

Hot Issues at WCPC - Rejected Pleadings

By
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I. Basics of Rejection

- A. Rejection of submitted pleadings is based upon [MCR 8.119\(C\)](#) which allows for the rejection of filings that do not comply with MCR 1.109(D)(1) and (2), are not signed in accordance with MCR 1.109(E), or are not accompanied by the required filing fee or a request for fee waiver under MCR 2.002(B), unless already waived or suspended by court order
- B. In addition, [MCR 5.113](#) provides that the form, captioning, signing, and verifying of documents are prescribed in MCR 1.109(D) and (E). If the State Court Administrative Office has approved a form for the particular purpose, it must be used when preparing that particular document for filing with the court. An application, petition, inventory, accounting, proof of claim, or proof of service must be verified in accordance with MCR 1.109(D)(3).

II. Most Common Reasons Submitted Pleadings are Rejected and Not Processed for Filing at the Wayne County Probate Court

- A. **Failure to identify all interested parties** (see [MCR 5.125](#) to identify all interested parties)
 - 1. **Decedent estates – petition/application vs. testimony vs. will**
Make sure the interested parties listed in the Application/Petition include all heirs listed in the Testimony and Devises in the Will and Supplemental Testimony;
 - 2. **Deceased interested party**
Don't forget that if an interested party died after the decedent, the PR of that interested party's estate or if none, the known heirs of the estate and known devisees (or if no known heirs, the Attorney General) must be identified as interested parties to this decedent estate (MCR 5.125(B)(5)).
 - 3. **Foreign Consul**
When an interested party is a resident in and a citizen of a foreign country, you must list the Foreign Consul as an interested party. [MCL 700.1401\(4\)](#) and MCR 5.125(A)(2)
 - 4. **Attorney General**
Don't forget to identify the Attorney General as an interested party when the

decedent is not survived by any known heirs or the protected person has no known presumptive heirs. MCR 5.125(A)(1)

5. Administrator of Veterans' Affairs

On a petition for appointment of a guardian or conservator of a person on whose account benefits are payable by the Veterans' Administration, the Administrator of the A must be served and thus identified as an interested party. **MCR 5.125(A)(3)**

6. Minor Guardianship

List and identify both parents in minor guardianships – if deceased, list their names and indicate deceased and identify grandparents and presumptive heirs of the minor MCR 5.125(C)(20)

7. Adult Guardianship

List and identify spouse and adult children (or parents if no children) of purported ward/incapacitated individual

- B. **Supplemental Testimony.** Make sure you file the supplemental testimony when there are devisees who are not heirs. If the will gives anything to a trust, the supplemental testimony is mandatory.
- C. **Other persons with priority.** Make sure that if there are other persons with priority to serve as personal representative that they are properly listed on the application/petition and notified, with a proof of service, or renunciations are filed.
- D. **Small estate proceedings.** Be familiar with the maximum asset threshold for year of the decedent's death – Don't submit if over the amount. Include the paid contract for the funeral and burial with your submission. Submit documentation of the date of the lien for real estate if using it to qualify for a small estate procedure. Don't complete the order – leave it blank.
- E. **Improper county.** Be familiar with what county you should be filing the paperwork in – the location of the ward dictates the county; the domicile of a Michigan decedent dictates the county; wills for safekeeping can only be filed in the county where the testator resides (MCL 700.2515 & 700.2516);
- F. **Redacted Death Certificate** – The complete date of birth and social security number must be redacted (mark through it) on one copy and an second, unredacted copy of the death certificate for all applications and petitions for probate and appointment of personal representative
- G. **Improper forms, outdated forms** – Remember, if there is a SCAO form for the purpose of the pleading, that SCAO form must be used. Especially be mindful of the pleadings filed when an estate has only been opened via application.
- H. **Incomplete forms** – Fully complete the forms, read all sections, complete everything that is required and relevant

