

## MCR 2.614

## MICHIGAN COURT RULES OF 1985

security of the adverse party, the court may stay the execution of, or proceedings to enforce, a judgment pending the disposition of a motion for relief from a judgment or order under MCR 2.612.

(C) **Injunction Pending Appeal.** If an appeal is taken from an interlocutory or final judgment granting, dissolving, or denying an injunction, the court may suspend, modify, restore, or grant an injunction during the pendency of the appeal on terms as to bond or otherwise that are proper for the security of the adverse party's rights.

(D) **Stay on Appeal.** Stay on appeal is governed by MCR 7.101(H), 7.209, and 7.302(G).

(E) **Stay in Favor of Governmental Party.** In an action or proceeding in which the state, an authorized state officer, a corporate body in charge of a state institution, or a municipal corporation, is a party, bond may not be required of that party as a prerequisite to taking an appeal or making an order staying proceedings.

(F) **Power of Appellate Court Not Limited.** This rule does not limit the power of the Court of Appeals or the Supreme Court to

(1) stay proceedings during the pendency of an appeal before them;

(2) suspend, modify, restore, or grant an injunction during the pendency of the appeal; or

(3) enter an order appropriate to preserve the status quo or effectiveness of the judgment to be entered.

(G) **Stay of Judgment on Multiple Claims.** When a court has ordered a final judgment on some, but not all, of the claims presented in the action under the conditions stated in MCR 2.604(B), the court may

(1) stay enforcement of the judgment until the entry of a later judgment or judgments, and

(2) prescribe conditions necessary to secure the benefit of the judgment to the party in whose favor it was entered.

[Effective March 1, 1985; amended effective September 19, 1995.]

## 1985 Staff Comment

MCR 2.614 is based on GCR 1963, 530.

Language is added to subrule (A)(1) to make clear that the trial court has the authority to enjoin the transfer of property during the automatic stay.

In subrule (A)(2) final injunctive orders are added to the list of orders which are not automatically stayed during the time for taking an appeal of right.

The provisions of GCR 1963, 530.4 regarding stays on appeal are replaced with a cross-reference to the appropriate provisions in the rules governing appeals. See subrule (D).

The references to the granting of a stay of proceedings by a single judge of the Court of Appeals or the Supreme Court, found in GCR 1963, 530.6, are omitted. See subrule (F).

## Staff Comment to 1995 Amendment

The amendments of MCR 2.116(J)(1), 2.119(F)(1), 2.204(A)(4), and 2.614(G) correct cross-references to MCR 2.604 that were no longer correct after MCR 2.604 was amended on May 16, 1995, and further amended on September 19, 1995.

## RULE 2.615 ENFORCEMENT OF TRIBAL JUDGMENTS

(A) The judgments, decrees, orders, warrants, subpoenas, records, and other judicial acts of a tribal court of a federally recognized Indian tribe are recognized, and have the same effect and are subject to the same procedures, defenses, and proceedings as judgments, decrees, orders, warrants, subpoenas, records, and other judicial acts of any court of record in this state, subject to the provisions of this rule.

(B) The recognition described in subrule (A) applies only if the tribe or tribal court

(1) enacts an ordinance, court rule, or other binding measure that obligates the tribal court to enforce the judgments, decrees, orders, warrants, subpoenas, records, and judicial acts of the courts of this state, and

(2) transmits the ordinance, court rule or other measure to the State Court Administrative Office. The State Court Administrative Office shall make available to state courts the material received pursuant to paragraph (B)(1).

(C) A judgment, decree, order, warrant, subpoena, record, or other judicial act of a tribal court of a federally recognized Indian tribe that has taken the actions described in subrule (B) is presumed to be valid. To overcome that presumption, an objecting party must demonstrate that

(1) the tribal court lacked personal or subject-matter jurisdiction, or

(2) the judgment, decree, order, warrant, subpoena, record, or other judicial act of the tribal court

(a) was obtained by fraud, duress, or coercion,

(b) was obtained without fair notice or a fair hearing,

(c) is repugnant to the public policy of the State of Michigan, or

(d) is not final under the laws and procedures of the tribal court.

(D) This rule does not apply to judgments or orders that federal law requires be given full faith and credit.

