Order

Michigan Supreme Court
Lansing, Michigan

February 4, 2015

Robert P. Young, Jr.,
Chief Justice

Stephen J. Markman
Mary Beth Kelly
Brian K. Zahra
Bridget M. McCormack
David F. Viviano
Richard H. Bernstein,
Justices

ADM File No. 2013-22

Amendment of Rule 4.201
of the Michigan Court Rules

On order of the Court, notice of the proposed changes and an opportunity for comment in writing and at a public hearing having been provided, and consideration having been given to the comments received, the following amendment of Rule 4.201 of the Michigan Court Rules is adopted, effective May 1, 2015.

[The present language is amended as indicated below by underlining for new text and strikeover for text that has been deleted.]

Rule 4.201 Summary Proceedings to Recover Possession of Premises

(A)-(L)[Unchanged.]

(M) Postjudgment Motions. Except as provided in MCR 2.612, any postjudgment motion must be filed no later than 10 days after judgment enters.

(1) If the motion challenges a judgment for possession, the court may not grant a stay unless

(a) the motion is accompanied by an escrow deposit of 1 month's rent, or

(b) the court is satisfied that there are grounds for relief under MCR 2.612(C), and issues an order that waives payment of the escrow; such an order may be ex parte.

If a stay is granted, a hearing shall be held within 14 days after it is issued.

(2) If the judgment does not include an award of possession, the filing of the motion stays proceedings, but the plaintiff may move for an order requiring a bond to secure the stay. If the initial escrow deposit is believed

inadequate, the plaintiff may apply for continuing adequate escrow payments in accord with subrule (H)(2). The filing of a postjudgment motion together with a bond, bond order, or escrow deposit stays all proceedings, including an order of eviction issued but not executed.

(3) If a motion is filed to set aside a default money judgment, except when grounded on lack of jurisdiction over the defendant, the court may not grant the motion unless

(a) the motion is accompanied by an affidavit of facts showing a meritorious defense, and

(b) good cause is shown.

(N)-(O) [Unchanged.]

Staff Comment: This amendment of MCR 4.201 clarifies that a motion to set aside a default money judgment in a landlord/tenant case must be accompanied by an affidavit of facts showing a meritorious defense, and good cause must be shown. This is the standard for setting aside a default judgment under MCR 2.603(D)(1).

The staff comment is not an authoritative construction by the Court. In addition, adoption of a new rule or amendment in no way reflects a substantive determination by this Court.

I, Larry S. Royster, Clerk of the Michigan Supreme Court, certify that the foregoing is a true and complete copy of the order entered at the direction of the Court.

February 4, 2015

Clerk