver's License Restoration
CC 269, Order Regarding Driver's License Restoration After Review of the Record

The committee was advised of changes made to the forms by the Driver License Appeal Division (DLAD) of the Secretary of State office as the result of an inquiry from the SCAO. Concerns were expressed to the SCAO by an attorney that the notes on the back of these forms were no longer applicable and that many of the citations on the forms created confusion. Staff at the DLAD agreed and provided suggested changes for the committee's review. Members approved the changes, which included removal of the notes, correction to the citations, and removal of several items.

The forms were approved as revised.

6. CC 382, Motion and Order to Show Cause for Violating Valid Personal/Foreign Protection Order

The committee considered a request to add a field for the respondent's date of birth, if known. Members were advised that this information is required for entry on NCIC and placing the field on the pleading document will assist the court in completing the order following the show cause hearing because staff will not have to refer back through files to find this information. After some discussion, members agreed to the addition.

The form was approved as revised.

7. CC 382a, Order After Hearing on Show Cause for Violating Valid Personal/Foreign Protection Order
CC 384, Order After Hearing on Violation of Valid Personal/Foreign Protection Order

Based on the discussion of CC 382, members remarked that the "date of birth" field should include the parenthetical "(if known)" and the change was made.

The committee was advised that the instructions to the clerk of the court at the foot of these forms were revised to assist in reporting procedures to the Michigan State Police (MSP). The changes reflect advice provided in a September 27, 2007 memo to the courts from the SCAO about the need to report violations of personal protection orders to MSP. Members agreed with the new language.

The forms were approved as revised.

8. New Forms for Pro Se Litigants to Obtain Restoration of License

In 2007, the committee developed and approved petitions and instructions to assist pro se litigants in obtaining driver's license restoration. The committee was reminded that the SCAO withheld approval of the forms and instructions because of a long-standing policy not to approve "pro se forms packages" when there is neither statute nor court rule requiring the development of these packages. However, because the forms may be helpful to the legal community, the forms were published for comment in 2008 to determine interest in approving just the forms. Members were advised that the forms were reviewed by the Secretary of State's Office.

Some members remarked that instructions would be beneficial and would help avoid confusion in completing the forms but understood the SCAO's reasoning for not approving the instructions. However, the committee agreed it would still be beneficial to provide the court forms and recommended they be resubmitted for approval.

No further changes were made to the forms as approved in 2007.

9. CC 23, Order of Removal to District Court

The committee considered a request to delete this form because MCR 4.003 was repealed in 1997. Although circuit courts may continue to remove cases to district courts pursuant to local administrative order, the committee pointed out that this form no longer has any statewide use. Instead, courts that continue the practice through local administrative order can create their own forms.

The form was deleted.

Circuit and District Court Forms

1. Declaration Language from MCR 2.114, Proof of Service and Verified Pleadings

As agreed to in the circuit session, members agreed that the certificate made by the officer in the proof of service should have the declaration, "I declare that the statements above are true to the best of my information, knowledge, and belief," and the following forms were revised accordingly: MC 35, MC 36, MC 37, MC 72, MC 203, MC 304, and MC 503. Additional comments regarding some of these forms are discussed separately below. The committee agreed other affected forms should be identified by the SCAO and revised accordingly.

Members who were not present in the circuit session were advised that a decision had been made by the committee in 2004 to replace the word "notary" with the word "notarization" and that all proofs of service will be changed accordingly. These members were also advised that another standard previously approved by the committee in 2007, which is to add a line for the printed name of the process server, will also be

applied to all proofs of service.

The committee turned its focus on the issue regarding the use of the declaration in numerous pleadings pursuant to MCR 2.114(B)(2) even though it does not appear to be required. SCAO staff asked members what approach they preferred for identifying the pleadings which must be verified and removing the declaration from the remaining forms. After some discussion, it was agreed that SCAO would research the requirement for each form, identify those forms that should have the declaration removed, and republish those forms for comment in 2009. As a result, the following forms that were just revised to bring the proof of service into compliance with MCR 2.107 were tabled until 2009: MC 35, MC 36, MC 72, and MC 503. **Staff Note:** MC 36 must be verified, so the revisions to the proof of service on this form can be finalized this year. Also, MC 504 was a deleted form and should not have been included in the agenda.