[Adopted effective July 1, 1996.]

## 1996 Staff Comment

The 1996 amendment of MCR 2.112(G) and (J) and the 1996 promulgation of MCR 2.615 were prompted by proposals from the Indian Tribal Court/State Trial Court Forum and from the State Bar of Michigan. The adopted rule reflect a synthesis of those sources, of a corresponding rule

of the North Dakota Supreme Court, and of the model rules generated by the Michigan Judicial Association.

**RULE 2.620 SATISFACTION OF JUDGMENT**

A judgment may be shown satisfied of record in whole or in part by:

- (1) filing with the clerk a satisfaction signed and acknowledged by the party or parties in whose favor the judgment was rendered, or their attorneys of record;
- (2) payment to the clerk of the judgment, interest, and costs, if it is a money judgment only; or
- (3) filing a motion for entry of an order that the judgment has been satisfied.

The court shall hear proofs to determine whether the order should be entered.

The clerk must, in each instance, indicate in the court records that the judgment is satisfied in whole or in part.

[Effective March 1, 1985.]

**1985 Staff Comment**

MCR 2.620 is substantially the same as GCR 1963, 524.

**RULE 2.621 PROCEEDINGS SUPPLEMENTARY TO JUDGMENT**

(A) Relief Under These Rules. When a party to a civil action obtains a money judgment, that party may, by motion in that action or by a separate civil action:

- (1) obtain the relief formerly obtainable by a creditor's bill;
- (2) obtain relief supplementary to judgment under MCL 600.6101-600.6143; MSA 27A.6101-27A.6143; and
- (3) obtain other relief in aid of execution authorized by statute or court rule.

**(B) Pleading.**

(1) If the motion or complaint seeks to reach an equitable interest of a debtor, it must be verified, and

- (a) state the amount due the creditor on the judgment, over and above all just claims of the debtor by way of setoff or otherwise, and
- (b) show that the debtor has equitable interests exceeding \$100 in value.

(2) The judgment creditor may obtain relief under MCL 600.6110; MSA 27A.6110, and discovery under subchapter 2.300 of these rules.

(C) Subpoenas and Orders. A subpoena or order to enjoin the transfer of assets pursuant to MCL 600.6119; MSA 27A.6119 must be served under MCR 2.105. The subpoena must specify the amount

claimed by the judgment creditor. The court shall endorse its approval of the issuance of the subpoena on the original subpoena, which must be filed in the action. The subrule does not apply to subpoenas for ordinary witnesses.

**(D) Order Directing Delivery of Property or Money.**

(1) When a court orders the payment of money or delivery of personal property to an officer who has possession of the writ of execution, the order may be entered on notice the court deems just, or without notice.

(2) If a receiver has been appointed, or a receivership has been extended to the supplemental proceeding, the order may direct the payment or delivery of property to the receiver.

(E) Receivers. When necessary to protect the rights of a judgment creditor, the court may appoint a receiver in a proceeding under subrule (A) and the determination of the proceeding.

(F) Violation of Injunction. The court may punish for contempt a person who violates the provision of an order or subpoena or, if the person is not the judgment debtor, may enter judgment against the person in the amount of the unpaid portion of the judgment and costs allowed by law or these rules, or the amount of the value of the property transferred, whichever is less.

(G) New Proceeding. If there has been a prior supplementary proceeding with respect to the same judgment against the party, whether the judgment debtor or another person, further proceedings may be commenced against that party only by leave of court. Leave may be granted on ex parte motion of the judgment creditor, but only on a finding by the court, based on affidavit of the judgment creditor or another person having personal knowledge of the facts, other than the attorney of the judgment creditor. The affidavit must state that

- (1) there is reason to believe that the party against whom the proceeding is sought to be commenced has property or income the creditor is entitled to reach, or, if a third party, is indebted to the judgment debtor;
- (2) the existence of the property, income, or indebtedness was not known to the judgment creditor during the pendency of a prior supplementary proceeding; and
- (3) the additional supplementary proceeding is sought in good faith to discover assets and not to harass the judgment debtor or third party.

(H) Appeal; Procedure; Bonds. A final order entered in a supplementary proceeding may be appealed in the usual manner. The appeal is governed by the provisions of chapter 7 of these rules except as modified by this subrule.

