

***How could current legal/judicial tools and/or new ones be innovatively applied to optimize the successful resolution of current and pending eviction cases for the betterment of key stakeholders including without limitation tenants, landlords, lenders, utilities, law enforcement, and employers in Michigan and then serve as a model nationally?***

The creation of a diversionary program that brings together mediation, legal aid, and local housing authorities (under the auspices of the court) to efficiently assess, triage and resolve the Landlord-Tenant matter is the ideal model to pursue.

The mediation service would be provided via a community dispute resolution center (CDRC) – of which there are currently 17 statewide. The CDRC is the coordinating and organizing entity. Immediately upon the filing of an eviction action in district court, the court administrator refers eligible cases to the diversionary program. Courts should encourage (or even mandate) the inclusion of detailed contact information in the filings to ensure that parties can be contacted and to ensure successful participation in the process. CDRC staff to contact parties to provide the necessary information for participation in the diversion program meeting. For the time being, we could assume the diversion program to be set up virtually. At the virtual session, the CDRC representative would check parties in, and the meeting would contain the following breakout rooms: Mediation, Legal Aid and Housing Authority. As parties are checked in, tenants are given the opportunity to consult with reps from Legal Aid and Housing Authority before participation in the Mediation session (likely to include Landlord, Landlord Attorney, Tenant and possibly Legal Aid Attorney). CDRCs would utilize their existing pool of volunteer mediators, and the Legal Aid and Housing Authority reps provided by those entities. Post-Mediation action items – such as assistance applications, payment plan arrangements, etc – should be initiated by parties while still in the meeting and discussion of action steps for all parties determined at that time.

Another possible platform for the diversionary program would utilize the MI-Resolve online dispute resolution platform. This platform is currently in use statewide, and most district courts allow parties to begin the resolution of their disputes using MI-Resolve (as opposed to starting that resolution in court). Assuming the necessary features could be added to MI-Resolve, the initiating party could begin the “action” in MI-Resolve, have it flow to the proper CDRC (based on the address of the tenant) and the process flow could happen online – intake, scheduling of Zoom meeting, completion and signing of conditional dismissal using MI-Resolve agreement generation tools and post-mediation action item follow-up with the parties to ensure compliance. Courts and communities should encourage early intervention with landlords or their attorneys initiating this process as early as possible. The earlier we intervene in these disputes, the higher the chances of success.

The goal of the mediation session is a full agreement that is memorialized in a conditional dismissal signed by all parties (and the Judge). Legal Aid should create a follow-up procedure to ensure conditional dismissals become officially dismissed upon satisfactory completion of all terms. The Housing Authority rep should be armed with workforce, financial assistance, relocation and other related programming so that as many creative opportunities for resolution can be brought to the mediation table as possible. For cases that cannot be resolved through the diversion program, they would be set for a hearing in front of the District Court Judge. The involvement of Legal Aid should continue through to the hearing stage for eligible tenants. Courts should consider doing away with credit-harming judgments in cases where there is participation by both landlord and tenant.



MICHIGAN **COMMUNITY**  
**MEDIATION** ASSOCIATION

EVICITION DIVERSION IN MICHIGAN

# Presenters

- ▶ Marc M Stanley, 65918, MMP
- ▶ Executive Director
- ▶ Southeastern Dispute Resolution Services
- ▶ Jackson, Lenawee, Hillsdale, Monroe, Calhoun
- ▶ Zeina Baydoun, 75818
- ▶ Executive Director
- ▶ Wayne County Dispute Resolution Center
- ▶ Wayne County



# Eviction Rate by Year: Landlord Tenant New Filings and Evictions

Last Refresh Date

8/16/2021

## Eviction Rate by Calendar Year

Year	New Filing Count	Eviction Count	Eviction Rate
2019	143,208	41,439	29%
2020	71,639	13,450	19%
2021	54,040	6,888	13%

## Eviction Rate by Pandemic Year

Pandemic Status	New Filing Count	Eviction Count	Eviction Rate
Pre-Pandemic	141,532	40,612	29%
Pandemic	65,056	7,133	11%
Neither	27,715	3,658	13%

