

Order

**Michigan Supreme Court
Lansing, Michigan**

April 14, 2009

Marilyn Kelly,
Chief Justice

ADM File No. 2009-09

Michael F. Cavanagh
Elizabeth A. Weaver
Maura D. Corrigan
Robert P. Young, Jr.
Stephen J. Markman
Diane M. Hathaway,
Justices

Administrative Order No. 2009-XX

Proposal to Require a Court to Submit
a Local Administrative Order to SCAO
When Appointing Magistrates and Referees

On order of the Court, this is to advise that the Court is considering adoption of an administrative order that would require a court to submit local administrative orders to the State Court Administrative Office to identify individuals appointed as magistrates or referees in that court. Before the Court determines whether the proposal should be adopted, changed before adoption, or rejected, this notice is given to afford interested persons the opportunity to comment on the form or the merits of the proposal or to suggest alternatives. The Court welcomes the views of all. This matter will be considered at a public hearing by the Court before a final decision is made. The schedule and agendas for public hearings are posted on the Court's website at www.courts.mi.gov/supremecourt.

Publication of this proposal does not mean that the Court will issue an order on the subject, nor does it imply probable adoption of the proposal in its present form.

Courts are authorized by statute to appoint magistrates and referees to positions that allow those magistrates and referees to perform various functions. As the entity charged with supervision of the state's courts, it is essential that the State Court Administrative Office of the Michigan Supreme Court be aware of the identity of each of these appointed individuals. In addition, because the law with regard to magistrates allows the court that appoints the magistrate to establish the scope of the duties the magistrate will perform, and because immunity for the magistrate's actions extends only to those actions that are performed within the scope of the authority established by the court that appoints the magistrate, it is also essential that the Supreme Court be notified of the scope of authority granted by each court to its magistrate or magistrates. Further, the Michigan Court Rules grant courts the authority to determine the specific types of hearings and proceedings to be heard by referees, and this information should likewise be submitted to the State Court Administrative Office.

Accordingly, on order of the Court,

A. Each court that appoints a magistrate or referee shall submit a local administrative order to the State Court Administrative Office that identifies an individual appointed as a magistrate or referee. The local administrative order shall include the name and contact information for the individual and the date the appointment is or was effective.

B. Further, each court that appoints a magistrate or referee shall describe the scope of the authority conferred by the court on the magistrate or referee.

C. It is the responsibility of a magistrate or referee to notify the State Court Administrative Office of changes in the individual's contact information during the course of the appointment.

Staff Comment: This proposed administrative order would require a court to submit a local administrative order to the State Court Administrative Office regarding the identity of magistrates and referees, as well as a description of the scope of the authority of magistrates and referees. These requirements would provide the State Court Administrative Office necessary information about who these individuals are and what functions they perform in the trial court. It would be the magistrate's or referee's responsibility to update his or her contact information.

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 of Michigan and to the State Court Administrator so that they can make the notifications specified in MCR 1.201. Comments on these proposals may be sent to the Supreme Court Clerk in writing or electronically by August 1, 2009, at P.O. Box 30052, Lansing, MI 48909, or MSC_clerk@courts.mi.gov. All comments received within the public comment period will be posted on the Court's website at www.courts.mi.gov/supremecourt/resources/administrative/index.htm. When filing a comment, please refer to ADM File No. 2009-09.



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.

April 14, 2009

Corbin R. Davis
Clerk