



Michigan Supreme Court Historical Society Corporate Sponsor Feature

Grewal Law, PLLC

Justice in the Time of Covid-19: How the Michigan Supreme Court Protected Plaintiffs' Rights Amid the Pandemic

Provided by Grewal Law, PLLC



Grewal Law attorneys, Scott Weidenfeller and Nolan L. Erickson review a case.

During a time of unprecedented social and political upheaval, Grewal Law took a high-profile case to the Michigan Supreme Court and played an important role in the Court's jurisprudence involving Rule 1.108(1) of the Michigan Court Rules.¹

When a global pandemic disrupts daily life around the country and the world, the statutes of limitations in cases may not be the first thing on someone's mind, but

1. Rule 1.108 Computation of Time

In computing a period of time prescribed or allowed by these rules, by court order, or by statute, the following rules apply: (1) The day of the act, event, or default after which the designated period of time begins to run is not included. The last day of the period is included, unless it is a Saturday, Sunday, legal holiday, or day on which the court is closed pursuant to court order; in that event the period runs until the end of the next day that is not a Saturday, Sunday, legal holiday, or day on which the court is closed pursuant to court order.

it was of great importance to the Michigan Supreme Court, which issued Administrative Order ("AO") No. 2020-3 less than two weeks into Michigan's shutdown.

AO No. 2020-3 impacted the calculation of relevant time periods under MCR 1.108(1). Specifically, the pertinent parts of AO No. 2020-3 stated:

For all deadlines applicable to the commencement of all civil and probate case types, including but not limited to the deadline for the initial filing of a pleading under MCR 2.110 or a motion raising a defense or an objection to an initial pleading under MCR 2.116, and any statutory prerequisites to the filing of such a pleading or motion, any day that falls during the state of emergency declared by the Governor related to COVID-19 is not included for purposes of MCR 1.108(1).²

As the crisis continued, the Court further issued AO No. 2020-18, which rescinded the time calculation modification under the original order. As a result, plaintiffs could exclude the time between March 10, 2020, and June 20, 2020, from filing deadlines.³

This was huge: with one administrative order, the Court added 99 days to a filing deadline.

As the pandemic continued, so did cases. A year after AO No. 2020-3, Grewal Law stepped in to represent Ms. Karen Carter, as she filed a lawsuit against DTN

2. Administrative Order No. 2020-3, 505 Mich cxxvii (2020).

3. The computation of time began on March 10, 2020, when Governor Gretchen Whitmer declared a state of emergency under Executive Order No. 2020-4 and ended on June 20, 2020.

Management Company in a slip-and-fall case. Without the Court protections under AO 2020-3 and 2020-18, this case would have been dead in the water: under MCL 600.5905(2), the statute of limitations for plaintiffs who seek damages for personal injury is three years. With her injury on January 10, 2018, Ms. Carter’s original deadline was January 11, 2021. But—Grewal Law argued—with the application of the emergency AOs, Ms. Carter’s final filing date extended from January 11, 2021, to April 20, 2021.

Despite this, the trial court ruled that the statute of limitations had expired and 2020-3 did not apply. The Michigan Court of Appeals reversed the decision and held that it did extend filing deadlines in response to the pandemic by excluding certain days from the calculation under MCR 1.108(1). The Michigan Supreme Court granted the defendant’s request for leave to appeal and gave the parties a curious direction: discuss the Court’s authority to issue AO Nos. 2020-3 and 2020-18 in the first place.

Here’s where Grewal Law made history (and not for the first time). Its mathematics were correct: The Court did indeed have authority to issue AO Nos. 2020-3 and 2020-18 as issuing administrative orders was within its judicial powers. In fact, it was granted by the Michigan Constitution, which grants the Supreme Court “general superintending control over all courts; power to issue, hear and determine prerogative and remedial writs; and appellate jurisdiction as provided by rules of the supreme court.”⁴ The Court’s superintending control gave it authority to address exigent circumstances, such as the COVID-19 pandemic that impacted court operations. Additionally, the Michigan Constitution empowers the Court to “modify, amend and simplify the practice and procedure in all courts” in Michigan.⁵ While the Court can adjust procedural rules through administrative orders and court rules, it cannot alter substantive law, like the statute of limitations, as that authority is reserved for the Legislative branch.

In its ruling, the Court clarified that the AOs affected the computation of time under MCR 1.108(1), which guides litigants in calculating time limits under the statute of limitations. In doing so, the Court distinguished administrative orders from tolling statutes, which pause



The Grewal Law firm was founded by
Mick S. Grewal, Sr.

the statute of limitations in certain circumstances, clarifying that AOs did not toll the statute of limitations, but instead modified how time is computed under MCR 1.108(1). Tolling pauses the statute of limitations for specific plaintiffs, while the AO Nos. 2020-3 and 2020-18 applied universally to all litigants in Michigan. The Court acted within its constitutional authority under 1963 art. 6 § 5 to create MCR 1.108(1) and to issue AO Nos. 2020-3 and 2020-18.

The Court held that Ms. Carter timely filed her claim on April 13, 2021, and that the lower court had improperly granted the defendant’s motion for disposition. The Court remanded the case to Ingham Circuit Court.

When the Court held that issuing AO Nos. 2020-3 and 2020-18 was within its constitutional authority, the decision marked a success not only for Ms. Carter, but for all plaintiffs. Had the Court found the AOs unconstitutional, many current plaintiffs would have lost their cases due to the statute of limitations expiring.

In taking Ms. Carter’s case, Grewal Law not only continued its commitment to protecting its clients’ interests, but also had an important hand in firming up the Court’s pandemic procedures.

4. Const 1963, art 6 § 4.

5. Const 1963 art 6 § 5.