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## ▶ Revised Court Rule Clarifies Receivership Issues

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Recently amended Michigan Court Rule 2.622 finally provides solid guidance to courts and interested parties on a number of important receivership issues. Some highlights:

**Showing.** The standard remains that a receiver may be appointed for “good cause” and “as provided by law” under the court’s equity power or to “protect the rights of a judgment creditor.” MCR 2.621; MCR 2.622(A); MCLA 600.2926.

**Appointment Qualifications.** The rule includes appointment factors and provides that upon objection to a proposed receiver, or if the court desires a different receiver, testimony or evidence must show that the receiver is experienced and is not disqualified, protecting against unqualified receivers including judicial appointees. MCR 2.622(A)(5). MCR 2.622(B)(6) lists disqualifying events, including a previous relationship to any party. A proposed receiver that works for the lender may be subject to disqualification if a party objects and the court finds an actual conflict. See MCR 2.622(B)(6)(g), (j). A receiver serves as a fiduciary to all persons appearing in the action and must be able to serve accordingly. See MCR 2.622(A).

**Judicial Orders.** MCR 2.622(C) lists required order provisions. One-line orders appointing receivers are not valid. Any receiver authority to sell receivership property must be by separate order. MCR 2.622(E).

**Reporting.** MCR 2.622(D)(3) requires an initial inventory within 35 days of the order. The receiver must account for all income/disbursements with a final report filed with the court. MCR 2.622(D)(4); MCR 2.622(D)(7).

**Forms.** The Debtor/Creditor Rights Committee of the Business Law Section has proposed forms to implement MCR 2.622, but so far the State Court Administrative Office has not produced forms.

For practitioners implementing receiverships, the new rule is a great leap forward. MCR 2.622 provides guidance regarding qualifications and procedures but leaves room for flexibility for the bench and bar.