

Order

Michigan Supreme Court
Lansing, Michigan

June 9, 2021

Bridget M. McCormack,
Chief Justice

ADM File No. 2020-26

Amendments of Rules 1.109
and 8.119 of the Michigan
Court Rules and Administrative
Order No. 1999-4

Brian K. Zahra
David F. Viviano
Richard H. Bernstein
Elizabeth T. Clement
Megan K. Cavanagh
Elizabeth M. Welch,
Justices

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 amendments of Rules 1.109 and 8.119 of the Michigan Court Rules and Administrative Order No. 1999-4 are adopted, effective July 1, 2021.

[Additions to the text are indicated in underlining and
deleted text is shown by strikeover.]

Rule 1.109 Court Records Defined; Document Defined; Filing Standards; Signatures;
Electronic Filing and Service; Access

(A)-(C) [Unchanged.]

(D) Filing Standards.

(1)-(8) [Unchanged.]

(9) Personal Identifying Information.

(a) The following personal identifying information is protected and shall not be included in any public document or attachment filed with the court on or after July 1, 2021, except as provided by these rules:

(i)-(v) [Unchanged.]

(b) Filing, Accessing, and Serving Personal Identifying Information

(i)-(ii) [Unchanged.]

(iii) If a party is required to include protected personal identifying information in a public document filed with the court, the

party shall file the document with the protected personal identifying information redacted, along with a personal identifying information form approved by the State Court Administrative Office under subrule (i). The personal identifying information form must identify each item of redacted information and specify an appropriate reference that uniquely corresponds to each item of redacted information listed. All references in the case to the redacted identifiers listed in the personal identifying information form will be understood to refer to the corresponding complete identifier. A party may amend the personal identifying information form as of right. Fields for protected personal identifying information ~~may will not~~ be included in SCAO-approved court forms, and the information will be protected, in the form and manner established by the State Court Administrative Office.

(iv)-(vii) [Unchanged.]

(c)-(e) [Unchanged.]

(10) Request for Copy of Public Document with Protected Personal Identifying Information; Redacting Personal Identifying Information; Responsibility; Certifying Original Record; Other.

(a) The responsibility for excluding or redacting personal identifying information listed in subrule (9) from all documents filed with or offered to the court rests solely with the parties and their attorneys. The clerk of the court is not required to review, redact, or screen documents at time of filing for personal identifying information, protected or otherwise, whether filed electronically or on paper. For a document filed with or offered to the court, except as otherwise provided in these rules, the clerk of the court is not required to redact protected personal identifying information from that document, regardless of whether filed before or after July 1, 2021, before providing a requested copy of the document (whether requested in person or via the internet) or before providing direct access to the document via a publicly accessible computer at the courthouse.

(b)-(e) [Unchanged.]

(E)-(H) [Unchanged.]

Rule 8.119 Court Records and Reports; Duties of Clerks

(A)-(G) [Unchanged.]

(H) Access to Records. Except as otherwise provided in subrule (F), only case records as defined in subrule (D) are public records, subject to access in accordance with these rules. The clerk shall not permit any case record to be taken from the court without the order of the court. A court may provide access to the public case history information through a publicly accessible website, and business court opinions may be made available as part of an indexed list as required under MCL 600.8039. If a request is made for a public record that is maintained electronically, the court is required to provide a means for access to that record;~~;~~ ~~H~~however, the documents cannot be provided through a publicly accessible website if protected personal identifying information has not been redacted from those documents. If a public document prepared or issued by the court, on or after July 1, 2021, contains protected personal identifying information, the information must be redacted before it can be provided to the public, whether the document is provided upon request via a paper or electronic copy, or direct access via a publicly accessible computer at the courthouse. The court may provide access to any case record that is not available in paper or digital image, as defined by MCR 1.109(B), if it can reasonably accommodate the request. Any materials filed with the court pursuant to MCR 1.109(D), in a medium for which the court does not have the means to readily access and reproduce those materials, may be made available for public inspection using court equipment only. The court is not required to provide the means to access or reproduce the contents of those materials if the means is not already available.

(1)-(2) [Unchanged.]

(I)-(L) [Unchanged.]

Administrative Order No. 1999-4 – Establishment of Michigan Trial Court Records Management Standards

In order to improve the administration of justice; to improve the service to the public, other agencies, and the judiciary; to improve the performance and efficiency of Michigan trial court operations; to enhance the trial courts' ability to create and maintain an accurate record of the trial courts' proceedings, decisions, orders, and judgments pursuant to statute and court rule, it is ordered that the State Court Administrator establish Michigan Trial Court Records Management Standards for data, case records, and other court records and that trial courts conform to those standards. The State Court

Administrative Office must enforce the standards and assist courts in adopting practices to conform to those standards.

Case records maintained under MCR 8.119(D) must be made available electronically to the same extent they are available at the courthouse, provided that certain personal data identifiers are not available to the public. In order to protect privacy and address security concerns, it is ordered that ~~protected personal identifying information, as defined in court rule, filed with the state courts of Michigan in any form or manner and for any purpose must be nonpublic.~~ The State Court Administrative Office must establish standards and develop court forms that ensure all protected personal identifying information necessary to a given court case is provided to the court separately from filed documents except as otherwise required by law.

Staff comment: The amendments of MCR 1.109 and 8.119 and Administrative Order No. 1999-4 allow SCAO flexibility in protecting an individual's personal identifying information and clarify when a court is and is not required to redact protected personal identifying information.

The staff comment is not an authoritative construction by the Court. In addition, adoption of an 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.

June 9, 2021

A handwritten signature in black ink, appearing to read "Larry S. Royster", is written over a horizontal line.

Clerk