



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

March 24, 2008

MICHIGAN COURT FORMS COMMITTEE
(Friend of the Court representatives only)
Minutes of March 20, 2008 Meeting

Present: Hon. William C. Buhl (chair)
Zenell Brown, 3rd Circuit Court
Lynn Ann Bullard, 36th Circuit Court
Janice K. Cunningham, private practitioner
Erin Magley, 20th Circuit Court
Johanna Peltier, Washtenaw County Friend of the Court Office
Pam Sala, Oakland County Friend of the Court Office
Denise Stork-Phillips, Office of Child Support, DHS
Amy L. Byrd, State Court Administrative Office (staff)
Dawn Childress, State Court Administrative Office (staff)
Traci Gentilozzi, State Court Administrative Office (staff)
Angel Sorrells, State Court Administrative Office (staff)

Absent: Dan Ellis, Office of Child Support, DHS
Kelly Morse, Office of Child Support, DHS

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

Introductions were made.

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. Some of them are on hold for further review in 2009. The remaining forms will be corrected and distributed in June 2008 as follows: FOC 1a, FOC 1b, FOC 2, FOC 2a, FOC 4, FOC 5, FOC 6, FOC 7, FOC 8, FOC 12, FOC 16, FOC 17, FOC 18, FOC 19, FOC 22, FOC 22a, FOC 22b, FOC 23, FOC 29,

FOC 30, FOC 46, FOC 48, FOC 53, FOC 54, FOC 58, FOC 60, FOC 62, FOC 63, FOC 64, FOC 67, FOC 69, FOC 71, FOC 72, FOC 72a, FOC 80, FOC 82, FOC 83, FOC 84, FOC 86, 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

The committee discussed the interpretation of MCR 2.107(D) regarding proof of service and agreed the certificate made by the officer should have the declaration from MCR 2.114(B). Forms FOC 30 and FOC 84 were revised accordingly, and members also agreed other affected forms should be identified by the SCAO and revised accordingly.

Also, with regard to proofs of service, 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.” Members agreed with the change and 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 FOC 30 and FOC 84 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.

The committee discussed another issue with regard to the requirement for declaration language on pleadings pursuant to MCR 2.114(B)(2). Members acknowledged that there are many forms that do not need to be verified that contain this declaration and concluded that the language should be removed in those instances. 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. Accordingly, forms 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 will be reviewed, and any other changes to these forms as a result of this meeting will be put on hold until 2009.

Forms FOC 30 and FOC 84 were approved as revised, including all other minor changes noted by the SCAO.

2. Standard Language for Certificate of Mailing/Service

The committee discussed the use of different language in the certificates of mailing and agreed that the single standard approved by the committee several years ago should be applied where appropriate. Members reviewed the current language which states: “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.” Members were asked whether the “and/or their attorneys” was appropriate because the court rule only requires the attorneys to be served when parties are

represented. The committee discussed whether the standard should say “and/or their attorneys,” “and their attorneys” or “or their attorneys” and concluded that the standard should say “or their attorneys.” As a result, the following forms will be revised and other forms modified accordingly: 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. **Staff Note:** For this year due to time constraints, the SCAO will forego revising those forms that already contain the standard with the language “and/or their attorneys.” Instead the SCAO will identify these forms in late 2008 and will include notice about them in the 2009 agenda.

The forms were approved as revised, including all other minor changes noted by the SCAO.

3. Standard Masthead

The committee discussed the SCAO’s concern that many forms do not conform to appropriate standards with regard to the address and telephone number of the court or the friend of the court and with regard to captions in the parties’ entitlement boxes. Members reviewed the forms presented by the SCAO and agreed that the standard masthead for motions and orders should refer to the court address and telephone number rather than the friend of the court address and telephone number. The committee also decided that any of these forms that are filed with the court should contain the parties’ telephone numbers in the case name as required by court rule. As a result, the following forms will be revised accordingly: 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.

While reviewing the above forms, the committee was asked to consider additional changes to FOC 30 that were recommended by staff to comply with the requirement that the request for hearing be filed with the clerk of the court rather than the friend of the court. Members agreed with the changes.

While discussing the proper address for the masthead, the committee was asked to consider additional questions with regard to FOC 55, FOC 72a, FOC 94, and FOC 95.

