

FROM: Sandi Hartnell  
TO: Court Forms Info  
SUBJECT: Proposed New Form, Affidavit and Counterclaim, Small Claims

Michigan Court Forms, District Court Section

Please consider at your March Forms Committee Meeting the following comments regarding the proposed new Affidavit and Counterclaim for Small Claims:

1. Regarding your question "Should the distribution at the top of the form say, "Original - Transferring court" or "Original - District court"?" Statute distinguishes the Small Claims Division from the District Court, and therefore the form should reflect the same. I suggest the distribution read "Original - Small Claims Division."

2. Regarding your question "Is "true copy" necessary in item 3, the NOTE, and the Certificate of Mailing? While MCL 600.8423 says a "true copy of the complaint" shall be attached to the affidavit, Michigan Trial Court Case File Management Standards indicate that only MCR 3.211(H)(1) requires the actual use of these words." Taking notice of the fact that the statute was written in 1968, before copy machines were widely available, adding the 'true copy' language to this new form creates a burden upon the defendant and court clerks to have a 'true copy' statement affixed to the copy of the complaint.