**Calendar Year:** January - December

**Pre-Pandemic:** April 2019 - March 2020

**Pandemic:** April 2020 - March 2021

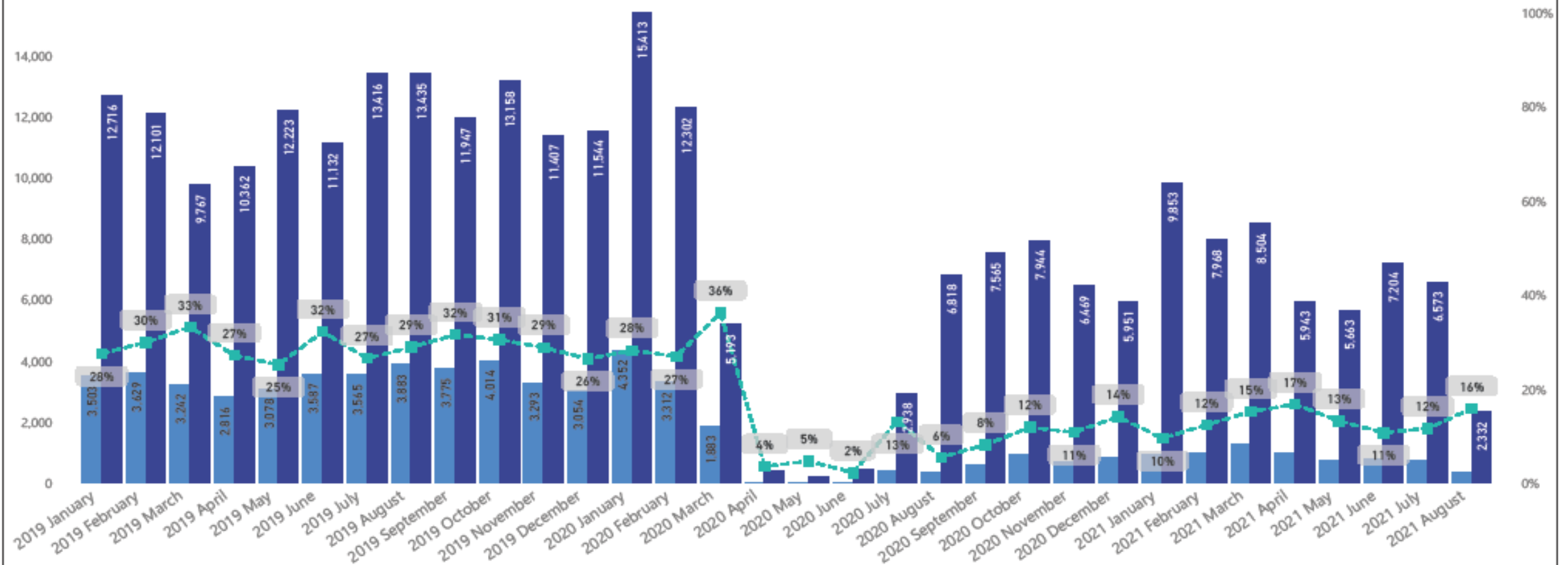
**Inclusions:** See Appendix A

Data is preliminary and has not been vetted by individual courts

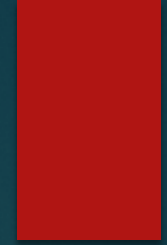
Data from the week of and week prior to the refresh date may not be complete for all courts.

## Rate of Evictions by Month

Eviction Count New Filing Count Rate of Evictions



# Highlighted Center Data



## Wayne County Dispute Resolution Center

- ▶ 2019 Landlord-Tenant Mediation Cases: 91
- ▶ 2020 Landlord-Tenant Mediation Cases: 263
- ▶ 2021 (YTD) Landlord-Tenant Mediation Cases: 763
- ▶ Late 2020/2021 – District Courts weaving mediation into the process per Administrative Order 2020-17
- ▶ Remote Operations/Zoom/Phone
- ▶ Rental Assistance Funding & Coordination with Legal Services & other resources

## Southeast Dispute Resolution Services

(Jackson/Monroe/Hillsdale Counties)