Members were asked about the purpose of FOC 55. Currently, the distribution shows a copy going in the court file, but the address in the masthead is the friend of the court. Typically, when the friend of the court address is in the masthead, it is a form generated by the friend of the court, a copy of which goes in the friend of the court file rather than the court file. Members indicated the original should go to the requesting party and no copy should go to MiCSES or to the friend of the court because the record is generated from MiCSES and the data can be regenerated whenever necessary; however, they were undecided about placement of the document in the court file. SCAO inquired whether this form needed to be SCAO-Approved if its use is merely for the benefit of one of the

parties when requested by one of them. After further discussion, the committee recommended deletion of the form be published for comment in 2009, and further review of the form was tabled.

The committee was asked if FOC 72a could also be considered for possible deletion in 2009 because there are so few Citizen Advisory Committees and, where they exist, a local administrative order is in place to handle requests for access to friend of the court records. Members agreed and further review of the form was tabled.

The committee was asked whether language is to be inserted after the first paragraph in FOC 94 or whether it is simply a lead-in statement for the remaining items on the form. Members responded that there is no language to be inserted. As a result, the space was removed to avoid possible confusion in the future.

The committee was asked whether language is to be inserted after item 1 on FOC 95, or if the statement is a lead-in for the remaining items 2 through 7. Members responded that it is a lead-in statement for items 2 through 7. The committee was also asked whether the title of the form was accurate because item 1 uses the term “determines,” and the friend of the court does not make “findings.” It appears the form is a report with “recommendations.” After discussion, the committee decided to change the title of the form to “Report and Recommendation on Arrearage Payment Amount.” Based on this change, members were asked whether the statement at the bottom of the form is now accurate. It refers to “findings” and also to an income withholding order. Currently, a federal “notice” is used instead of an “income withholding order.” The committee agreed it is not an “order” and changed the statement to: “Income withholding is recommended as stated in the attached notice.” After further discussion about the use of this form, the committee ultimately decided to table the issues and to publish the form for possible deletion in 2009.

The remaining forms were approved as revised, including all other minor changes noted by the SCAO.

4. FOC 1a, Friend of the Court Grievance

The committee discussed a request 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. After considerable discussion, members agreed to change paragraph two of the instructions as follows: “If your county has a local citizen advisory committee, you may also file a grievance regarding friend of the court office operations with that committee at any time during the proceedings. ...”

The form was approved as revised, including all other minor changes noted by the SCAO.

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

The committee discussed an inquiry about the need to order service by mail pursuant to MCR 2.107(B)(1)(b). The committee considered whether a check box option for service should be added to the form, like the option on MC 230, but decided this was not the best approach for several reasons. First, members stated that MCR 3.208(B)(2) supersedes MCR 2.107(B)(1)(b) with regard to motions for show cause brought by the friend of the court. SCAO staff responded they would consult with Supreme Court legal counsel on this issue.

Members also pointed out that changes to this form regarding service would cause confusion for litigants. SCAO staff pointed out that these forms are not intended for use by litigants and suggested that MC 230 should be used instead. If this is done, then service of the forms by mail when the show cause is brought by the friend of the court is acceptable without an order from the court pursuant to the friend of the court rule for enforcement and it might not be necessary to consult with Supreme Court legal counsel about application of MCR 2.107(B)(1)(b). To make it clear the form is not intended for litigants, members agreed that a “use note” should be added to FOC 2 and FOC 2a as follows:

“This form is for use by the friend of the court. Parties should use MC 230.”

The forms were approved as revised, including all other minor changes noted by the SCAO.

6. FOC 6, Enforcement Order

The committee was asked if item 12 is intended for indicating the frequency with which payment is to be made or for a date. Members responded that it could be either and indicated that the blank line should remain on the form without any caption.

The form was approved as revised with regard to all other minor changes noted by the SCAO.

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

The committee was asked whether “inmate” should be replaced with “respondent” in items 5a-5i and in item 6. After discussion, the committee concluded this form should not be a friend of the court form and recommended it be published in 2009 for deletion.

Further discussion of the form was tabled.

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

The committee discussed an email from an individual regarding the appropriateness of

the language in item 1 in comparison with MCL 552.605b. Staff pointed out that, in 2007, the committee responded to this same inquiry and found the language on the form was an appropriate interpretation of the law. After examining the language of the statute and further discussion, members agreed that the language was not entirely accurate. After considering several alternatives, the committee determined the most accurate and straightforward language is: "This order continues until each child is age 18 or beyond age 18, as provided by MCL 552.605b, whichever is later, but no longer than age 19 ½...."

