Reducing Court Docket Overload and Speeding Up Justice: A Collection of Proposals

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Summary

This article addresses the persistent issue of civil court docket overload and the resulting delays in justice, which negatively impact individuals, businesses, and society by raising costs, increasing stress, and undermining faith in the legal system. It outlines the wide-ranging consequences of judicial backlogs, including economic losses, strained relationships, and reduced access to justice, with a particular focus on Michigan's lower case clearance rates compared to other states. The proposals herein aim to improve judicial efficiency and reduce case backlog through innovative approaches such as expanding MI-Resolve, implementing a magistrate program, and streamlining motion practice and court hearings.

Table of Contents

I. THE PROBLEM

From an everyday practice standpoint, litigators and judges often view slow-moving civil cases as something between a necessary annoyance or an unavoidable consequence borne of a litigious society. "Learning to live with it" is something of a default mode for practitioners dealing with the slowness of civil litigation, and explaining the slowness is one of the first things that litigators convey to new clients. But preaching patience and managing impatience is a coping mechanism for a more serious problem – delayed justice is *diminished* justice.

Judicial backlog and inefficient civil courts[1] have wide-ranging negative consequences for litigants, businesses, and society. Delays in resolving civil disputes – such as contract, property, business, or employment cases – result in significant economic losses. Businesses facing unresolved litigation may freeze investments, halt production, or delay hiring due to uncertainty and risk, leading to broader economic slowdowns. Small businesses and individuals may face cash flow crises and strained relationships. These delays also raise legal costs and force parties into suboptimal settlements to avoid ongoing expense and uncertainty.

Delays increase direct and indirect costs for all parties – attorney fees, court expenses, lost work, and time spent litigating. Extended pre-trial activities, repeated court appearances, and prolonged discovery can make civil justice prohibitively expensive, exacerbating inequality. Those with fewer resources are more likely to forego their claims or settle prematurely, furthering inequity.

Prolonged litigation is mentally and financially taxing for parties involved. Individuals dealing with unresolved family law matters (including divorce and child custody) face emotional stress and instability. Lengthy delays can disrupt family relationships, damage reputations, and cause resentment, especially where ongoing hardship is caused by the lack of timely relief.

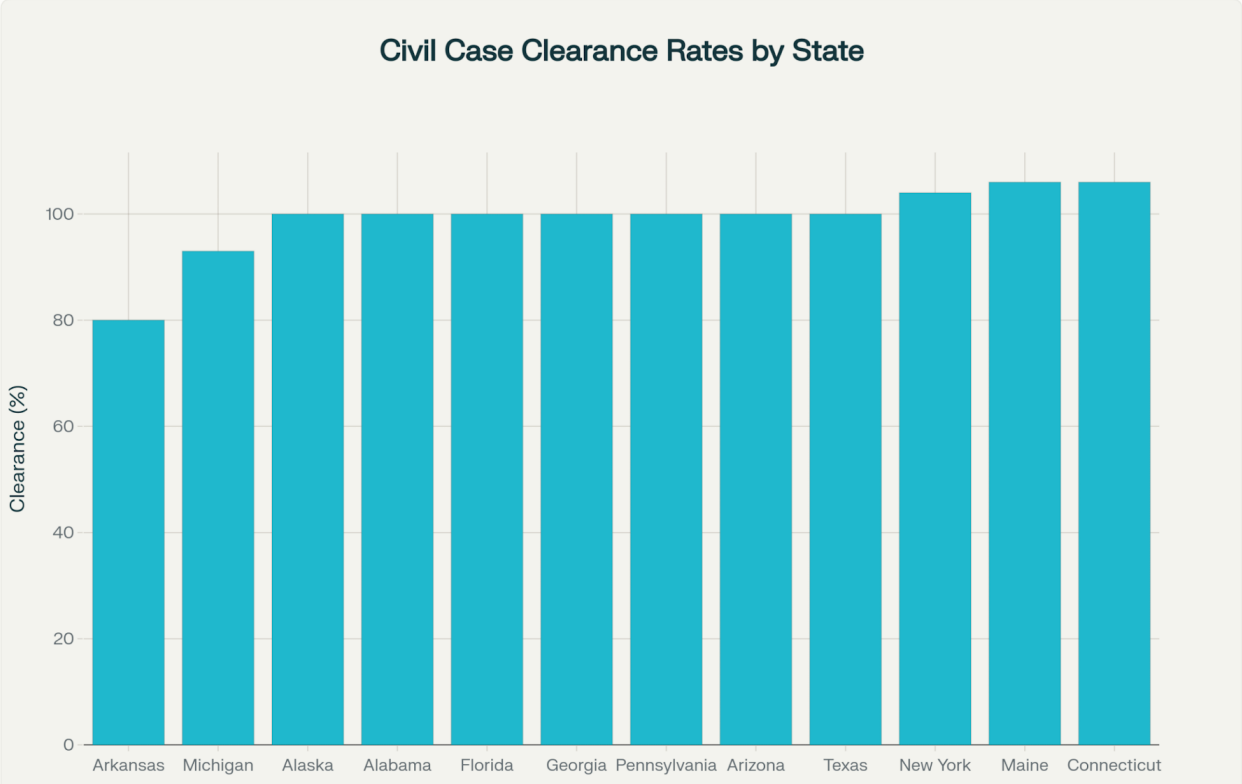
From a practical standpoint, the longer civil cases linger, the greater the risk that evidence is lost, memories fade, or witnesses become unavailable. These factors compromise the fairness of civil trials, increasing the risk of unjust outcomes and further undermining confidence in the legal system

A clogged civil court system places undue pressure on government resources, budgets, and staff. Court personnel face excessive workloads, while the state and counties must allocate larger budgets to courts without achieving proportional resolution rates. This burden grows as new cases enter the system faster than old cases are resolved, deepening the backlog and straining judicial operations.