- ▶ 2019 (Aggregate) Landlord Tenant Mediation Cases – 499
- ▶ 2020 (Aggregate) Landlord Tenant Mediation Cases – 1394
- ▶ 2021 (Aggregate) Landlord Tenant Mediation Cases – 2289 (YTD)
- ▶ Existing Eviction Diversion framework at some district courts
- ▶ Transition from In Person to Remote services
- ▶ Coordinated services & rental assistance funding



# SCAO Landlord Tenant Administrative Order and other Court Documents/Procedures



- ▶ Administrative Order No. 2020-17 (Exhibit A)
- ▶ Mediation (Full & Partial) Agreement for Eviction Diversion (Exhibit B)
- ▶ DC508 – Landlord-Tenant Consent Order for Conditional Dismissal (Exhibit C)
- ▶ Rights for Landlord-Tenant Pre-Trial Hearing (Exhibit D)
- ▶ SEDRS Script for Hosting Eviction Diversion Pre-Trial Hearing (Exhibit E)

# Pre-Trial Eviction Diversion Process

## ▶ Players:

- ▶ Rental Assistance:
  - ▶ Jackson – Community Action Agency (CAA)
  - ▶ Lenawee – Housing Help (H2)
- ▶ Legal Services – Advise and represent Tenant
- ▶ South Eastern Dispute Resolution Services (SEDRS) – Mediation

## ▶ Format of Zoom:

- ▶ There will be 7 Breakout rooms
- ▶ 2 for CAA to meet with Tenants
- ▶ 2 for Legal Services to meet with Tenants
- ▶ 2 for SEDRS to Mediate
- ▶ 1 for Landlords and their Attorneys for Consultation
- ▶ (Original idea...has since evolved)



# Pre Trial Eviction Diversion Process

▶ **Process:**

- ▶ All Players will meet in the Main Zoom Room until parties arrive.
- ▶ When Landlord and Landlord Attorney arrive, they are given an introduction, informed that the Tenant will be meeting with CAA and Legal Services before mediation begins, and then placed in a Consultation room.
- ▶ When Tenant Arrives, they are given an introduction and then placed to meet with CAA first.
- ▶ The CAA rep will return to the Main Room to report they are finished consulting with Tenant.
- ▶ Tenant is then placed with Legal Services.
- ▶ Legal Service will return to the Main Room to report they are finished consulting with Tenant and that Tenant is now ready for mediation.
- ▶ Landlord/Attorney and Tenant will be placed in a Mediation room with 2 Mediators.
- ▶ If the Tenant is not represented and Landlord is, Mediator can/should request an attorney from Legal Services to join the mediation if they are available.



# Non-Payment of Rent - Mediation

- ▶ CERA Funding
- ▶ Landlord Forbearance on Mortgages
- ▶ Payment Plans
- ▶ ESG (Emergency Service Grant), DHHS, Veteran's Assistance
- ▶ Services in Lieu of Rent
- ▶ Tax Dollar Incentives
- ▶ Behavior Action Plans – Agency Roles, Legal Services Role (hazard & safety issues)

# Termination of Tenancy - Mediation

- ▶ Move-Out plans & timelines (statutory minimum of 10 days and longer periods if agreeable to the parties)
- ▶ Considerations of tenant eviction “blacklist” and avoidance of long-term consequences



# Facilitating Pre-Trial versus Mediating

- ▶ Facilitating rights and responsibilities;
- ▶ Educating landlords and tenants on housing resources
- ▶ Connecting parties to resources
- ▶ (Traditional) Mediation of the specific issues between the parties with the goal of reaching a resolution/agreement (with or without coordination with courts)

## Dismissals/Eviction Record/Section 8 Impact

DC508 – Landlord can re-open the case due to non-compliance

# Landlord-Tenant Mediation: Best Practices

Early intervention = higher engagement/possibilities to resolve in mediation

Judicial/Legislative Champions to ensure ongoing use and expansion

A Better Model: Bottom-Up Sensitivity & using lived experiences to identify needs

Proper Tracking of Data & Outcomes – building follow up into the process, evaluation creates credibility and transparency



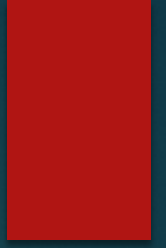


- WHAT'S NEXT?