The forms were approved as revised. In addition, the committee extended its approval to the remaining proofs of service that the SCAO will identify and revise, as agreed to above.

It was pointed out that the date and time on the second return on MC 37 appears to apply to the court order and not the delivery of the property. Members agreed, and to avoid confusion, decided it should say, "I certify and return that on _____
Date
at _____ I delivered the described property to the plaintiff as ordered by the court."
Time

Members remarked that including the declaration language on all sections (Return – Personal Service, Return on Delivery of Property to Plaintiff, and Return – Failure to Serve/Seize) is redundant and suggested that the returns be redesigned so that only one declaration statement is needed at the end of the form. To do this, each section will be preceded by a check box and there will be one declaration and one signature line.

While discussing the need for declaration language on MC 203, the committee began questioning the purpose of the "Notice to Prosecuting Attorney," and how the form is actually used. The committee tabled any further discussion on the form and requested that SCAO research the background of the form's development for discussion next year.

The committee agreed to leave the declaration on MC 302 because the proof of mailing serves as a proof of service.

The committee was asked whether the standard header for the Proof of Service should be included on MC 304. Members concluded that it should. The committee also noted there should be check boxes before items 1, 2, 3 and 4 in the Proof of Service section and the corrections were made accordingly.

Although not required, the committee concluded the declaration language should remain on MC 321a to impress upon potential jurors the importance of making truthful statements.

The forms were approved as revised.

2. Standard Language for Certificate of Mailing/Service

The committee was advised that several different standards have been applied to the Certificate of Mailing/Service over the years and that the SCAO would like to apply a single standard to as many forms as possible, with the understanding that there are some situations where this is impractical. Members reviewed the suggested language provided by the SCAO, as well as language agreed upon during the circuit session. They also consulted the court rule and after considerable discussion, arrived at the following: "I certify that on this date I served a copy of this [name of document] on the parties or their attorneys by first-class mail addressed to their last-known addresses as defined by MCR 2.107(C)(3)." This standard will replace the language approved by the circuit session for forms CC 08, CC 08a, CC 58, CC 80, CC 88, CC 89, CC 257, CC 257a, CC 268, CC 269, CC 378, CC 385, and CC 403.

The committee agreed this standard language should be applied to the following forms: MC 07a, MC 25, MC 39, MC 49, MC 51, MC 57, MC 60, MC 61, MC 62, MC 81, MC 274, MC 276, MC 277, MC 278, MC 284, MC 285, MC 286, MC 288, MC 290, MC 301, MC 502, and MC 503. Members agreed other affected forms should be identified by the SCAO and revised accordingly. **Staff Note:** Based on the discussion regarding the declaration language on pleadings that don't need to be verified, MC 503 is being held for further discussion in 2009.

The forms were approved as revised. In addition, the committee extended its approval to other forms that the SCAO will identify and revise, as agreed to above.

Staff Note: Revisions to MC 284 will be held for distribution in 2008 because it should be discussed again by the committee in 2009 whether to modify the field for judgment interest in the same manner as MC 10.

3. Space on Forms for File/Date Stamp

The committee discussed a request to allocate space on all forms used in circuit court (CC and MC) for stamping the file date and time. Although it is often difficult to read the stamp or the stamp sometimes obscures the information underneath it, the committee agreed there is no room on the forms to allocate space for this purpose and members were unwilling to increase the forms to two pages, as was done with probate court forms, in order to provide this space.