Backlogs erode public trust in the judiciary and reduce faith in civil justice mechanisms. When courts are seen as slow or inaccessible, citizens and businesses avoid pursuing valid claims altogether. This weakens the authority of the courts, undermines social order, and threatens equality and access to justice, particularly for vulnerable or unrepresented parties.

[1] This article addresses only civil cases and methods to increase efficiency therein. It does not address criminal cases, considering that certain Constitutional provisions may impact the feasibility of these proposed solutions.

None of these issues are unique to Michigan – every state faces some combination of problems that slow the resolution of civil cases, be it budgeting shortfalls, higher rates of cases filed, inequitable distribution of judicial resources, a slowness to adopt technology, legacy court structures not tailored to modern litigation, and others. Michigan, however, does resolve cases at a lower percentage clearance rate than comparable states. Below is a comparative chart of civil case clearance rates for selected states[2] in 2023, displaying the number of incoming cases per capita, closing cases per capita, and the clearance rate percentage[3]:



State	Incoming Civil Cases Per Capita	Closing Civil Cases Per Capita	Percentage Clearance Rate
Alabama	0.1	0.1	100
Alaska	0.12	0.12	100
Arizona	0.11	0.11	100
Arkansas	0.15	0.12	80

[2] Only those states that provide complete, self-reported comprehensive data were reviewed. *See* Center for Justice & Democracy at N.Y. Law Sch., "How Low Can They Go? State Civil Tort, Med Mal, Products Caseloads and Jury Trials," https://centerjd.org/content/how-low-can-they-go-state-civil-tort-med-mal-products-caseloads-and-jury-trials (last visited Oct. 12, 2025); *see also* Nat'l Ctr. for State Courts, "Court Data Resources," https://www.ncsc.org/resources-courtsdata (last visited Oct. 12, 2025).

[3] S. Gibson et al., eds., CSP STAT, Nat'l Ctr. for State Courts (last updated Oct. 2024), https://www.courtstatistics.org (last visited Oct. 12, 2025).

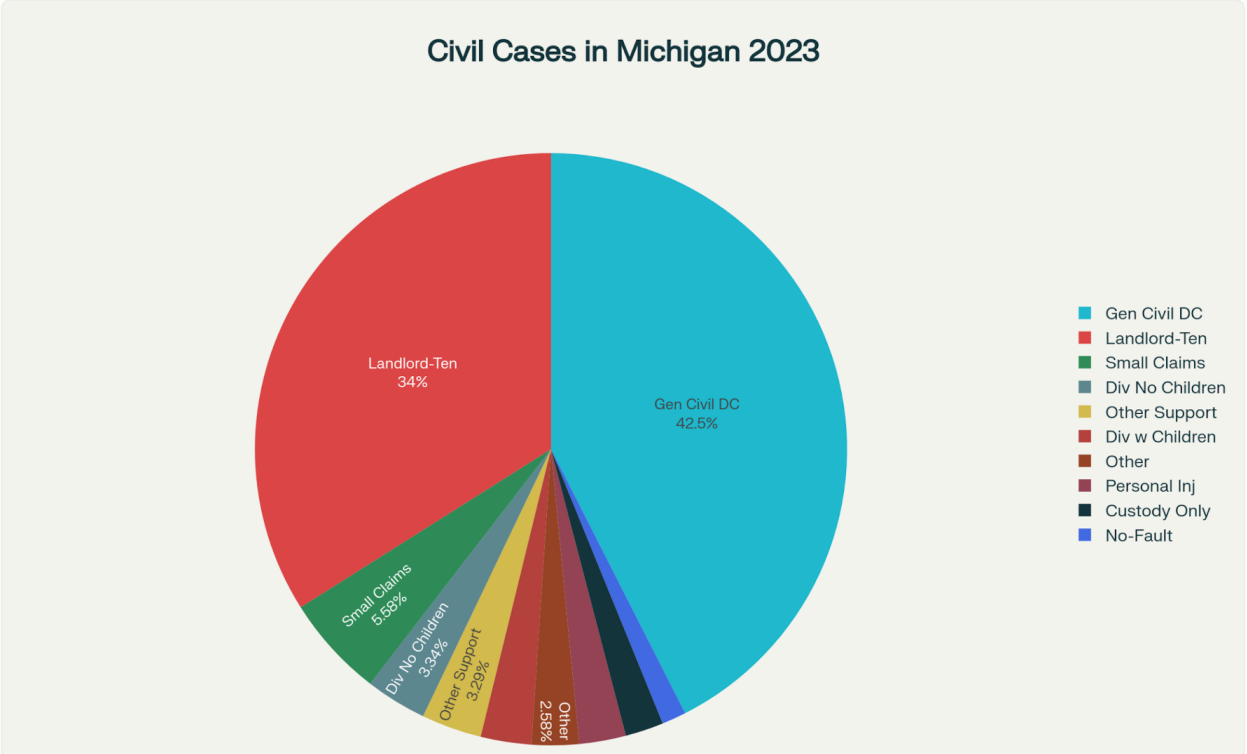
Connecticut	0.16	0.17	106
Florida	0.09	0.09	100
Georgia	0.08	0.08	100
Maine	0.33	0.35	106
Michigan	0.14	0.13	93
New York	0.48	0.5	104
Pennsylvania	0.39	0.39	100
Texas	0.08	0.08	100