Lots of entry points for Mediators to work with their local jurisdiction

- Property Managers
- Landlord Attorneys
- Landlord Associations
- Contracting with CDRP's to mediate these case-types
- Court involvement only when resolution is not feasible and there are legal issues involved

# Q&A/Brainstorming





# Exhibit A

# Order

**Michigan Supreme Court  
Lansing, Michigan**

June 9, 2020

Bridget M. McCormack,  
Chief Justice

ADM File No. 2020-08

David F. Viviano,  
Chief Justice Pro Tem

Administrative Order No. 2020-17

Stephen J. Markman  
Brian K. Zahra  
Richard H. Bernstein  
Elizabeth T. Clement  
Megan K. Cavanagh,  
Justices

Priority Treatment and New  
Procedure for Landlord/Tenant  
Cases

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Since the early days of the pandemic, state and national authorities have imposed restrictions on the filing of many landlord/tenant cases. As those restrictions are lifted and courts return to full capacity and reopen facilities to the public, many will experience a large influx of landlord/tenant case filings. Traditionally, the way most courts processed these types of cases relied heavily on many cases being called at the same time in the same place, resulting in large congregations of individuals in enclosed spaces. That procedure is inconsistent with the restrictions that will be in place in many courts over the coming weeks and months as a way to limit the possibility of transmission of COVID-19. In addition, courts are required to comply with a phased expansion of operations as provided under [Administrative Order No. 2020-14](#), which may also impose limits on the number of individuals that may congregate in public court spaces.

Therefore, the Court adopts this administrative order under 1963 Const, Art VI, Sec 4, which provides for the Supreme Court's general superintending control over all state courts, directing courts to process landlord/tenant cases using a prioritization approach. This approach will help limit the possibility of further infection while ensuring that landlord/tenant cases are able to be filed and adjudicated efficiently. All courts having jurisdiction over landlord/tenant cases must follow policy [guidelines](#) established by the State Court Administrative Office. Courts should be mindful of the limitations imposed by federal law (under the CARES Act) as these cases are filed and processed, and follow the guidance in [Administrative Order No. 2020-8](#) in determining the appropriate timing for beginning to consider these cases.

For courts that are able to begin conducting proceedings, the following provisions apply to landlord/tenant actions.

- (1) Each Trial Court with jurisdiction over cases filed under the Summary Proceedings Act, MCL 600.5701, *et seq.*, may accept new filings and begin to schedule hearings as follows:
  - a. In a manner that is consistent with the Return to Full Capacity (RTFC) guidelines referenced in [Administrative Order No. 2020-14](#),

- b. In a manner that is consistent with each court's most recently-approved local administrative order regarding Return to Full Capacity.
- (2) When a trial court resumes scheduling hearings for recovery of possession of premises under MCL 600.5714 and MCL 600.5775, the following operational priorities apply:
    - a. First priority: complaints alleging illegal activity under MCL 600.5714(1)(b) and complaints alleging extensive and continuing physical injury to the premises under MCL 600.5714(1)(d).
    - b. Second priority: complaints alleging nonpayment of rent for 120 days or more.
    - c. Third priority: complaints alleging nonpayment of rent for 90 days or more.
    - d. Fourth priority: complaints alleging nonpayment of rent for 60 days or more.
    - e. Fifth priority: complaints alleging nonpayment of rent for 30 days or more.
    - f. Courts should proceed to a subsequent priority when all cases in the higher priority have been scheduled for hearing.
    - g. Instead of setting many cases for one hearing time as has traditionally been common, each case must be scheduled for a particular date and time (whether held in-person or remotely) to allow in-person proceedings to be held safely.
    - h. A filer who filed a case before April 16, 2020 (the date [Administrative Order No. 2020-8](#) entered) must update the factual allegations in the complaint and file the verification form required by [Administrative Order No. 2020-8](#) before a hearing will be scheduled. The court shall not require an additional filing fee.
  - (3) Trial Courts must schedule cases filed for an alleged termination of tenancy (as opposed to cases for nonpayment of rent) pursuant to MCL 600.5714 during or after the fifth level of priority described above or after the statutorily-required notice period has elapsed, whichever comes later.
  - (4) Courts are authorized to proceed with these actions by way of remote participation tools, and encouraged to do so to the greatest extent possible. [Administrative Order No. 2020-6](#) requires that the court scheduling a remote hearing must "verify that all participants are able to proceed in this manner." Therefore, the summons for each case filed under the Summary Proceedings Act must provide the date and time for remote participation in the scheduled hearing. If a remote hearing is scheduled for the first proceeding, the defendant received personal service pursuant to MCR