- I. **Missing forms** – All required forms must be submitted together to be processed (one pdf) and submit all pages of forms and documents together (don't leave off page 2 of the sworn statement, for example)
 - 1. Use the MC97 and MC97a – when referenced in the SCAO form, you must attach the companion MC97 or MC97a with the referenced PPII completed on it (such as date of birth)
- J. **Signature(s)** – Make sure all forms and pleadings are signed in each required location prior to submitting; electronic signatures are acceptable. Attorneys cannot sign the inventory, account, sworn statement, nor receipt for their client. MCR 1.109(E)(2)
- K. **Legible** – Make sure you can read the documents you are submitting – if they are not legible, they must be rejected
- L. **Proper format** - Email submissions must be in pdf format
- M. **Ex Parte/Incomplete Submissions** - Exhibits must be part of the pleading – don't submit them separately as they will be rejected as ex parte correspondence
- N. **Pleadings must have case caption** – list the case name and case number and double check that they are correct
- O. **Pleadings submitted by former clients** – you are the attorney of record for a client in a probate case until the court enters a withdrawal of your appearance – either via the entry of a substitution of attorney, order regarding petition to withdrawal, or a stipulated order of withdrawal – any form that has a signature section for the attorney, must be signed by the attorney record. MCR 1.109(E)(2)
- P. **Complaints (new CZ filings) must be submitted with a Summons** – complete the top portion of page 1 only, but submit both pages of the Summons
- Q. **Fee – timely pay the filing fee** – if not timely paid, the filing will be vacated
- R. **Closing estate documents** – inventory asset valued fully verified and the inventory fee must be paid prior to the court accepting closing pleadings; additionally, no publication/publication period still open - the creditors period after notice must be closed

Hot Issues at WCPC – CZ (Civil Litigation) Matters

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Civil Litigation – CZ – The Wayne County Probate Court updated its internal procedures over the past year to bring the administration of civil matters more in line with typical circuit court procedures. The new process is detailed below:

- A. Note: Any action against another filed by a fiduciary or trustee, or an action filed by a claimant after notice that their claim has been disallowed is commenced by filing a complaint and governed by the rules applicable to civil actions in circuit court. [MCR 5.101\(C\)](#)
- B. Wayne County Probate Court requires the following 2 documents be filed to initiate a new CZ (Civil Litigation) matter:
 - 1. Complaint – This can be either the SCAO [MC01a](#), or a self-drafted pleading entitled “Complaint”
 - 2. Summons – [MC 01](#) – The first page (except the summons section at the bottom) must be completed and submitted with the Complaint to the probate court.
- C. These forms are submitted to probateservice@wpcpc.us.
- D. Once processed by the clerk, the case will be assigned a case number and judge, and the \$175.00 filing fee will be added. The service clerk will contact the plaintiff (or plaintiff’s counsel, if represented) with the fee correspondence.
- E. **UPDATED PROCESS in 2025** -- Upon receipt of payment, court staff will issue the summons, adding a record of its issuance for each named defendant to the case file, and send a certified copy of the summons and complaint to the Plaintiff (or plaintiff’s counsel if represented) for service.
 - 1. If payment is not timely made, matter will be vacated as payment is a requirement to initiate the case.
 - 2. When the summons is issued, a SUM Summons Issued docket entry for each defendant is added to the case history and visible on CourtView.
- F. Once service is completed, Plaintiff (or plaintiff’s counsel) must file the completed page 2 of the Summons as proof of service of the summons and complaint. Submit this proof of service to courtroomfile@wpcpc.us. Failure to timely serve and timely file this proof of service will result in a dismissal of the action by the court. If dismissed, the court will send plaintiff or plaintiff’s counsel the Dismissal for Non Service, [MC09a](#).

Practice note: Be sure to properly serve each defendant. Service requirements under Chapter 2 are different than under Chapter 5 of the Michigan Court Rules. See [MCR 2.103](#), [MCR 2.104](#), and [MCR 2.105](#) – the court is generally looking for personal service or certified/registered mail with return receipt on the defendant specifically, and not an attorney who has appeared on behalf of the defendant in a companion matter.