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Michigan Supreme Court  
Lansing, Michigan

**Order**

Entered: May 14, 1996

James H. Brickley  
Chief Justice

Charles L. Levin  
Michael F. Cavanaugh  
Patricia J. Boyle  
Dorothy Comstock Kiley  
Conrad L. Mallen, Jr.  
Elizabeth A. Weaver  
Justices

94-20

**Amendment of Rule 2.112  
and adoption of Rule 2.615 of  
the Michigan Court Rules**

On order of the Court, notice of a proposed amendment having been provided, 448 Mich 1210 (1995), and consideration having been given to the comments received in response to that notice, the following amendment to Rule 2.112 of the Michigan Court Rules is adopted and the following new Rule 2.615 of the Michigan Court Rules is promulgated, effective July 1, 1996.

In adopting these rules, the Court should not be understood as foreclosing consideration of a challenge to the wisdom, validity, or meaning of a rule when a question is brought to the Court judicially or by a proposal for a change in the rule. See 402 Mich 122viii (1978).

[The present language is to be repealed and replaced by the following language unless otherwise indicated below.]

**Rule 2.112 Pleading Special Matters**

(A) - (F) [Unchanged.]

(G) Judgment. A judgment or decision of a domestic or foreign court, a tribal court of a federally recognized Indian tribe, a judicial or quasi-judicial tribunal, or a board or officer, must be alleged with sufficient particularity to identify it; it is not necessary to state facts showing jurisdiction to render it.

(H) - (I) [Unchanged.]

(J) Law of Other Jurisdictions; Notice in Pleadings. A party who intends to rely on or raise an issue concerning the law of

(1) a state other than Michigan,

- (2) a United States territory,
- (3) a foreign nation or unit thereof, or
- (4) a federally recognized Indian tribe

must give notice of that intention either in his or her pleadings or in a written notice served by the close of discovery.

[The following language is adopted as a new court rule.]

**Rule 2.615 Enforcement of Tribal Judgments**

- (A) The judgments, decrees, orders, warrants, subpoenas, records, and other judicial acts of a tribal court of a federally recognized Indian tribe are recognized, and have the same effect and are subject to the same procedures, defenses, and proceedings as judgments, decrees, orders, warrants, subpoenas, records, and other judicial acts of any court of record in this state, subject to the provisions of this rule.
- (B) The recognition described in subrule (A) applies only if the tribe or tribal court
  - (1) enacts an ordinance, court rule, or other binding measure that obligates the tribal court to enforce the judgments, decrees, orders, warrants, subpoenas, records, and judicial acts of the courts of this state, and
  - (2) transmits the ordinance, court rule or other measure to the State Court Administrative Office. The State Court Administrative Office shall make available to state courts the material received pursuant to paragraph (B)(1).
- (C) A judgment, decree, order, warrant, subpoena, record, or other judicial act of a tribal court of a federally recognized Indian tribe that has taken the actions described in subrule (B) is presumed to be valid. To overcome that presumption, an objecting party must demonstrate that
  - (1) the tribal court lacked personal or subject-matter jurisdiction, or
  - (2) the judgment, decree, order, warrant, subpoena, record, or other judicial act of the tribal court
    - (a) was obtained by fraud, duress, or coercion,

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- (b) was obtained without fair notice or a fair hearing,
  - (c) is repugnant to the public policy of the State of Michigan, or
  - (d) is not final under the laws and procedures of the tribal court.
- (D) This rule does not apply to judgments or orders that federal law requires be given full faith and credit.

**STAFF COMMENT:** The 1996 amendment of MCR 2.112(G) and (J) and the 1996 promulgation of MCR 2.615 were prompted by proposals from the Indian Tribal Court/State Trial Court Forum and from the State Bar of Michigan. The adopted rules reflect a synthesis of those sources, of a corresponding rule of the North Dakota Supreme Court, and of the model rules generated by the Michigan Indian Judicial Association.

The staff comment is published only for the benefit of the bench and bar and is not an authoritative construction by the Court.

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I, COREIN 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 Court.

May 14, 1996

Corin R. Davis

Clerk