As can be seen, Alabama, Alaska, Arizona, Florida, Georgia, Pennsylvania, and Texas maintained a 100% clearance rate, meaning they closed as many civil cases as were filed per capita. Maine, Connecticut, and New York exceeded 100%, indicating they were able to close more civil cases than were filed in 2023. Michigan showed a lower clearance rate at 93%, which means more cases are entering the court system than are being resolved per capita, contributing to backlog issues.[4]

As to be expected, breakdown of the types of cases in states depends to a great degree on the laws of particular states, and whether they encourage or discourage filing certain types of suits, i.e, laws providing for pure negligence for automobile tort cases can have a different effect than no-fault states. Other various factors come into play in different arenas – population density, marriage rate, percentage of home ownership as compared to renting, etc. Below is a bar chart showing the number of new civil cases opened in Michigan in 2023[5]:

[4] *Id*.

[5] *See* Statewide Circuit Court Summary, 2023 Court Caseload Report, https://courts.michigan.gov/statewide (last visited Oct. 12, 2025); Mich. Ct. App. Ann. Rep.—2023, https://courts.michigan.gov/courts/court-of-appeals (last visited Oct. 12, 2025).



The following provides a more detailed breakdown of the number of cases filed in each category[6]:

[6] *Id.*

Category	Cases Filed
Contract	3,507
Antitrust/Franchising/Trade Regulation	15
General Civil	4,734
Housing/Real Estate	91
Labor Relations	38
Appeals from Agencies	404
Civil Appeals from Lower Court	503
Divorce w/ Minor Children	14,637
Divorce w/o Minor Children	17,702
Custody w/o Divorce	11,084
Paternity	491
Other Support	17,423
Other Domestic Relations Matters	3,864
Landlord-Tenant	179,916
Small Claims	29,535
General Civil (District Court)	225,171
Personal Injury	13,500
No-Fault	7,000

Any approach to improving court efficiency and resolution of state dockets must take into account the types of cases being filed, but also recognize that not all improvements will be effective for all types of cases. Instead, the legislature and judiciary should seek a variety of solutions and improvements to address individual types of cases both now and into the future.

II. Innovative Proposals to Improve Judicial Efficiency and Reduce Case Backlog

This author would propose that the following changes should be considered and implemented by the Michigan Legislature and Judiciary. If implemented, the systems would serve as an example for other states to consider adoption.

A. Expand MI-Resolve

The MI-Resolve program is Michigan's statewide online dispute resolution (ODR) platform. It was launched to increase access to justice for residents by enabling the resolution of small claims, landlord-tenant, and neighborhood disputes online, often without ever stepping into a courtroom. MI-Resolve makes ODR accessible to every citizen in the state and operating free of charge to users. Evidence suggests the program is effective, but continued improvements could further increase its impact.

MI-Resolve was initiated by the Michigan Supreme Court's State Court Administrative Office, with its first launch in August 2019 in 17 counties.[7] Its early success and demand led to accelerated statewide expansion by July 2020, making Michigan the first state to offer ODR statewide to all residents. Initially, the program was limited to disputes involving just two parties and district court (small claims/landlord-tenant non-eviction) cases, but it has since expanded to cover a broader suite of matters and to handle cases with multiple parties. As it presently stands, no attorney is required to participate, and residency or connection to a Michigan county is the only eligibility requirement. Parties simply need internet access and email to register, and the platform remains free for users.[8]

MI-Resolve allows parties to resolve their disputes via an online portal, negotiating directly or with the assistance of a neutral mediator. The system guides users through a text-based process where individuals can share documentation, communicate at their convenience, and, if agreement is reached, generate binding settlement documents for court filing.[9]

While only having been in operation for six years, there are indicators that MI-Resolve has had success in resolving disputes. A comprehensive 2022 evaluation by the State Justice Institute and Michigan Supreme Court found MI-Resolve effective, particularly when paired with robust local outreach and technical access, such as community kiosks.[10] During the first full year of statewide availability, MI-Resolve and virtual mediation centers processed over 9,300 cases, showing high utilization. Between 68% to 76% of cases mediated via MI-Resolve resulted in an agreement, comparable to or better than traditional mediation pre-pandemic. Surveys of referral sources and center personnel show about 90% satisfaction rates, with more than half ranking their experience as "very satisfied." Reports have shown that ODR users generally felt they had more control and reported higher process satisfaction compared to individuals using non-ODR processes.[11]

As detailed above, a large number of civil cases filed in Michigan fall into the category of landlord-tenant, debt collection, small claims matters, and general district court cases. Many of these cases can be resolved through a more robust MI-Resolve program and others could be added. Cases best suited to be a part of expansion are those that (1) are transactional and standardized with the same key facts and predictable outcomes; (2) involve nonviolent, non-criminal issues; (3) include high-volume, low-complexity matters; and (4) do not inherently require intensive factual investigation or courtroom presentation.