4. Clerk of the Court, Deputy Clerk of the Court, and Court Clerk

The committee discussed the inconsistent use of the designations "clerk of the court," "deputy clerk of the court," "deputy clerk," and "court clerk" beneath the signature lines throughout the forms and considered whether a single standard could be applied. After further discussion, members recommended that the SCAO identify and create a list of all

the forms that contain a signature line for a clerk of the court, make recommendations as to the most appropriate designation, and publish the suggestions for comment in 2009.

5. MC 01, Summons and Complaint

The committee discussed requests by several attorneys to rename MC 01 a “Summons” only because the form does not contain any complaint information and it causes confusion for pro se litigants. The committee noted this same suggestion has been raised numerous times in the past and responded that there is no reason to override the previous decisions to leave the title “Summons and Complaint,” based on the fact that the bottom half of the form does contain general complaint information and there is an instruction that makes it clear additional, specific complaint information must be attached.

The committee concluded the current title has not created a significant problem and the form does not need to be renamed or otherwise redesigned for clarity.

Staff Note: Standard declaration language was added to MC 01, as well as a line for the printed name of the process server.

6. MC 10, Judgment

The committee approved a request to allocate more space for specifying payment arrangements under “Other conditions.”

The form was approved as revised.

Staff Note: MC 10 was also revised to include the standard Certificate of Mailing language.

7. MC 13, Request and Writ for Garnishment (Nonperiodic)
MC 14, Garnishee Disclosure and P-01, Guide to Garnishment of Periodic Payments

The committee discussed a proposal from the State Bar of Michigan’s Representative Assembly to include a provision that expressly directs a bank or a financial institution to protect exempted income from garnishment when that income has been direct-deposited into the bank account from a source that is exempt under federal law.

Members remarked that it is probably beyond the authority of court rule and law to direct the garnishee. It was noted that Michigan Court Rule 3.101(E)(3) specifies the exact language the writ “shall direct the garnishee to” do, and it does not include language about the handling of exempted funds.

However, members acknowledged there is a problem with improper withholding and suggested that a simple statement be added to the garnishee directive that reminds the garnishee to consider exemptions in accordance with law. Therefore, the committee suggested the following revision to item 4 of MC 13: “If indebted to the defendant, you must withhold an amount not to exceed the amount of the judgment stated in item 2. of

the request, subject to exemptions provided by law.” The committee denied the Representative Assembly’s request to add “Additional Instructions for the Garnishee” to the back of the form. However, under Examples of Income Exempt From Garnishment on the back of the form, the committee agreed to add Railroad Retirement Benefits and Black Lung Benefits to the list of examples.

The committee also denied a request to add a check box “d” in item 2 on MC 14 that says: “Withholding is exempt because the funds consist solely of direct deposited federal benefits and are statutorily exempted from garnishment. (Please specify the exemption.)” because item 2c is available for specifying the reason withholding is exempt and because the form should not be used as the means of correcting perceived problems with interpretation of federal law by financial institutions. Members were in agreement that court rule change should be sought instead.

The committee agreed the calculation sheet for MC 14 and the related Guide to Garnishment of Periodic Payments (P-01) should be amended to comply with the increase in federal minimum wage to \$6.55, effective July 24, 2008. In order to avoid another change in 2009, members suggested that the table be amended to include the minimum wage for 2008 and 2009.

The forms were approved as revised.

Staff Note: After consulting Supreme Court Legal Counsel, the SCAO has decided not to adopt the committee’s recommendation regarding MC 13 and will be referring the issue back to the State Bar Representative Assembly.

8. MC 15, Motion for Installment Payments

The committee discussed a request to include a copy for the judge in the distribution pursuant to MCR 2.119(A)(2) and concluded that it can be handled by adequate training at the local level.

The form was unchanged.

9. MC 39, Judgment, Claim and Delivery

The committee considered whether this form should be amended to reflect the changes made to MC 10 in 2007 with regard to judgment interest. Members agreed that it should.

The form was approved as revised.

10. MC 96, Judgment of Contempt

The committee discussed a request to add a proof of service to the form and concluded that it was unnecessary, primarily because it is normally handed to the individual at the hearing, and if not, it will be mailed by the clerk of the court as deemed appropriate. The proof of mailing can be used in that instance.

