

Michigan Compiled Laws Annotated
Michigan Court Rules of 1985
Chapter 5. Probate Court
Subchapter 5.100. General Rules of Pleading and Practice

MI Rules MCR 5.131

Rule 5.131. Discovery Generally

Effective: January 1, 2020

[Currentness](#)

(A) Civil Actions. Discovery for civil actions in probate court is governed by subchapter 2.300.

(B) Proceedings.

(1) *Discovery in General.* With the exception of mandatory initial disclosures under [MCR 2.302\(A\)](#), the discovery rules in subchapter 2.300 apply in probate proceedings, and, except as otherwise ordered by the court, any interested person in a probate proceeding is considered a party for the purpose of applying discovery rules.

(2) *Mandatory Initial Disclosure.*

(a) Demand or Objection. Mandatory disclosures under [MCR 2.302\(A\)](#) are required in probate proceedings if, by the time of the first hearing on the petition initiating the proceeding:

(i) an interested person other than the petitioner files a demand for mandatory initial disclosure and properly serves the demand on all interested persons or

(ii) an interested person objects to or otherwise contests the petition, in writing or orally, properly serves any written objection or response on all interested persons, and the judge determines mandatory initial disclosure is appropriate. When mandatory initial disclosures are required through demand or objection, and except as otherwise ordered by the court, such disclosures must be made by the petitioner and any demandant or objecting interested person.

(b) Court Order. At any time, on its own motion or on a motion filed by an interested person, the court may require:

(i) mandatory disclosures and designate those interested persons who must make disclosures or

(ii) in a proceeding with some parties already making disclosures, an additional interested person or persons to make disclosures.

(c) Time for Initial Disclosures.

(i) The petitioner must serve initial disclosures within 14 days after the first hearing on the petition subject to a demand or objection.

(ii) The demandant or objecting interested person must serve initial disclosures within the later of 14 days after the petitioner's disclosures are due or 28 days after the demand or objection is filed.

(iii) When mandatory disclosures are ordered pursuant to MCR 5.131(B)(2)(b)(ii), an interested person's disclosures are due within 21 days after the court's order.

(3) *Scope of Discovery in Probate Proceedings.* Discovery in a probate proceeding is limited to matters raised in any petitions or objections pending before the court.

Credits

[Adopted July 12, 2001, effective January 1, 2002, 464 Mich. Amended June 19, 2019, effective January 1, 2020, 503 Mich.]

Editors' Notes

COMMENTS

Staff Comment to 2002 Adoption

This rule was [MCR 5.301](#). New subrule (B) clarifies that discovery in a probate proceeding is not available for the subject matter of a prospective civil action before the filing of such an action.

Staff Comment (ADM File No. 2018-19) to 2020 Amendment

These amendments are based on a proposal created by a special committee of the State Bar of Michigan and approved for submission to the Court by the Bar's Representative Assembly. The rules require mandatory discovery disclosure in many cases, adopt a presumptive limit on interrogatories (20 in most cases, but 35 in domestic relations proceedings) and limit a deposition to 7 hours. The amendments also update the rules to more specifically address issues related to electronically stored information, and encourage early action on discovery issues during the discovery period.

The amendment of [MCR 2.309\(A\)\(2\)](#) sets a presumptive limit of twenty interrogatories for each separately represented party. Several commenters suggested that the term “discrete subpart” be more explicitly defined. But the rule's reference to “a discrete subpart” is intended to draw guidance from federal courts construing [FR Civ P 30\(a\)\(1\)](#). Generally, subparts are not separately counted if they are logically or factually subsumed within and necessarily related to the primary question. In upholding the limit, parties and courts should also pragmatically balance the overall goals of discovery and the admonition of [MCR 1.105](#). Further, the intent of the provision at [MCR 2.301\(B\)\(4\)](#) is to ensure that parties responding to discovery requests have the full time period to do so as provided for under these rules prior to the expiration of the discovery period.

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Current with amendments received through June 15, 2023. Some rules may be more current, see credits for details

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