This author suggests that the following case-type expansions could improve the MI-Resolve system, lead to speedier resolutions, and reduce traditional court dockets:

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[7] *Michigan Announces MI-Resolve Court ODR Program*, Nat'l Ctr. for Tech. Dispute Resolution.

[8] *MI-Resolve—A New Way to Resolve Disputes Online*, Community Mediation Services, https://www.mimediation.com/mi-resolve (last visited Oct. 12, 2025).

[9] *Id*.

[10] Sharon L. Pizzuti & Michael D. Campbell, *Evaluation of Two Statewide Virtual Dispute Resolution Services in Michigan, Final Summary Rep.*, Courtland Consulting (Mar. 2022).

[11] See, e.g., Donna Shestowsky & Jennifer Shack, *Online Dispute Resolution for Post-Judgment Family Law Cases: A Report to the Ottawa County, Michigan, Friend of the Court,* Univ. of Cal., Davis, Resolutions System Inst. (2002).

- **Family Law:** Uncontested divorce, child support adjustments, parenting time arrangements, simple custody modifications, and guardianship disputes can be added, provided that there is no history of violence.

- **Landlord-Tenant:** While MI-Resolve is already available for disputes such as rent owed, security deposit disputes, and repairs, it cannot currently be utilized for eviction proceedings. Since most eviction actions ultimately result in an agreed-upon time frame for the tenant to depart, many of these types of actions could be addressed through online mediation.

- **Homeowners Associations, Condominium, and Property-Related Matters:** Disputes involving homeowners associations, property maintenance, common area maintenance, shared utilities, pet policies, and noise complaints are particularly suited to online resolution.

- **Consumer and Commercial Disputes:** Small business, independent contractor, and customer service complaints, product warranty claims, billing issues, and contract disputes are well-suited for online mediation.

- **Debt Collection and Financial Claims:** Expansion to include a broader range of cases for collection of debts, personal loans, medical bills, and repayment disputes could significantly reduce civil court filings. These are cases where parties often seek negotiated settlements or structured repayment plans.

- **Simple or Uncontested Probate and Estate Matters:** Transfers, will interpretations, and beneficiary disputes where parties largely agree could be managed via ODR platforms.

- **School and Education:** Expanding MI-Resolve for school-related financial issues between families and districts, such as fees, transportation, or service delivery complaints, could relieve burdens on administrative and district courts

While increasing the types of cases that can be addressed through MI-Resolve, the program needs to push buy-in to maximize its effectiveness.

- **Default Opt-In:** Establish an initial default opt-in to MI-Resolve for simple categories of cases that likely require minimal discovery or investigation and have a limited range of expected outcomes. Parties could elect to opt-out and pursue a traditional court approach

if desired. This would give lay parties the opportunity to resolve simple disputes without utilizing court resources.

- **Outreach:** Enhance outreach and education, particularly in counties and courts with low utilization, to promote program adoption and maximize benefit.

- **Technology:** Expand technological access by providing community support, notifications via text, and local kiosks or alternative access points for disputants lacking devices or internet connectivity.

- **Stronger Integration with Court:** Improve integration with court case management systems to enable better reporting, dashboard access, and systematic tracking of outcomes and user experiences.

- **Ability to Elect Attorney Mediation:** While the program has demonstrated success with non-attorney community dispute resolution mediators, providing litigants with the opportunity to select an attorney mediator would add weight to the program. Attorneys could better explain legal issues, provide a more educated evaluation, use their experience with the legal system to improve the fairness (and appearance of fairness) for the parties, and provide information as to what a traditional court is likely to do if the matter is not resolved through ODR.

Certainly, the up-front cost of expanding the MI-Resolve program would require an increased budgetary investment[12], but one could expect that an amount of backend savings would result from a reduced court caseload over time.

B. Implement a Widespread Magistrate Program

1. The Benefits of Magistrate Usage

While some Michigan state district courts utilize magistrates for certain roles in low-stake civil cases, the use of magistrates is limited mostly to small claims or administrative tasks. However, a more robust statewide magistrate program would help speed resolution of civil cases.

States and federal districts that utilize magistrate judges for civil case management and settlement conferences generally experience faster closure times for lawsuits, especially when magistrate judges focus on pretrial management and settlement efforts.[13] Formal, system-wide

[12] The current software platform used for MI-Resolve is Matterhorn, designed by Court Innovations. Matterhorn advertises its software as scalable to increase scope over time. *See* Catalis, Matterhorn—Online Dispute Resolution Platform, https://catalisgov.com/matterhorn-lp (last visited Oct. 12, 2025).

[13] *See* Hon. Morton Denlow (Ret.), *Magistrate Judges' Important Role in Settling Cases*, Fed. Law., May/June 2014; Bob Tata, *The Fastest Federal Civil Court for a Decade*, Lawyer Insights (Apr. 30, 2018); Michael J. Bolton, *Choosing to Consent to a Magistrate Judge—A Client's View*, Fed. Law., May/June 2014.

comparisons by state are limited, but several studies and practitioner reports describe a clear link between magistrate involvement and greater efficiency in civil case resolution.