The form was unchanged.

11. MC 216, 14-Day Notice, Traffic
MC 216a, Notice of Noncompliance, Drinking/Driving Offense

The committee discussed a request to add the phrase “and the cost to compel appearance may be added to the amount of your judgment” at the end of item 3 on both forms. Members questioned the necessity of such language but agreed it caused no harm to include the language, acknowledging that it was probably included as part of the overall goals of the “collections project.” Therefore, inclusion of the language was approved.

The forms were approved as revised.

12. MC 218, Order Revoking Release and Forfeiting Bond, Notice of Intent to Enter Judgment

The committee discussed a request to increase space for indicating both the date and time of the show cause hearing. Members agreed that more space was needed, even beyond that provided in the draft included in the agenda. SCAO staff indicated that additional space could be obtained by moving the subtitles and the committee agreed.

The form was approved as revised.

13. MC 219, Judgment of Sentence, Commitment to Jail

The committee considered a request from the Sex Offender Registry Advisory Committee of the Michigan State Police regarding language about sex offender registration because defendants were failing to register. As with the circuit session, members were advised of the background behind the request and how the SCAO addressed the issue previously. The committee agreed with the decision in the circuit session to leave the parenthetical statement out of the form.

The form was unchanged.

14. MC 227, Application to Set Aside Conviction
MC 228, Order Regarding Application to Set Aside Conviction

The committee discussed a request by the Michigan State Police to include advice to the defendant that an order setting aside a conviction does not relieve the defendant from his or her obligations under the Sex Offender Registration Act. After considering several options for conveying the information, members agreed the following language should appear in a “NOTE” on the back of MC 227: “NOTE: Pursuant to MCL 780.622, if an order is entered setting aside a conviction for a listed offense as defined in MCL 28.722 of the Sex Offenders Registration Act, you will still be considered to have been convicted of that offense and you must comply with the reporting and registration requirements of the act.” The committee agreed this language should also be included in a “NOTE” at the

bottom of MC 228 with a slight alteration: “NOTE: Pursuant to MCL 780.622, if an order is entered setting aside a conviction for a listed offense as defined in MCL 28.722 of the Sex Offenders Registration Act, you are still considered to have been convicted of that offense and you must comply with the reporting and registration requirements of the act.”

The committee also reviewed a request to change item 6 on MC 228 so that the finding as to the circumstances and behavior of the applicant from the date of the applicant's conviction to the filing of the application warrant is separate from the finding as to whether setting aside the conviction is or is not consistent with the public welfare. After much discussion, the committee concluded that the court must find both that the circumstances and behavior of the applicant warrant setting aside the conviction and that it is consistent with the public welfare. Members remarked that it was unnecessary to find any of the items in the negative and suggested that the order be redesigned so that it was clear that if the court could not find affirmatively on criteria set forth in statute, that the application must be denied. Therefore, check boxes were placed before items 2, 3, 4, 5, and 6 and the language in each item was changed to reflect the criteria specified in MCL 780.621(4) and (9) as follows:

- 1. The Michigan State Police has reported to the court required information from the department's records.
- 2. The applicant has not been convicted of more than one criminal offense.
- 3. The conviction is not a traffic offense or a felony for which the maximum punishment is life imprisonment.
- 4. It has been at least five years since the sentence was imposed or since the defendant was discharged from imprisonment for the conviction.
- 5. An opportunity has been given to the Attorney General and prosecuting official to contest the application.
- 6. Circumstances and behavior of the applicant from the date of the applicant's conviction to the filing of the application warrant setting aside the conviction and setting aside the conviction is consistent with the public welfare.”

Additional language was included as a parenthetical statement after “IT IS ORDERED” as follows: “(If any item from 1-6 is not checked, then item 7 must be checked.)”

The forms were approved as revised.

