

# Order

Michigan Supreme Court  
Lansing, Michigan

October 24, 2012

Robert P. Young, Jr.,  
Chief Justice

ADM File No. 2011-25

Michael F. Cavanagh  
Marilyn Kelly

Amendment of  
Rule 3.101 of the  
Michigan Court Rules

Stephen J. Markman  
Diane M. Hathaway  
Mary Beth Kelly  
Brian K. Zahra,  
Justices

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On order of the Court, the need for immediate action having been found, the following amendment of Rule 3.101 of the Michigan Court Rules is adopted, effective immediately and pending public comment. This notice is given to afford interested persons the opportunity to comment on the form or the merits of the amendment or to suggest alternatives. The Court welcomes the views of all. This matter will be considered at a public hearing. The notices and agendas for public hearings are posted at <http://www.courts.mi.gov/courts/michigansupremecourt/rules/pages/public-administrative-hearings.aspx>.

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

## Rule 3.101 Garnishment After Judgment

(A) [Unchanged.]

(B) Postjudgment Garnishments.

(1) Periodic garnishments are garnishments of periodic payments, as provided in this rule.

(a) Unless otherwise ordered by the court, a writ of periodic garnishment served on a garnishee who is obligated to make periodic payments to the defendant is effective until the first to occur of the following events:

(i) the amount withheld pursuant to the writ equals the amount of the unpaid judgment, interest, and costs stated in the verified statement in support of the writ;

- (ii) the expiration of ~~91~~ 182 days after the date the writ was issued;
- (iii) the plaintiff files and serves on the defendant and the garnishee a notice that the amount withheld exceeds the remaining unpaid judgment, interest, and costs, or that the judgment has otherwise been satisfied.

(b)-(c) [Unchanged.]

(2) [Unchanged.]

(C)-(D) [Unchanged.]

(E) Writ of Garnishment.

- (1) The writ of garnishment must have attached or must include a copy of the verified statement requesting issuance of the writ, and must include information that will permit the garnishee to identify the defendant, such as the defendant's address, social security number, employee identification number, federal tax identification number, employer number, or account number, if known.
- (2) Upon issuance of the writ, it shall be served upon the garnishee as provided in subrule (F)(1). The writ shall include the date on which it was issued and the last day by which it must be served to be valid, which is ~~91~~182 days after it was issued.

(3)-(4) [Unchanged.]

- (5) The writ shall inform the defendant that unless the defendant files objections within 14 days after the service of the writ on the defendant,
  - (a) without further notice the property or debt held pursuant to the garnishment may be applied to the satisfaction of the plaintiff's judgment, and
  - (b) periodic payments due to the defendant may be withheld ~~for as long as 91 days after the issuance~~ until the expiration of the writ and in the discretion of the court paid directly to the plaintiff.

(6) [Unchanged.]

(F)-(T)[Unchanged.]

*Staff Comment:* The amendments of MCR 3.101 are adopted to reflect recent statutory changes enacted in MCL 600.4012(1) in which the effective period for a periodic garnishment of wages, salary, and other earnings was extended from 91 days to 182 days. The amendments of MCR 3.101(B) and (E) change the effective period for *all* periodic garnishments to 182 days. (The amendments do not limit the 182-day effective period to periodic garnishments that only involve wages, salary, and other earnings.)

The staff comment is not an authoritative construction by the Court.

A copy of this order will be given to the Secretary of the State Bar and to the State Court Administrator so that they can make the notifications specified in MCR 1.201. Comments on this amendment may be sent to the Supreme Court Clerk in writing or electronically by February 1, 2013, at P.O. Box 30052, Lansing, MI 48909, or [MSC\\_clerk@courts.mi.gov](mailto:MSC_clerk@courts.mi.gov). When filing a comment, please refer to ADM File No. 2011-25. Your comments and the comments of others will be posted at <http://www.courts.mi.gov/courts/michigansupremecourt/rules/court-rules-admin-matters/pages/chapter-3-special-proceedings-and-actions.aspx>.



I, Corbin R. Davis, 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.

October 24, 2012

*Corbin R. Davis*  
Clerk