The Eastern District of Virginia, well known as the "Rocket Docket," is cited as one of the fastest federal trial courts for civil case resolution due in part to the proactive use of magistrate judges for early case management and settlement conferences.[14] Magistrate judges there often conduct settlement conferences that lead to earlier and more frequent settlements, thus reducing the number of drawn-out trials.[15]

Additionally, research from the Federal Bar Association highlights that magistrate judges can often settle employment, civil rights, and personal injury disputes in just a few hours, rather than letting those cases progress through lengthy dispositive motions and formal trials.[16] The result is both fewer outstanding cases and reduced backlogs.[17]

Practitioner survey results indicate that multiple districts report that choosing to have a civil trial before a magistrate judge – even in districts where docket congestion is a problem – allows cases to get to trial sooner than if heard by a district judge, mainly because magistrate judge courtrooms are not delayed by traditional judicial calendars.[18]

When it comes to calculating an exact quantitative difference, although not all courts publicly report median closure statistics by magistrate use, legal analytics publications and news reports consistently name districts with robust magistrate programs (like Virginia's Eastern District and California's Central District) as having median civil case closure times of 3–4 months, compared to much longer durations (12–46 months) in districts not employing such practices.[19]

The logic behind the value of magistrates is not complicated – there is only so much labor that a single judge can do and offloading some responsibilities to magistrates will help speed up dockets. However, the interests of justice and the appearance of judicial authority to the public could be threatened by simply granting powers to a magistrate that a traditional judge already possesses through the will of the electorate. To maintain integrity of any such program, and safeguard access to justice, it should be built upon the following foundational elements: (1) magistrates can only perform duties assigned by a chief judge; (2) consent of the parties is required for a magistrate to hold hearings over contested motions and evidentiary matters; (3) consent of the parties is required for a magistrate to hold a bench or jury trial; and (4) any party may request *de novo* review by the presiding judge.

Certainly, the *number* of magistrates to be utilized by a particular court could vary wildly based on need and budget. Some courts with clogged dockets may need more and lower volume courts might not have need at all. Any move to a statewide magistrate program should begin with

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[14] Bob Tata, *The Fastest Federal Civil Court for a Decade*, Lawyer Insights (Apr. 30, 2018).
[15] *Id*.
[16] Hon. Morton Denlow (Ret.), *Magistrate Judges' Important Role in Settling Cases*, Fed. Law., May/June 2014.
[17] *Id*.
[18] Michael J. Bolton, *Choosing to Consent to a Magistrate Judge—A Client's View*, Fed. Law., May/June 2014.
[19] Adam Feldman, *Judicial Business in District Courts 2024: How Surging Caseloads Are Reshaping Justice*, Legalytics (Feb. 27, 2025).

a pilot program in select state courts, coupled with authority through statute and the Michigan Court Rules that provides specific guidance as to how magistrate usage would be employed.

2. Proposed Michigan Civil Magistrate Judges Act

The below proposed statute blends Michigan's existing district court magistrate authority framework with consent provisions modeled on federal consent jurisdiction under 28 U.S.C. § 636(c), allowing magistrate judges to preside over full civil trials and contested motions upon party agreement:

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Section 1. Title

This Act shall be known as the "Michigan Civil Magistrate Judges Act."

Section 2. Purpose

The purpose of this Act is to enhance the efficiency of civil case resolution in Michigan's district and circuit courts through the appointment and use of magistrate judges authorized to preside over certain civil proceedings, subject to judicial supervision and party consent.

Section 3. Appointment and Qualification

(a) The chief judge of each district or circuit court may appoint one or more magistrate judges to assist in the adjudication and administration of civil cases.

(b) Each magistrate judge shall meet the eligibility requirements prescribed by the Supreme Court of Michigan and any additional qualifications established by local court rule.

(c) Magistrate judges shall serve under the supervision of the appointing court's chief judge.

Section 4. Jurisdiction and Authority in Civil Cases

(a) Magistrate judges may, when authorized by a chief judge, perform the following duties in civil cases only:

1. Conduct hearings, receive evidence, administer oaths, and make findings of fact and conclusions of law in

small claims, landlord-tenant, contract, and other civil actions.

2. Rule on uncontested or procedural motions, discovery disputes, and preliminary civil matters as authorized by the chief judge.

3. Conduct pretrial conferences, settlement conferences, and mediation proceedings.

4. Enter default judgments, rule on motions to set aside defaults, and manage pretrial case flow under applicable Michigan Court Rules.

5. Upon the written consent of all parties, preside over and adjudicate civil trials, including non-jury and jury trials, and issue final judgments.

6. Upon the written consent of all parties, decide and issue rulings on contested motions, including dispositive motions.

7. Perform any other civil judicial function as expressly authorized by the chief judge consistent with applicable statute or court rule.

(b) No magistrate judge may exercise jurisdiction in family law, probate, or juvenile cases under this Act.

Section 5. Consent and Review Procedures

(a) Consent for a magistrate judge to conduct a civil trial or decide a contested motion must be in writing, signed by all parties or their counsel, and filed with the clerk of the court.

(b) Any order, decision, or judgment issued by a magistrate judge may be reviewed, modified, or vacated upon the request of any party by the presiding judge or the chief judge of the court.

