

# **IMPORTANT CLIENT UPDATE**

## **Michigan Supreme Court Order regarding Juneteenth Holiday**

On June 1, 2022, the Michigan Supreme Court entered an Order adding Juneteenth to the official court holidays listed in the Chief Judge Rule 8.110 (the “Order”). The Court also ordered that as Juneteenth falls on June 19<sup>th</sup> every year, this holiday is to be treated like similar holidays that may fall on a weekend by making the Friday before or the Monday after the observed date. Juneteenth is observed in 2022 on Monday, June 20<sup>th</sup>.

Courts will be acting expeditiously to implement the new holiday by adjusting schedules, notifying litigants and other court users. In the event a Court already observes the holiday provided for in the new Order (including Juneteenth), the Court does not need to submit a Court Holiday Local Administrative Order (“LAO”).<sup>1</sup> If not already observed, a LAO including Juneteenth is required to be submitted to the SCAO.

To ensure all employees who are members of a bargaining unit where the Court is the employer receive holiday pay for the observed Juneteenth, existing collective bargaining agreements should be amended to reflect this change (e.g., via Letters of Understanding/Agreement).<sup>2</sup> Implementation of the LAO is within the authority of the chief judge(s) and the local funding unit is not required to agree with or approve this change. MCR 8.110(D).

It is important to note that the Supreme Court’s Order only applies to Courts and Court employees and not to the employees of the County (this includes the employees of the county-wide elected officials for which the County, through the Board of Commissioners, is a co-employer with the responsibility for determining the economic terms and conditions of employment which includes the number of paid holidays). Counties have options:

1. To remain open even though the Courts are closed;
2. Offer to unions Juneteenth for 2022 (June 20<sup>th</sup>) as a paid holiday on a one-time, non-precedent setting basis;
3. Offer to unions to substitute Juneteenth for a different holiday on a one-time or permanent basis; or

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<sup>1</sup> Courts are mandated to issue LAOs to establish court policies for regulating certain court functions and procedures; however, before its effective date, such LAOs must be sent to the State Court Administrative Office (“SCAO”).

<sup>2</sup> Any Letter of Understanding entered into should contemplate whether Juneteenth should remain in effect for the remaining duration of each Collective Bargaining Agreement, reserving for the parties the right to bargain only when the next successor agreement is opened.

4. Offer to unions to add Juneteenth as an additional holiday without restriction.

For bargaining-unit employees, the designation of holidays and pay status is a term and condition of employment subject to a legal duty to bargain with unions. As a result, other than option "1" above, the remaining options would need to be implemented for bargaining unit employees by means of a mutually agreed upon amendment to existing collective bargaining agreements to reflect the change (e.g., via Letters of Understanding/Agreement).

We have attached a copy of the Order. We are available at your request to provide a sample Letter of Understanding/Agreement for your review.

Please do not hesitate to contact us in the event you have any questions or concerns.

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June 3, 2022

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# Order

Michigan Supreme Court  
Lansing, Michigan

June 1, 2022

Bridget M. McCormack,  
Chief Justice

ADM File No. 2021-31

Amendment of Rule  
8.110 of the Michigan  
Court Rules

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Brian K. Zahra  
David F. Viviano  
Richard H. Bernstein  
Elizabeth T. Clement  
Megan K. Cavanagh  
Elizabeth M. Welch,  
Justices

On order of the Court, notice of the proposed changes and an opportunity for comment in writing and at a public hearing having been provided, and consideration having been given to the comments received, the following amendments of Rule 8.110 of the Michigan Court Rules is adopted, effective immediately.

[Additions to the text are indicated in underlining  
and deleted text is shown by strikeover.]

Rule 8.110 Chief Judge Rule

(A)-(C) [Unchanged.]

(D) Court Hours; Court Holidays; Judicial Absences.

(1) [Unchanged.]

(2) Court Holidays; Local Modification.