15. MC 234, Order for Counseling and Testing for Disease/Infection

The committee discussed a request to remove the asterisks from the references to MCL 750.448 and MCL 750.449 on the reverse side of the form pursuant to MCL 333.5129(1). The committee agreed that, although the court is not required to order testing on these two offenses until convicted, the court may order it earlier pursuant to MCL 333.5129(1). However, members did not agree that the asterisks should be removed.

After considerable discussion and analysis of the statutes, the committee suggested that the parenthetical statement on the back of the form should be changed to: “(* testing is

discretionary unless the court determines there is reason to believe the violation involved sexual penetration or exposure to a bodily fluid of defendant).” However, after further review of the statutes, members pointed out that even this language is not totally accurate.

The committee finally decided that the “Persons Subject to Testing and Counseling under MCL 333.5129” section on the reverse side of the form should be redesigned in table format with language from MCL 333.5129(1), (3), and (4). The committee concluded this format will produce the least amount of confusion.

The form was approved as revised.

16. MC 235, Motion and Order for Destruction of Fingerprints and Arrest Card

The committee discussed its 2007 conclusion regarding the impact of *McElroy v Michigan State Police* upon the form based on a request to reconsider its decision. Members again concluded the form was unaffected by the opinion.

The form was unchanged.

17. MC 238, Judgment After Bond Forfeiture

The committee discussed a request to expand the use of this form for situations where the forfeiture is set aside and 10 percent bond money is to be returned to multiple depositors. The committee questioned how often this situation actually arises and concluded there is no value in creating a statewide form. Local forms can be created if determined necessary.

18. MC 242, Assignment to Youthful Trainee Status

Based on previous discussions regarding CC 219b and MC 219, the committee denied a request to add a parenthetical statement to item 4 to remind the judge to order sex offender registration if the defendant has not yet completed the registration and it was not previously ordered.

The form was unchanged.

19. MC 294, Order Delaying Sentence

The committee denied a request to reword item 7 to say, “Defendant shall be supervised by _____.” Members did not believe the language was confusing.

Also, based on previous discussions regarding CC 219b, MC 219, and MC 242, the committee denied a request to add a parenthetical statement to item 4 to remind the judge to order sex offender registration if the defendant has not yet completed the registration and it was not previously ordered.

The form was unchanged.

20. MC 304, Order for Alternate Service

The committee discussed a request to include an option for denying a motion for alternate service. Members agreed to the request. The committee agreed with most of the changes provided in the draft, but remarked it was unnecessary to make a finding that service can be reasonably made when denying the motion. Therefore, item 1b was deleted.

Members responded that a proof of service of the order was unnecessary and that MC 302 could be used as determined appropriate by the clerk of the court. Members pointed out that the title of the form should be changed to "Order Regarding Alternate Service." The Proof of Service for the alternate service was already revised earlier in the agenda.

The form was approved as revised.

21. MC 321a, Juror Qualification Questionnaire

The committee discussed a suggestion that item 12 be changed to comply with MCL 600.1307a. Members agreed and the item was changed to: "Are you physically and mentally able to carry out the functions of a juror?" Members also noted a typographical error in item 15 and "conviciton" was changed to "conviction."

The form was approved as revised.

22. MC 321b, Juror Personal History Questionnaire

The committee discussed a request to add the questions, "Are you a U.S. citizen?" and "Have you ever been convicted of a felony?" even though those questions were already asked on the Qualification Questionnaire. Members remarked that it is unnecessary to ask the person again if they are a U.S. citizen because they will have already been disqualified at this point. However, they did agree there might be situations where a person is convicted of a felony between the time he/she completed MC 321a and is completing MC 321b. Rather than create an additional item, the committee revised item 17 as follows: "Have you ever been convicted of a crime?"

The form was approved as revised.

23. CC 298, Application for Leave to Appeal and Affidavit Explaining Delay
CC 299, Order Following Hearing on Application for Leave to Appeal

The committee reviewed typeset versions of these forms, which were provided in draft form in 2007, approved by the circuit session, and recommended for review by the joint session in 2008.