2.105(A), and the defendant fails to appear, a default may enter. If a remote hearing is scheduled for the first proceeding and the defendant fails to appear and has not been served under MCR 2.105(A), the court may not enter a default but must reschedule the hearing and mail notice for that rescheduled hearing as an in-person proceeding. Under these conditions, a notice of rescheduled hearing mailed by the court within 24 hours is sufficient notice of the rescheduled hearing, notwithstanding any other court rule. Other parties or participants may proceed remotely.

- (5) All local administrative orders requiring a written answer pursuant to MCL 600.5735(4) are suspended.<sup>1</sup> Unless otherwise provided by this order, a court must comply with MCR 4.201 with regard to summary proceedings.
- (6) At the initial hearing noticed by the summons, the court must conduct a pretrial hearing consistent with SCAO guidance. At the pretrial hearing the parties must be verbally informed of all of the following:
  - a. Defendant has the right to counsel. MCR 4.201(F)(2).
  - b. The Michigan Department of Health and Human Services (MDHHS), the local Coordinated Entry Agency (CEA), or the federal Help for Homeless Veterans program may be able to assist the parties with payment of some or all of the rent due.
  - c. Defendants DO NOT need a judgment to receive assistance from MDHHS or the local CEA. The Summons and Complaint from the court case are sufficient.<sup>2</sup>
  - d. The availability of the Michigan Community Dispute Resolution Program (CDRP) and local CDRP Office as a possible source of case resolution. The court must contact the local CDRP to coordinate resources. The CDRP may be involved in the resolution of Summary Proceedings cases to the extent that the chief judge of each court determines, including conducting the pretrial hearing.

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<sup>1</sup> The local administrative orders include: 1<sup>st</sup> District Court (Monroe County); 2a District Court (Lenawee County); 12<sup>th</sup> District Court (Jackson County); 18<sup>th</sup> District Court (City of Westland); 81<sup>st</sup> District Court (Alcona, Arenac, Iosco, and Oscoda Counties); 82<sup>nd</sup> District (Ogemaw County); and 95b District Court (Dickinson and Iron Counties).

<sup>2</sup> See [State Emergency Relief Manual](#), Relocation Services, ERM 303, ERB 2019-005, Page 3 of 7.

- e. The possibility of a Conditional Dismissal pursuant to MCR 2.602 if approved by all parties. The parties must be provided with a form to effectuate such Conditional Dismissal.
- (7) The pretrial required under this subsection may be conducted by the assigned judge, a visiting judge appointed by SCAO, a magistrate (as long as that magistrate is a lawyer) or a CDRP mediator.
- (8) Except as provided below, all Summary Proceeding Act cases must be adjourned for seven days after the pretrial hearing is conducted. MCL 600.5732. Any party who does not appear at the adjourned date will be defaulted. Cases need not be adjourned for seven days if: the plaintiff dismisses the complaint, with or without prejudice, without any conditions, or if defendant was personally served under MCR 2.105(A) and fails to appear.
- (9) The court may require remote participation in the second, and any subsequent, proceedings, and the court must verify that participants are able to proceed in that manner under [Administrative Order No. 2020-6](#). If a party cannot appear remotely, in-person proceedings must be scheduled that provide for the safety of all parties.
- (10) MCR 4.201(F)(3) is temporarily suspended to the extent that a jury demand must be made in the first response. Instead, if the defendant wants a jury trial, he or she must demand it within seven days of the first response. The jury trial fee, if not waived by the court, must be paid when the demand is made.