- G. **UPDATED PROCESS in 2025** – Scheduling Conference Reminder - Upon the filing of the proof of service, the court clerk for the assigned judge will review the proof of service and schedule the hearing date for the scheduling conference. The Plaintiff or plaintiff’s attorney, if any, will be sent the Scheduling Conference Reminder (WCPC 999) and is required to serve this hearing notice on all parties.
- H. **UPDATED PROCESS in 2025** – Scheduling Order – At the scheduling conference, the Judge will review the status of the case with the parties and enter an order that either:
1. If the matter is resolved at the hearing or a stipulated order resolving the matter was submitted prior to this hearing date, the matter will be dismissed or closed based upon this agreement. This will result in a final order of the case.
 2. If the matter is not resolved and rather the litigation is continuing, the Scheduling Order (WCPC 550) will be issued. Discovery dates will be issued, mediation may be ordered, and the next hearing date will be provided in this order.

Case File Date: <file dt>

IT IS ORDERED:

1. Matter adjourned to: _____. Service has been obtained, proper proof of service has been filed with the court, and:
- a. Time for filing of the answer *has not* lapsed. PLAINTIFF is ordered to serve a copy of this Order on all parties and file a proof of service.
- b. Time for filing an answer *has* lapsed and no answer has been filed by Defendant. IT IS ORDERED that Plaintiff shall file and serve a default request (and motion for entry of default judgment) no later than _____.
2. Service has been obtained, proper proof of service has been filed with the court, Defendant(s) have filed his/her/its Answer(s), and the parties have not resolved the matter.

The following schedule of events shall be followed:

	<input type="checkbox"/> Track 1	<input type="checkbox"/> Track 2
Witness Exchange Filing	Date: (75 days from current date)	Date: (120 days from current date)
Discovery Cutoff	Date: (120 days from current date)	Date: (182 months from current date)
Dispositive Motions must be filed by:	Date: (42 days from discovery close)	Date: (42 days from discovery close)
Settlement Conference *Parties must appear on:	Next date after dispositive mtm filing due date	Next date after dispositive mtm filing due date

- 2b. In addition to the above dates, the parties are ordered to attend mediation. Parties are to inform the court of their selected mediator by 7 days after discovery close or the court will select a mediator. Mediation must be completed by 28 days after discovery close. A Mediation Status Report shall be filed by 35 days from discovery close.

3. IT IS FUTHER ORDERED:

- I. **UPDATED PROCESS in 2025** – All subsequent pleadings are filed through courtroomfile@wpcpc.us. This includes amended complaints, answers, third party complaints, motions, request and affidavit of default, collection activity, etc.
- J. The final order resolving the CZ case will indicate a specific final disposition from the following:

CZ DISPOSITIONS	
TYPE	CONDITIONS
Jury Verdict (JV)	Disposition order indicates that verdict was by jury (and such verdict was neither amended nor overturned by the judge)
Bench Verdict (BV)	Disposition order indicates that verdict was by judge (in jury cases, count here when judge either grants directed verdict or enters judgment notwithstanding jury verdict)
Uncontested/Default/Settled/Summary Disposition (UDS)* [Most common result code]	Disposition order indicates either <ul style="list-style-type: none"> • default for no answer or other failure • consent judgment (including through ADR i.e., case evaluation or facilitative mediation) • acceptance of out-of-court settlement • summary disposition
Transferred (ITRN)	PC 608 (Petition and Order to Change Venue) or MC 316 (Order for Change of Venue) entered ordering the case transferred to another Michigan court prior to the court entering any substantive disposition on the initial petition
Dismissed by Party (DISP)	MC 09 (Dismissal) filed
Dismissed by Court (DISC)	MC 09a (Dismissal; Non-Service/No Progress) filed, based on lack of service or no progress
Inactive Status (IS)	Matter stayed – as a result of notice of bankruptcy proceedings or other stay (except that related to an inoculatory appeal)