The committee discussed a request to delete item 12 on FOC 10/52 and to delete item 8 on FOC 10a/52a because it sometimes conflicts with separate orders providing for waiver of the arrearage. The committee declined this request, noting that attorneys should not only take the responsibility to read the order, but that court rule requires the use of a single uniform support order and that a separate order is unacceptable. Members remarked that the lead-in statement, "Unless otherwise ordered in item 13," provides an appropriate indication that there may be alternative language and that the waiver of arrearage language should be added to item 13 accordingly.

The committee discussed a suggestion from the Friend of the Court Bureau (FOCB) requiring friends of the court 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. After examining the statutes, the committee decided to break up the statement as follows: " The friend of the court recommends support be ordered as follows: Attached are the calculations pursuant to MCL 552.505(1)(h) and MCL 552.517b. If you disagree with this recommendation, you must file a written objection with _____ on or before 21 days from the date this order is mailed. ..."

Finally, the committee focused its attention on suggested revisions that were provided by staff in the Friend of the Court Bureau based on upcoming revisions to the Child Support Formula, effective October 1, 2008.

The committee discussed the Bureau's concern that parties sometimes fail to notify one another or the friend of the court of a change in child-care expenses, even though they are supposed to do so. After much discussion, the committee agreed to add the following language at the end of item 1 on both forms: "The parties must notify each other of changes in child-care expenses and must additionally notify the friend of the court if the change ends those expenses."

The committee agreed with the Bureaus' recommendations, except that they made a slight alteration with regard to the first bullet for paragraph 3 and they declined to adopt the recommendations with regard to the second bullet for paragraph 3 and the recommended language for paragraph 5. As a result, the following alternative revision was made on both forms with regard to the first bullet: A line for "Social Security Payment Credit" was added after "Premium Adjustment" on the child support obligation box. The committee agreed to keep "Other."

With regard to the Bureau's request for item 3 and 5 pertaining to annual ordinary medical expense, the committee concluded these changes would be confusing. It was suggested that the form should not be used to provide instructions and that the guidelines should be referred to instead. As a result, to distinguish between the ordinary medical expenses in item 3 and the annual ordinary medical amount in item 5, the committee decided to add the word "annual" before "ordinary medical amount" and to extend the blank line to accommodate the details regarding multiple children as specified in the guidelines. **Staff Note:** MiCSES will be able to program the proper calculations for item 5, but if orders continue to be prepared improperly, there may be a need to revise item 5 for more specificity in the future.

The committee discussed whether adding a check box before items 13 and 8 on each form would help draw attention to attachments that are included with the forms. The committee agreed the check boxes would be beneficial, and the change was approved. The committee also agreed to revise the parenthetical language in items 13 and 8 to say, "(Attach separate sheets as needed.)"

The forms were approved as revised, including all other minor changes noted by the SCAO.

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

The committee discussed a request to add signature lines for attorneys when the order is the result of a stipulation. The committee agreed that it would be beneficial to add signature lines and date lines to these forms.

The forms were approved as revised including all other minor changes noted by the SCAO.

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

The committee discussed a suggestion to change item 2 to state: "This request is for expenses that are more than the ordinary medical amount that can be collected as specified in my support order." However, based on the discussion with regard to the uniform support order and the change in the child support guidelines, members agreed that item 2 should be broken out into a check box option: "This request is for expenses that are more than the annual ordinary medical amount that can be collected as specified in the support order. health-care expenses that have been incurred by the payer of support."

The form was approved as revised including all other minor changes noted by the SCAO. However, distribution will be held pursuant to further review of the form as discussed in agenda item 1 with regard to the declaration language on the form.

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

Based on the discussion on agenda item 5, a “use note” was added to the form as follows:
“This form is for use by the friend of the court. Parties should use MC 230.”

The form was approved as revised, including all other minor changes noted by the SCAO.

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

The committee discussed a request to add a field for the employer’s federal identification number (FEIN) on both forms. Some members didn’t believe it was necessary because the FEIN has already been received by the time this particular form is generated. However, it was pointed out that not all friends of the court generate this form from MiCSES and will, therefore, need a field for the information. The committee agreed to add the field.