This order is effective until further order of the Court.



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 9, 2020

A handwritten signature in black ink, appearing to read "Larry S. Royster", written over a horizontal line.

Clerk



# Exhibit B

Partial Mediation Agreement  
Eviction Diversion Program  
State of Michigan 1st Judicial District  
106 E 1st St. Monroe, MI 48161  
(734) 240-7076

Case No. \_\_\_\_\_  
Pretrial Mediation Date \_\_\_\_\_

Plaintiff's name, address, and telephone no.
Plaintiff's attorney, bar no., address, and telephone no.

V

Defendant's name, address, and telephone no.
Defendant's attorney, bar no., address, and telephone no.

Were the rights for landlord tenant pretrial per Michigan Supreme Court Administrative order 2020-17 read/advised? Yes  No

Did the defendant have the opportunity to speak with the Community Action Agency?  
Yes  No

If yes, the defendant spoke with \_\_\_\_\_

Is the defendant eligible for EDP funds? Yes  No  **To Be Determined**

Did the defendant have the opportunity to speak with Legal Services of South Central Michigan?  
Yes  No

If no, was the defendant referred to the Council and Advocacy Law Line (888-783-8190)?  
Yes  No

## **Next steps for parties moving forward:**

## **Next hearing:**

**Southeastern Dispute Resolution Services**  
Serving Jackson, Hillsdale, Lenawee & Monroe Counties  
Po Box 1345, 536 N Jackson St, Jackson MI 49204  
◆ 517-990-279 ◆ FAX: 517-539-8003

# Exhibit C

<b>STATE OF MICHIGAN JUDICIAL DISTRICT</b>	<b>CONSENT ORDER FOR CONDITIONAL DISMISSAL Landlord-Tenant</b>	<b>CASE NO. and JUDGE</b>
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Court address \_\_\_\_\_ Court telephone no. \_\_\_\_\_

Plaintiff's name, address, and telephone no.   
Plaintiff's attorney, bar no., address, and telephone no.   

**v**

Defendant's name, address, and telephone no.   
Defendant's attorney, bar no., address, and telephone no.   

**THE COURT FINDS:**

1. The parties agree to the conditional dismissal of the case under the terms below.
2. Defendant shall pay the following to plaintiff on or before \_\_\_\_\_ :  
Date  
    a. Rent..... \$ \_\_\_\_\_ due through the time period ending \_\_\_\_\_  
Date  
    b. Court costs ..... \$ \_\_\_\_\_  
    c. Other money due..... \$ \_\_\_\_\_  
    d. Total..... \$ \_\_\_\_\_
3. If defendant fails to pay the rent and other costs as set forth above, this action will be reinstated upon the plaintiff's submission of an affidavit of default, order for reinstatement of case and entry of judgment, a judgment for money (if eligible and requested in the complaint), and an order of eviction, which will enter simultaneously without notice or further process.\*
4. Defendant remains responsible for paying the entire amount as stated in the order below that is not paid by Michigan Department of Health and Human Services (MDHHS) or any other third party within the time period provided by this order.
5. The defendant may be liable for money damages if additional rent is owed or if there is damage to the property.
6. Partial payment by defendant of the amount due in item 2d above will not prevent issuance of an order of eviction should a judgment enter after default on this conditional dismissal.
7. An order of eviction may not be submitted for entry more than \_\_\_\_\_ after the last payment is due under this  
Number of days  
conditional dismissal.

\*For a defendant on active military duty, default judgment shall not be entered except as provided by the Servicemembers Civil Relief Act.