(c) Review may be sought by motion within fourteen (14) days following entry of the magistrate judge's order, judgment, or decision.

(d) Review may include de novo determination, modification, or affirmance as deemed appropriate by the reviewing judge.

Section 6. Oversight and Administration

(a) All actions of magistrate judges shall remain under the general supervisory authority of the presiding and chief judges of the court.

(b) The chief judge may assign, modify, or withdraw any delegation of authority to a magistrate judge at any time.

(c) The Michigan Supreme Court may adopt additional rules governing the appointment, authority, and review of magistrate judges performing duties under this Act.

Section 7. Severability

If any provision of this Act or its application is found invalid or unconstitutional, such invalidity shall not affect the remaining sections, which shall remain in full force and effect.

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3. Proposed Michigan Court Rule for Magistrates

The following proposed court rule integrates expanded consent-based powers, judicial oversight, and clear practical requirements for use in Michigan's trial courts, ensuring efficiency and accountability in everyday practice:

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Proposed Michigan Court Rule 2.422 Magistrates in Civil Cases

(A) Authorization and Appointment

(1) District and circuit court magistrates may be appointed and authorized pursuant to applicable statute and by order of the chief judge of the respective court.

(2) Magistrates must satisfy statutory and rule-based qualifications and shall serve under the supervision of the chief judge.

(B) Powers and Duties

(1) A magistrate may exercise only those powers, jurisdiction, and duties authorized by the Michigan Magistrate Judges in Civil Court Act, by statute, or by express authorization from the chief judge.

(2) Duties may include:

(a) Conducting hearings in small claims, landlord-tenant, contract, and other civil matters subject to statutory jurisdictional limits.

(b) Receiving evidence, administering oaths, and making findings of fact and law.

(c) Ruling on uncontested and procedural motions, discovery disputes, and preliminary civil matters.

(d) Conducting pretrial conferences, settlement conferences, and mediation.

(e) Issuing default judgments and handling motions to set aside defaults.

(f) With written consent of all parties, presiding over civil trials (jury and non-jury) and making rulings on contested motions, including dispositive motions.

(g) Issuing final judgments in cases where all parties have consented.

(h) Any other civil duties delegated by statute or the chief judge.

(C) Consent Jurisdiction

(1) Parties may provide written consent allowing the magistrate to preside over trials and/or rule on contested motions.

(2) Consent must be filed with the clerk of court before trial or motion hearing commences.

(D) Review of Magistrate Decisions

(1) Any action, order, or judgment of a magistrate may be reviewed, modified, or vacated at any time by the presiding judge or chief judge, upon request of any party, or by the court sua sponte.

(2) Parties may request review by filing a written request within fourteen (14) days of service of the magistrate's decision.

(3) The reviewing judge may exercise de novo review and enter any order deemed just.

(E) Oversight and Administration

(1) Magistrates shall at all times be subject to administrative and procedural oversight by the chief judge.

(2) The Michigan Supreme Court may promulgate additional rules governing appointment, duties, review, and administration as required for uniform practice.

(F) Limitations

(1) Magistrates acting under this rule and related statutes may exercise authority only in civil matters; criminal, family, probate, and juvenile cases are subject to different statutory and rule-based provisions.

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C. Right-Sizing Motion Practice and Court Hearings

1. Adopt a Tentative Ruling System

Clarence Darrow probably never argued a compelling motion to adjourn scheduling order dates or for an extension of a summons.

Mastery of oral arguments are certainly one of the most compelling – if not *the* most compelling – aspect of a litigation practice. It is certainly the most lionized part of a litigator in popular culture. And yet, most motions are fairly mundane things – they are discovery motions, adjournment motions, motions to amend pleadings, etc. Even some important motions, such as a motion for summary disposition, can be boilerplate but for differences in facts. The truth is that a well-written motion, describing factual nuance and application of law, is likely to be more complete than everyday oral presentations. There is no quantitative evidence to suggest motions decided on the pleadings produce results that are less fair.

At the same time, there are efficiency gains from reducing oral arguments. All litigators have found themselves in courtrooms where they wait and wait behind other cases for their motion to be called. Even if the truth is only lived experience and not quantified, it is practical to assume that courts tend to experience overall docket acceleration when fewer courtroom hours are consumed by argument dockets.

However, this is not to say that adoption of some kind of blanket or default to no oral arguments would advance justice. Presumably, the litigants and their counsel know the issues in their cases better than a judge who only learns about an issue when a motion is filed. There are

certainly *some* ordinary motions that are deserving of oral argument and precluding it could lead to unjust results.

The State of California, as well as certain international courts, have experimented with tentative ruling systems to improve court efficiency.[20] While programs vary, the general elements are the same:

- When a motion and notice of hearing is filed, the presiding court issues a tentative ruling – a preliminary written decision on a motion – and posts it publicly, typically a day or two before the scheduled hearing.

- The ruling reflects how the judge would decide the motion based solely on the pleadings and briefs.

- If no party notifies the court and opposing counsel by a set time of the intent to appear for argument, the tentative automatically becomes the court's final order and oral arguments do not proceed.

Such a system would sharply reduce unnecessary hearings, since the vast majority of motions become final without oral argument. According to bar and practitioner reports related to California's experiment with this system, over 90% of tentative rulings are adopted without change, streamlining judicial workload while still preserving the opportunity for oral argument in disputed or complex cases.[21] It also encourages shorter oral arguments, as a hearing for oral arguments are more likely to address the issues raised in the judge's tentative ruling.

