

State of Michigan



PHILIP E. RODGERS, JR.
THOMAS G. POWER
CIRCUIT JUDGES

Thirteenth Judicial Circuit

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MEMORANDUM

TO: Clerks of the Court, Attorneys and Legal Staff practicing in the 13th Circuit Court

FROM: Hon. Philip E. Rodgers, Jr.
Hon. Thomas G. Power

DATE: January 25, 2013

RE: 13th Circuit Court Policy with Respect to All Ex Parte Motions and Judgments

The 13th Circuit Court is a mandatory e-filing jurisdiction. Only a limited number of documents may be presented to the Court in paper. Originating documents such as a summons and complaint are received in paper. Proof of service of the summons should be e-filed.

A question has arisen regarding ex parte motions. Originating documents (complaint and summons) are filed in paper. If a motion for temporary injunctive relief filed in a general civil or a domestic relations case is filed *with the complaint* that too shall be filed in paper form, along with supporting documents and the proposed order. If the motion is granted by the Court, it is then the obligation of the requesting party to see that the motion and supporting documentation are served on the opposing party and the order is promptly e-filed with the Clerk of the Court. See, MCR 3.310(B)(4) and 3.207(B)(2).

If the motion is denied, the Court will write the reason for denial on the face of the motion. It will still be the obligation of the requesting party to serve the motion and supporting documentation on the opposing party, and the Court will be responsible to ensure that its reasons for denial are concurrently filed. MCR 2.107(G). Denials are often based on a failure to comply with the requirements of MCR 3.310(B)(1) or 3.207(B)(1).

Once a complaint has been filed, then all other ex parte motions, supporting documentation and proposed orders must be e-filed and will not be accepted or reviewed in a paper form. If denied, the reasons shall be noted on the face of the proposed order. Be sure to advise Court staff that you have e-filed an emergency motion so that the relevant Judge can be advised.

Proposed judgments of divorce should be submitted to the Court for approval no earlier than 30 days prior to the scheduled pro con and no later than two (2) business days prior to the pro con or the document will not be available for signature by the assigned judge.

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It is the nature of divorce practice that negotiations occur up to the moment the pro con is called, and proposed judgments with handwritten changes are often submitted to the Court for signature following the presentation of the no-fault proofs. In such a situation, the better practice is to submit a corrected final judgment after the proofs are taken with the parties' signatures as an e-filed document. If a Family Division Judge, for a variety of reasons, chooses to sign your paper document, it must still be e-filed or it does not become a part of the Court file. If you fail to e-file the document, it is as though the judgment was never signed. The Court only speaks through its written orders and judgments that are a matter of public record.

PER/TGP:JAA