8. Further conditions: \_\_\_\_\_  
\_\_\_\_\_

**IT IS ORDERED:**

- 1. The case is dismissed without prejudice subject to the conditions below.
- 2. Defendant shall pay the following to plaintiff on or before \_\_\_\_\_ :  
Date
  - a. Rent..... \$ \_\_\_\_\_ due through the time period ending \_\_\_\_\_  
Date
  - b. Court costs ..... \$ \_\_\_\_\_
  - c. Other money due..... \$ \_\_\_\_\_
  - d. Total..... \$ \_\_\_\_\_
- 3. In the event defendant fails to pay the rent and other costs as set forth above, then plaintiff will submit an affidavit of default, order for reinstatement of case and entry of judgment, a judgment for money (if eligible and requested in the complaint), and an order of eviction, which will enter simultaneously without notice or further process.
- 4. Defendant remains responsible for paying the entire amount as stated in the order below that is not paid by Michigan Department of Health and Human Services (MDHHS) or any other third party within the time period provided by this order.
- 5. The defendant may be liable for money damages if additional rent is owed or if there is damage to the property.
- 6. Partial payment by defendant of the amount due in item 2d above will not prevent issuance of an order of eviction should a judgment enter after default on this conditional dismissal.
- 7. An order of eviction may not be submitted for entry more than \_\_\_\_\_ after the last payment is due under this order.  
Number of days
- 8. Further conditions: \_\_\_\_\_  
\_\_\_\_\_

MCR 4.201(I) was explained to the parties.

\_\_\_\_\_  
Judge signature and date

Approved as to form and content.

\_\_\_\_\_  
Plaintiff signature and date

\_\_\_\_\_  
Defendant signature and date

\_\_\_\_\_  
Plaintiff's attorney signature and date

\_\_\_\_\_  
Defendant's attorney signature and date

# Exhibit D

## **Rights for Landlord Tenant Pretrial**

### **First District Court**

*Michigan Supreme Court Administrative Order 2020-17*

1. You have the right to legal counsel in this case. You may qualify for legal aid assistance and Legal Services of South Central Michigan is present here today to Assist tenants that qualify.
2. The Community Action Agency, the Michigan Department of Health and Human Services, or the federal Help for Homeless Veterans program may be able to assist the parties with payment of some or all of the rent due.
3. Defendants do not need a judgment to receive assistance from MDHHS or from Community Action Agency. The Summons and Complaint from this court case are sufficient.
4. Southeastern Dispute Resolution Services is conducting this pretrial today for the District Court. We are available to mediate this case to attempt resolution of the case.
5. There is the possibility of a Conditional Dismissal if it is approved by all parties. You will be provided with a form to effectuate such a Conditional Dismissal if requested.



# Exhibit E

## EDP Zoom Host Script

This process is for all mediators who will be hosting EDP sessions on zoom.

1. Introductions (*for both Plaintiff and Defendant*) – Thank the participant the attending today’s Pretrial and introduce yourself (i.e. *“Thank you for appearing for today’s Pre-trial session. My name is: \_\_\_\_\_, and I am a mediator for Southeastern Dispute Resolution Services.”*).
  - a. For the **Defendants/tenants** explain:
    - i. We are here to conduct a Pre-trial which will include a mediation in hopes of resolving your case.
    - ii. The State of Michigan received special funds to help with rental assistance. Community Action Agency (CAA) \_\_\_\_\_  
  
#:—Legal Services of South Central Michigan is present to assist qualifying tenants with legal issues.
    - iii. We are going to have you talk to Community Action Agency first and then you will have an opportunity to speak with Legal Services prior to a mediation session.
    - iv. Tell them who they will be meeting with from Community Action Agency and move the Defendant to that specific Break Out Room. (i.e. *I will now have you speak with \_\_\_\_\_, from Community Action Agency.*)
    - v. Remind the Defendant that they will have the opportunity to speak to Legal Services after they speak to CAA (or another HARA)
  - b. For **Plaintiffs/Attorneys who enter the main session** explain:
    - i. We are here to conduct a Pre-trial which will include a mediation in hopes of resolving your case.
    - ii. The State of Michigan received special funds to help with rental assistance. This means that when the Defendant tenant(s) appears, they will need to speak with CAA and Legal Services prior to the mediation session.
    - iii. The Plaintiff and/or Plaintiff’s attorney will be moved to an “Attorney consultation room” for an opportunity to catch up or to meet for the first time.
    - iv. Once the Defendants/tenants have completed their consultations, you will be moved into a mediation room with the Defendant(s). The tenant consultations may take some time.