(a) The following holidays are to be observed by all state courts, except those courts which have adopted modifying administrative orders pursuant to MCR 8.112(B):

New Year's Day, January 1;  
Martin Luther King, Jr., Day, the third Monday in January in  
conjunction with the federal holiday;  
Presidents' Day, the third Monday in February;  
Memorial Day, the last Monday in May;  
Juneteenth, June 19;  
Independence Day, July 4;  
Labor Day, the first Monday in September;  
Veterans' Day, November 11;  
Thanksgiving Day, the fourth Thursday in November;  
Friday after Thanksgiving;  
Christmas Eve, December 24;

Christmas Day, December 25;  
New Year's Eve, December 31;

- (b) When New Year's Day, Juneteenth, Independence Day, Veterans' Day, or Christmas Day falls on Saturday, the preceding Friday shall be a holiday. When New Year's Day, Juneteenth, Independence Day, Veterans' Day, or Christmas Day falls on Sunday, the following Monday shall be a holiday. When Christmas Eve or New Year's Eve falls on Friday, the preceding Thursday shall be a holiday. When Christmas Eve or New Year's Eve falls on Saturday or Sunday, the preceding Friday shall be a holiday.

(c)-(e) [Unchanged.]

(3)-(6) [Unchanged.]

*Staff Comment:* In light of the federal Act making Juneteenth a federal holiday ([PL 117-17](#)), this amendment similarly requires that courts observe Juneteenth as a holiday.

The staff comment is not an authoritative construction by the Court. In addition, adoption of a new rule or amendment in no way reflects a substantive determination by this Court.

ZAHRA, J. (*dissenting*). The Michigan court system currently observes 12 paid holidays. This is far more than observed by the private sector. I believe as servants of the people we owe it to them to work diligently and regularly to provide good public service. Accordingly, I would not add an additional day off at the taxpayers' expense. Juneteenth has been a ceremonial holiday in Michigan to be celebrated on the third Saturday of June each year. I would continue to follow this observance. But since it is the will of the Court to make it a paid holiday, I would cease to recognize one of the other holidays typically not observed by the private sector, such as the Friday after Thanksgiving. For these reasons, I dissent.

VIVIANO, J. (*dissenting*). I dissent from the Court's decision to adopt a proposed amendment adding Juneteenth to the long list of weekday holidays that generally must be observed by all state courts under MCR 8.110. As I indicated in my previous statement when this amendment was proposed for comment, Juneteenth commemorates a historically significant date that, pursuant to statute, our state recognizes and celebrates by encouraging individuals and organizations to pause and reflect. MCL 435.361(1); Proposed Amendment of MCR 8.110, 508 Mich 1206, 1208 (2021) (VIVIANO, J., *dissenting*). The Legislature gave this matter thoughtful consideration less than two decades ago, passing the Juneteenth National Freedom Day legislation unanimously and with broad bipartisan

support. I would defer to its judgment rather than trying to upstage the Legislature by creating a new holiday of our own.

The Court’s decision to add another holiday comes at a particularly bad time for our courts. As I noted last fall, “[m]any of our trial courts—including some of our largest courts—are confronting a significant backlog of criminal and civil cases resulting from their inability to conduct in-person court proceedings for long stretches of time during the COVID-19 pandemic.” Administrative Order No. 2021-7, 508 Mich xli, lvi (2021) (VIVIANO, J., concurring in part and dissenting in part). The backlog will only be exacerbated by today’s rule change. And, as if to emphasize that trial court operations are not our primary concern, the Court has decided to give the current amendment immediate effect, meaning it will take effect this June rather than next. The lower courts have undoubtedly already scheduled proceedings for June 20, 2022. See, e.g., MCR 2.501 (requiring 28 days’ notice for trial assignments). Any court that wishes to proceed with an already scheduled trial or other judicial matters on this new holiday as permitted under MCR 8.110(D)(2)(d) will need to show that holding the proceeding on that day is “necessary” and obtain the chief judge’s approval. Thus, the Court has increased the burden on trial courts at a time when many are already having difficulty catching up on jury trials and disposing of cases.

Our courts handle matters that intimately affect the lives of Michigan’s residents. It is therefore imperative that the courts expeditiously process and resolve the cases before them. The rule adopted today adds further delay to an already backlogged system. Because the Court is not acting as a responsible steward of our court system, I respectfully dissent.



I, Larry S. Royster, 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.

June 1, 2022

Clerk