THE FORTIETH JUDICIAL CIRCUIT OF MICHIGAN

NICK O. HOLOWKA
Circuit Judge

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Administrative Order 40th Circuit Court No. 2015 – 02J
Administrative Order 71A District Court 2015-01J
Administrative Order 44th Probate Court 2015-01J

ACCESS INSPECTION, REPORODUCTION, AND CREATION OF COURT RECORDS

IT IS ORDERED:

This Order rescinds the Local Administrative Order No: C40 2013-01J, D71A 2013-01J and P44 2013-01J.

This administrative order is issued in accordance with Michigan Court Rules 8.119(H) and 8.110(C) (7). The purpose of this order is to regulate requests for access, inspection, and reproduction of public court case records and to allow flexibility in providing approved court forms or creating new case records.

The clerk may not permit any case record to be taken from the court without the order of the court. The court may provide access to the public information in a register of actions through a publicly accessible website; however, all other public information in its case records may be provided through electronic means only upon request.

1. Court records addressed by this administrative order include:

    a. Records kept by the Clerk of the Court. This includes case files, register of actions, numerical and alphabetical indexes, and calendars. MCR 8.119ID).

    b. Court Recordings, Log Notes, Jury Seating Charts, and other Media. This includes video/audio/digital court recordings, notes, tapes, logs, backup tapes, discs, and any other medium used or created in the making of a record of proceedings and kept pursuant to MCR 8.108, MCR8.119(F).

2. Procedures for accessing, inspecting, and reproducing nonpublic information and records are set forth in Component 19 of the Michigan Trial Court Case File Management Standards, chart of Nonpublic and Limited-Access Court Records, Local Administrative Order 1(Friend of Court Records), and Administrative Order 2006-2 Privacy Policy and access to Records.

3. A list of court records, including those defined in MCR 8.119(E), that are not subject to public access and inspection is contained in the chart of Nonpublic and Limited-Access Court Records.

4. Court records are not subject to Freedom of Information Act requests. MCL15.232(d)(v) specifically exempts the judiciary from the Freedom of Information Act.

5. In accordance with MCR 8.110(C)(7), the court shall provide litigants with forms approved by the State Court Administrator at the cost of $1.00 per form.

    a. Parties will be limited to a maximum of 5 copies per each type of form requested.

b. There will be no charge for forms requested by court-appointed attorneys on cases to which they have been appointed or for indigent parties.

c. There will be no charge for forms prepared by the court.

d. The Circuit Court or Clerk of the Court may not charge a fee for Pro se forms for personal protection proceedings or motion forms for criminal post appeal relief.

6. Any person may access and inspect, at no charge, any case record or information contained in those records, regardless of means of access and record format, unless access is restricted by statute, court rule, or a court order entered pursuant to MCR 8.119(1) and may also obtain copies subject to the following regulations established in accordance with MCR 8.119(J).
   a. General

      i. All requests to access and inspect case records identified in this Administrative Order and/or for copies of those records will be made in written application, submitting the Record/Copy Request form prior to providing any information.

      ii. Persons who do not have a complete case number or party name may review available case indexes to identify and select specific cases for inspection.

      iii. Case records shall be reviewed at the public counter unless, in the discretion of court supervisory personnel, approval is granted to review records in the clerk's office based on available space, the type and number of records to be reviewed, and the length of time necessary to review them.

      iv. Ensuring the right of immediate access to and public inspection of court records shall be a top priority, but may be limited by the availability of court staff to supervise the inspection.

   b. Access

      i. Except for online public case indexes and register of case action, requests for access and inspection to no more than 5 specific case files will be accommodated within 30 minutes unless the files are not in the active file area. Requests for specific case records in storage will be accommodated within 5 business days.

      ii. Requests for access and inspection to more than 5 specific case files will be accommodated within a reasonable amount of time, depending on the total number of case files requested and the availability of court staff.

      iii. Case information requests from other courts that lack specific case numbers or party names shall be researched by this court. Requested information will be provided at no charge.

      iv. Requests to perform general traffic or criminal record checks that do not have specific case number or party names will be researched by the court. They will be referred to the appropriate state agencies to obtain this information or to the available indexes referred to under subsection 6(a)(ii).

      v. Requests for the wholesale review of particular types of case records will only be considered if, in the court's discretion, the requests will not unreasonably interfere with the discharge of court functions. With these types of requests, the court may specify the date, time, and manner in which access is to be granted. It will be the responsibility of those persons requesting access to make prior, acceptable arrangements with the court.

c. Copies

i. The court will provide copies of case file documents 5 or 50 pages at a cost of $1.00 per page within 1.5 hours of the request for copies, except that copies of transcripts filed with the court shall not exceed $.30 per page pursuant to MCL600.2543.

ii. Requests for more than 50 total copies of case file documents will be accommodated within a reasonable amount of time as determined by the (1) total number of pages to be copied, (2) availability of court staff and photocopying equipment, and (3) nature of requests, such as the degree to which court staff is required to identify, select, and review documents to be copied.

iii. In order to preserve and maintain the integrity of court records and to prevent unreasonable interference with the discharge of court functions, persons will not be permitted to copy or otherwise duplicate court records using their own equipment {except that if a person requests permission to photograph documents in a case file using a handheld or mobile devise and the clerk of the court determines that it will not create unreasonable interference to do so, a person will be permitted to photograph the documents under the supervision of the clerk to prevent the requester from accessing confidential information and disassembling the file in the process.}

d. New Record Creation

i. Requests for creation of a new record, as defined in MCR 8.119(J)(4), will be granted only if creating the new record will not unreasonably interfere with the discharge of court functions. If granted, the request will be accommodated within a reasonable amount of time dependent upon the availably of sufficient public data within the body of case records (including related databases), and the ease in which those records can be identified and complied.

ii. Costs to provide a new record may not exceed the actual cost of labor and supplies and the actual use of the system to develop, generate, and validate the accuracy of the record.

7. Access to court recordings, log notes, jury seating charts, and other media of court proceedings made pursuant to MCR 8.108 is not permitted.

8. Copies of court recording, log notes, jury seating charts, and other media of court proceedings made pursuant to MCR 8.108 are not available.

Effective Date: March 1, 2015

2/25/15
Date

Nick O. Holowka
Chief Judge
40th Circuit Court
Lapeer County