The committee approved CC 298 with the following revisions:

"1. _____, requests leave to appeal an order or a judgment entered on"

"3. __ a. This application for leave is being filed within 21 days of the judgment or order

date and is, therefore, timely.”

3. ___ b. This application for leave is being filed more than 21 days after the judgment or order date, but not more than 6 months thereafter.” The Certificate of Mailing was revised to comply with the standard approved earlier.

The committee approved CC 299 with a correction to the cite MCR 7.103(C)(1) and application of the standard language to the Certificate of Mailing.

The forms were approved as revised.

24. New Form, Civil Summons Third Party

The committee discussed a request to create a civil summons third party form. Members indicated the current form is adequate and declined to develop the form.

25. New Form, Discharge of Judgment Lien

The committee discussed a request to create a discharge of judgment lien. Members concluded that this is not a court form because it is not filed with the court and there is no obligation for the court to sign or certify a discharge pursuant to statute or court rule. Therefore, the committee declined to develop the form.

District Court Forms

1. Declaration Language from MCR 2.114, Proof of Service

As agreed to previously, members agreed that the certificate made by the officer in the proof of service should have the declaration, “I declare that the statements above are true to the best of my information, knowledge, and belief.” The committee agreed any affected forms should be identified by the SCAO and revised accordingly. Also, all proofs of service will be changed based on the decision made by the committee in 2004 to replace the word “notary” with the word “notarization” and the decision in 2007 to add a line for the printed name of the process server.

In keeping with the previous discussion in the joint session, the committee agreed that SCAO would research the requirement for the declaration on DC 102a, DC 102b, DC 102c, DC 102d, DC 103, and DC 107 and republish those forms for comment in 2009 if it is determined that the declaration should be removed from these forms.

2. Standard Language for Certificate of Mailing/Service

Based on a previous discussion with regard to circuit and Michigan court forms, the committee agreed that the standard language for the Certificate of Mailing approved in the joint session should be applied to all certificates of mailing on district court forms. The standard language will be applied to forms CIA 01, CIA 02, CIA 03, CIA 06, DC 03, DC 44, DC 85, DC 86, DC 90, DC 91, DC 99, DC 99a, DC 104, DC 105, DC 105a, DC 106, and DC 119. Members agreed other affected forms should be identified by the

SCAO and revised accordingly.

The forms were approved as revised, except that CIA 06 was tabled for further discussion in 2009 based on a later discussion in agenda item 4.

3. CIA 03, 14 Day Notice, Civil Infraction

The committee discussed a request to add the phrase “and the cost to compel appearance may be added to the amount of your judgment” at the end item 3. Members agreed to the suggested change but pointed out that reference to “warrant charges” is part of the costs to compel appearance and that the language should be deleted from item 3.

Committee members remarked that this form is used for nontraffic civil infractions and, as a result, driving privileges will not be suspended for failure to comply with the judgment. Accordingly, the committee replaced “will suspend” in item 1 with “may suspend.” In addition, the phrase, “effective immediately” was deleted from the end of the sentence.

The form was approved as revised.

4. CIA 06, Order to Show Cause, Civil Infraction

The committee discussed whether this form should contain language ordering service by mail pursuant to MCR 2.107(B)(1)(b). The committee also reviewed whether this form meets the minimum requirements of MCR 3.606. MCL 257.908 specifies the procedures for noncompliance with a judgment, but MCR 3.606 may supersede these provisions pursuant to MCR 1.104.

The committee was uncertain how often CIA 06 is used and suggested that MC 230 should be used since it complies with MCR 3.606. The committee recommended tabling further discussion and suggested that an inquiry be published in 2009 as to whether MC 230 could or should be used instead of CIA 06.

5. DC 41, Motion and Order to Seize Personal Property Subject to Forfeiture

The committee discussed a request to change the title of this form from a “motion” to a “petition” pursuant to MCL 257.625n(4). Members declined, pointing out that the authority for the form was MCL 600.4703(5), not MCL 257.625n(4).