Thus, the tentative ruling procedure balances efficiency and fairness by combining early judicial review with an opt-in mechanism for oral argument, effectively turning motion litigation into a primarily paper-based process unless a party objects in advance. If Michigan were to adopt such a system, it could reduce court hours without compromising fair results.

2. Proposed Court Rule for Tentative Ruling System

To effectuate the implementation of a tentative ruling system in Michigan, this author proposes the following new court rule:

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Proposed Michigan Court Rule 2.119a – Tentative Rulings on Motions

(A) Purpose and Application

[20] See Cal. R. Ct. 3.1308; see also DLA Piper, *Global Litigation Guide*, https://www.dlapiperintelligence.com/litigationinsight/ (last visited Oct. 14, 2025).

[21] *See* Superior Court of Cal., Orange Cty., Tentative Rulings, https://www.occourts.org/online-services/ tentative-rulings (last visited Oct. 14, 2025).

(1) This rule authorizes trial courts to issue tentative rulings on written motions in civil cases to promote efficiency, reduce unnecessary oral argument, and provide early notice of the court's intended disposition.

(2) The rule applies to all civil cases in circuit and district courts unless otherwise provided by local rule or order.

(B) Procedure for Tentative Rulings

(1) A court utilizing the tentative ruling system must make its tentative ruling publicly available by electronic posting, docket entry, or other method specified by local administrative order, not later than 3:00 p.m. on the court day preceding the hearing.

(2) The tentative ruling shall state:

- The proposed disposition of the motion;
- Any legal or factual issues on which the court requests additional argument; and
- Whether the court requires oral argument notwithstanding subdivision (C).

(C) Effect of No Request for Oral Argument

(1) If no party provides notice of intent to appear for argument by 4:00 p.m. on the court day preceding the hearing, the tentative ruling becomes the order of the court on the date set for hearing.

(2) A party seeking oral argument must notify both the court and opposing parties by e-filing or direct electronic notice as prescribed by local rule.

(3) Failure to provide timely notice constitutes consent to entry of the tentative ruling as the final order.

(D) Hearing Upon Request

(1) If proper notice of intent to appear is given, oral argument shall be held at the scheduled hearing time, limited to the issues specified in the tentative ruling or new matters permitted by the court.

(2) At the conclusion of argument, the court may affirm, modify, or vacate its tentative ruling.

(E) Optional Local Implementation

(1) Adoption of a tentative ruling procedure by a court is optional but, once adopted, must be uniform within each judicial circuit or district.

(2) Local rules implementing this procedure must specify:

- The method and time of posting or availability of tentative rulings;
- Acceptable methods for notice of intent to appear; and
- Any case categories exempted from the procedure (e.g., motions for injunctive relief, family law matters, or ex parte motions).

(F) No Limitation on Judicial Discretion

This rule does not restrict a judge's discretion to require oral argument in any matter, to decide a motion without issuing a tentative ruling, or to defer a final decision pending further briefing.

(G) Record and Notice of Final Order

When a tentative ruling becomes final under this rule, the clerk shall record the ruling as an order of the court and provide notice under MCR 2.602(A).

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This proposed rule mirrors the structure of California Rule of Court 3.1308, but aligns with Michigan's motion practice timelines and electronic filing systems. It preserves judicial flexibility while ensuring litigants have clear procedural protections and the ability to request oral argument. The rule would integrate seamlessly with MCR 2.119 (Motions) and MCR 8.112 (Local Administrative Orders), enabling circuits such as Oakland, Wayne, and Kent to experiment with tentative ruling systems for general civil motion dockets.

3. Adopting Default Remote Court Appearances

Remote court appearances were borne out of triage – the Covid pandemic made in-person appearances difficult to impossible, but courts needed to continue to function. Adoption of remote, video conferences (i.e., Zoom) was successful if a little chaotic at first. Most high-volume Michigan courts continue to utilize remote appearances in their everyday functions, but some courts have started a slow regression to in-person – particularly those that see value in requiring in-person appearances or are resistant to technology. The "value of in-person appearances" seems

based on certain courts' reasoning that the burden of traveling to Court makes it more likely that litigants will resolve their issues instead of incurring the burden. However, this is anecdotal and there is no quantitative proof of such a position.

In truth, remote civil court hearings present multiple advantages over traditional in-person appearances, including strong positive impacts on speeding up court dockets and the resolution of cases.

Remote hearings greatly increase access to justice by eliminating barriers such as transportation, childcare, and time away from work. Participants—including litigants, witnesses, and attorneys—can attend from locations convenient to them, leading to higher appearance rates and fewer defaults, especially in high-volume dockets like family and small claims. Remote proceedings make court processes less intimidating, especially for nonlawyers and self-represented litigants. Witnesses and experts can join from anywhere, improving the breadth and relevance of evidence presented, while participants report feeling more comfortable in familiar environments.