The committee noted that the parentheses around “per individual” and “per family” in item 10 of FOC 22 and item 11 of FOC 22a should be removed because they are not needed.

The committee discussed the suggestion to delete the reference to “Income” from the title of the FOC 22a and add a distribution reference to “Copy for Department of Human Services.” After discussion, the committee agreed “Income” should be removed from the title of FOC 22a because income information is not included on the form. However, the committee declined to add a distribution reference for “Copy for Department of Human Services” because the DHS does not need a copy.

The forms were approved as revised, including all other minor changes noted by the SCAO.

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

The committee was asked to update the instructions in item 3 of FOC 63 and item 2c of FOC 64 about keeping the friend of the court informed of certain changes in information regarding the parties. The committee agreed to the revisions because the update reflects the language on other forms.

The forms were approved as revised, including all other minor changes noted by the SCAO.

14. FOC 70, Determination on Arrearage

The committee considered a suggestion to revise the form to comply with the version used by MiCSES. Staff noted the MiCSES form is supposed to mirror the SCAO-Approved form, and not vice versa. Members discussed the changes and additions made

by MiCSES and indicated they were desirable. SCAO inquired whether it was necessary for this to be SCAO-Approved since it is not filed with the court and is a notice. Staff remarked that the committee had reviewed many of the MiCSES forms several years ago and had identified many forms that could be created and maintained by the Office of Child Support without the need for an underlying SCAO-Approved form. Perhaps this is one of those forms that can be deleted. Members recommended the form be published in 2009 for possible deletion.

Further review of the form was tabled.

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

The committee discussed a suggestion that references to “child support” be replaced with “support” on these forms because a lien can also be placed on property for payment of spousal support. The committee acknowledged this is accurate, and agreed to the changes.

Committee members inquired whether the name of the form’s drafter is necessary on FOC 90 and FOC 92. Concerns were expressed that “FROM: Friend of the Court – Claimant” may be too vague for some registers of deed, particularly when the note at the bottom of FOC 90 says, “For other information regarding this lien, including payoff amount, contact the claimant at the above address.” Committee members noted that, on the MiCSES form, the name of the drafter is usually added. SCAO staff expressed concern that the name of the drafter would be included when it is the friend of the court who is the claimant, but agreed to research the statute to determine whether the drafter’s name should be added to these forms. While researching this, staff will also ensure that the forms meet the minimum formatting requirements for the register of deeds office, including the proper order for distribution.

Committee members pointed out the potential risks associated with including a person’s social security number on FOC 90 (e.g., identity theft). Most registers of deeds will not accept forms with social security numbers on them (or even four digits). Staff noted the social security number probably should not have been retained on this form when the forms were being reviewed in 2006 for compliance with the privacy act. Accordingly, the committee decided the field for the “Obligor’s social security no.” should be deleted from FOC 90.

The committee indicated that the applicable statutes should be cited at the bottom of these forms, and MCL 552.625a and MCL 552.625b were added accordingly.

Staff inquired whether the declaration needs to be on FOC 92. Because the committee was unsure whether this statement is needed, the SCAO agreed to research the issue.

The forms were approved as revised, including all other minor changes noted by the SCAO. **Staff Note:** Forms FOC 90 and FOC 92 will not be distributed in June 2008.

After the SCAO has conducted the necessary research regarding formatting, the forms will be revised accordingly and republished in 2009.

16. FOC 108, Change in Personal Information

The committee considered a suggestion to modify item 8 to prevent confusion for those completing the form. The committee agreed item 8 should be changed to include: "Provider name" "Provider address and telephone no." "Group no." and "Policy no."

Members remarked that people don't always know that they are to send this to the friend of the court. To avoid phone calls, the committee agreed that the phrase "and return to the friend of the court" should be added at the end of "YOU MUST SIGN THIS FORM" in the first paragraph on the form. **Staff Note:** The language of the instruction was changed as follows: "**You must sign this form and send it to the friend of the court.**"

The committee considered a suggestion to add instructions to the person completing the form to copy his/her social security card and insurance card and submit them with the form. Members responded that there is no requirement to do so and that a statewide form should not be designed to require something that has no statutory or court rule basis and is a local practice.

The form was approved as revised, including all other minor changes noted by the SCAO.

Meeting adjourned, 2:00 p.m.

Respectfully submitted,

Traci R. Gentilozzi