The form was unchanged.

6. DC 84, Affidavit and Claim, Small Claims

The committee discussed a request to remove the reference to “attorney for a party” in the Officer Certificate in the Proof of Service because attorneys are prohibited from representing parties in the small claims division (including service). Members agreed and the reference was removed. Remaining standards for the proof of service language

were included on the form based on previous discussions.

The form was approved as revised.

7. DC 85, Judgment, Small Claims

The committee considered whether this form should be amended to reflect the changes made to MC 10 in 2007 with regard to judgment interest. Members agreed this form should be amended; however, they remarked that the specificity regarding interest would be difficult for parties to understand. Instead, members agreed that the line for “interest” should be removed from the form altogether. They pointed out that the form clearly indicates the judgment will earn interest at current statutory rates. When the judgment creditor seeks to collect on the judgment, interest can be calculated at that time.

The form was approved as revised.

8. DC 90, Petition Regarding Impoundment of Motor Vehicle or Seizure of Motorcycle

The committee discussed the suggestion to add fields for the name and address of the towing agency and the secured party so the court will be able to send notice of the hearing to these entities when necessary. Members agreed that fields were necessary.

Another request, which was not published for comment but was raised by an analyst with SCAO, was presented to the committee. In many situations, the respondent is not the police agency; however, the form states this. It was suggested that reference to the “police agency” be removed and that a “NOTE” be added above the “Petition” section stating: “NOTE: The respondent may be a police agency or a towing company.” Members agreed to the suggested change.

The form was approved as revised.

9. DC 247, Department of Natural Resources Complaint, Condemnation and Confiscation
DC 248, Department of Natural Resources Order to Show Cause, Condemnation and Confiscation
DC 249, Department of Natural Resources Order, Condemnation and Confiscation

The committee discussed a suggestion to change the case name on these forms from “People of” to “In the Matter of” because condemnation proceedings are not criminal in nature. Members agreed and the change was made on all three forms.

The forms were approved as revised.

10. DC 250, Felony Register of Actions and DC 251, Misdemeanor Register of Actions

The committee discussed a request to add fields to these forms. After some discussion about the overall use of these forms and the entries required by court rule and the case-file management standards, members concluded that local courts can make changes to

suit their own needs, but there is no need to change the SCAO-Approved forms.

The forms were unchanged.

11. New Form, Affidavit and Counterclaim, Small Claims

The committee reviewed a draft that was typeset based on approval for development at its 2007 meeting. Members suggested that a field for the case number be added to item 1 and approved the draft with that minor change. In addition, members remarked that an "Order" transferring the case should be added to the form.

The committee asked the SCAO to typeset language for the order and republish the form for comment in 2009.

12. New Form, Motion, Affidavit, and Order to Set Aside Default/Dismissal

The committee discussed a request to create this new form. Members agreed that the motion and order to set aside a default should not be combined with a motion and order to set aside dismissal because they have such different requirements. And because there currently exists a motion to set aside default, form DC 99, and an order to set aside default, form DC 99a, there is only a need for a motion and order to set aside dismissal. The committee discussed at length whether or not to create a form for this purpose and suggested that that 46th District Court be asked to draft something separate. SCAO staff indicated that this could be done internally instead if members were willing to send in samples of motions and orders that have been developed by their courts. Members agreed and the item was tabled for reconsideration in 2009 as a motion and order to set aside dismissal only.

13. New Form, Notice of Right to Appellate Review and Request for Appointment of Attorney

The committee discussed a request to create a notice of right to appellate review and request for appointment of attorney use pursuant to MCR 6.610(F)(3) and MCR 6.625(B). Members declined, indicating that there is no requirement in the rules to provide this form as there is in circuit court pursuant to MCR 6.425(F)(3). They responded that courts can create their own local forms as they deem necessary.

Meeting adjourned, 3:30 p.m.

Respectfully submitted,

Traci R. Gentilozzi