Virtual hearings save substantial time for all parties by eliminating travel and waiting in physical courtrooms. Digital platforms allow for electronic scheduling, document sharing, evidence submission, and e-signatures, increasing administrative efficiency and reducing both procedural delays and operational costs. The shift to remote hearings enables judges to dispose of more cases within a given timeframe, as scheduling is more flexible and downtime is minimized. Empirical studies and court performance reports confirm that virtual dockets routinely progress faster than traditional dockets – average resolution times for remote matters are 15–25% shorter, with significant reductions in court backlog.[22] Courts report quicker interim decisions, shorter intervals between hearings, and the ability to triage urgent cases more effectively.

The National Center for State Courts (NCSC) and state surveys show virtual dockets accelerate case processing, particularly in eviction, domestic relations, and small claims courts.[23] Indeed, Michigan's virtual court program reports consistently faster time to disposition since the widespread adoption of remote hearings, alongside improved access and lower default rates.

To maintain, improve, and broaden the impact of remote appearances, Michigan should adopt a court rule that all court appearances default to remote appearances, unless there is good cause for an in-person appearance.

4. Proposed Court Rule for Default Remote Court Appearances

To effectuate the above, this author would propose an amendment to the Michigan Court Rules. Below is a proposed Michigan Court Rule establishing default remote hearings for all civil proceedings in the state, modeled on Michigan's existing administrative orders (especially AO

[22] Allison Catalani, *Four Reasons Why Virtual Court is Here to Stay*, Tyler Technologies Blog (Feb. 7, 2023), https://www.tylertech.com/resources/blog-articles/four-reasons-why-virtual-court-is-here-to-stay (last visited Oct. 14, 2025).

[23] Charles Campbell, John Holtzclaw & Joy Keller, *Trends in State Courts 2025*, Nat'l Ctr. for State Courts, https://www.ncsc.org/sites/default/files/media/document/NCSC-Trends-2025.pdf (last visited Oct. 14, 2025).

2020-6, AO 2025-X, and MCR 2.407). This rule is drafted for potential inclusion as Michigan Court Rule 2.119b:

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Proposed Michigan Court Rule 2.119b – Default Remote Hearings in Civil Proceedings

(A) Purpose and Scope

(1) This rule establishes a presumption in favor of remote hearings and appearances in all civil court matters to improve access, efficiency, and case management consistency across Michigan trial courts.

(2) It applies to all civil actions in circuit, district, and probate courts unless otherwise provided by statute or a Supreme Court administrative order.

(B) Default to Remote Proceedings

(1) All civil hearings, conferences, and case events shall be conducted by remote videoconferencing unless otherwise ordered under subdivision (C).

(2) Each court must provide timely electronic notice of the remote hearing, including technical access information, and ensure public access via livestream or approved public terminals consistent with MCR 8.115(C).

(3) The court shall maintain an official audio/video record of every remote proceeding.

(C) In-Person Proceedings by Exception

(1) A judge may order an in-person hearing only upon a finding of good cause or if all parties, through written stipulation, jointly request an in-person appearance.

(2) In determining good cause, the court must consider:

- Whether remote participation would substantially prejudice a party's due process rights;
- The availability of reliable technology for all participants;
- The nature of evidence or witness credibility requiring in-person assessment; and
- Accommodation needs for parties or counsel.

(3) Any determination to hold an in-person hearing shall be stated in writing or on the record with specific reasons.

(4) If good cause ceases to exist, the proceeding shall revert to remote format at the discretion of the court.

(D) Technological Standards and Conduct

(1) Remote proceedings shall comply with MCR 2.407 and related administrative guidance from the State Court Administrative Office (SCAO).

(2) All remote hearings are deemed equivalent to court sessions held physically within the courthouse; participants must comply with courtroom decorum and confidentiality requirements.

(3) Unauthorized recording, rebroadcast, or screenshotting of remote proceedings is prohibited and may be sanctioned under MCR 2.114.

(E) Access to Technology

(1) Each trial court shall make reasonable accommodations for participants lacking reliable internet or equipment by providing designated remote access terminals or coordination with community facilities approved by the SCAO.

(2) Courts must ensure accessibility consistent with state and federal disability laws.

(F) Local Implementation

(1) Circuit and district chief judges shall adopt local administrative orders, subject to SCAO approval under MCR 8.112(B), governing:

- Posting of public livestream links;
- Technical support procedures; and
- Backup communication options for participants.

(2) Local rules shall not create blanket exemptions from remote hearings but may designate specific case types (e.g., jury trials, evidentiary hearings) presumptively eligible for in-person proceedings upon judicial findings of good cause.

(G) Effective Date and Review

(1) This rule becomes effective upon order of the Michigan Supreme Court.

(2) The SCAO shall periodically review implementation data and recommend rule refinements to ensure uniformity, efficiency, and compliance statewide.

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This proposal builds on existing authority under Administrative Orders 2020-6 and 2025-X permitting judicial officers to preside remotely. It reverses the current presumption – making remote appearances the default rather than an accommodation – while preserving judicial discretion for in-person hearings when justified by due process or logistical necessity. The rule

aligns with Michigan's ongoing Virtual Courtroom Initiative, ensuring equitable statewide access to remote civil justice infrastructure.

III. CONCLUSION

Considering the importance of access to justice, the Michigan Legislature and judiciary should seek a variety of solutions and improvements to ensure efficient resolution of cases both now and into the future. By adopting the proposals herein, Michigan can improve judicial efficiency and demonstrate practical innovations for adoption by other states.