# Questions for Agency Roundtable Discussion - 2019 MADCM Conference

**1.** Scenario: Officer issues ticket citation for MIP 1st to Defendant. Court runs Driving Record and MIP Deferred (41B) through LEIN. Defendant has 3 prior MIP convictions. Court sends ticket back to Officer. Officer amends ticket to Misdemeanor and submits it to the Prosecutors Office. At Pretrial, Prosecutor's Office offers Defendant a plea to civil infraction MIP 1st offense. Judge accepts the admission of responsibility to the Civil Infraction MIP 1st.

**Questions:**

**a.** Will Secretary of State (SOS) take action on the driver's license of the Defendant/Respondent? SOS ANWER: Yes

**b.** What action will be taken? SOS ANWER: 60 days suspended/305 days restricted.

**c.** Will SOS treat this as a 3rd offense MIP and take action on Defendant's driver's license? SOS ANWER: Yes

**d.** Does the Court have an obligation to inform the Defendant that the Prosecutor's plea offer does not nullify the licensing actions that will be taken by SOS? SOS ANSWER: SOS has no opinion. TCS ANSWER: We could not find any authority that requires a court to inform the defendant that SOS may suspend the license despite what was negotiated with the prosecutor. The statute requires SOS to suspend the licenses if the individual is convicted of a second or subsequent offense. The drunk driving statute (MCL 257.625 used to contain language that required the court to *"(9) Before accepting a plea of guilty under this section, the court shall advise the accused of the statutory consequences possible as the result of a plea of guilty in respect to suspension or revocation of an operator's or chauffeur's license."* This language has since been removed from the drunk driving statute. Additionally, there is no similar such language in the MIP statute. Therefore, any suspension by SOS would likely be considered a collateral consequence and would not require the court to inform the defendant of the SOS consequences.

**2.** A township attorney adds a $15 JSA cost on to all civil infraction judgments. Is adding this additional fee under the JSA permitted? TCS ANSWER: JSA is statutory under MCL 257.907(13), MCL 600.8727(4) and MCL 600.8827(4) and there is nothing permitting a $15 fee; it states $40 for traffic civil infraction, except parking or when fines and costs are $10 or less; $10 for municipal and state civil infractions.

**3.** On the attached 14-Day Notice Traffic, what is to be printed on the address side of the postcard where it indicates: BY: ? Are we to calculate 14 days from the notice and insert it there? **(Please see attached SCAO Form MC216).** TCS ANSWER**:** Per JIS, nothing is printed next to the word "BY".

**4.** Are there statutorily set amounts for what Courts charge Small Claims Plaintiffs for service by certified mail? Is MCL 600.2559(1)(o) the relevant statute? TCS ANSWER: No, see MCL 600.8420 "(2) A fee in an amount equal to the prevailing postal rate for the service provided shall be charged and collected for each defendant to whom a copy of the affidavit is mailed by the clerk."

**5.** Can anyone direct me to some authority (perhaps an old Attorney General Opinion?) that outlines the parameters of a district court probation officer's ability to receive money or deal

with finances in any way? TCS ANSWER: There is no attorney general opinion. The authority for this lies in our CARG (see the section on Fiscal Management on page 214): All payments received by the court should be collected and receipted in one centralized location. The number of employees authorized to receive checks, money orders, and cash should be restricted to a limited number of employees. If possible, one or two employees (or more depending on the size of the office) should be assigned as cashiers and the only employees authorized to collect and receipt both in-office and mail payments. **Probation officers and other court employees who are not within the main accounting or cashiering unit should not be allowed to collect any payments.** Any money collected for the payment of fines, costs, restitution, assessments, probation or parole supervision fees, or other payments arising out of the same criminal proceeding or order of disposition must be allocated as provided in statute. MCL 775.22, MCL 712A.29, MCL 780.766a, MCL 780.794a, MCL 780.826a.

We have confirmed with our Collection Analyst that POs can be part of the court's collections program - they just can't take in payments (those should be processed by the cashier). We have told courts in the past that PO's could do wage assignments, double-check ledgers, but not enter bond checks.

**6.** There was a change to MCL 257.749 regarding officers no longer being permitted to accept a roadside cash bond from out-of-state drivers. What is the Court's responsibility when an arresting agency is still taking a cash bond from out-of-state drivers and submitting the money to the Court? TCS ANSWER: We would suggest that your court administrator have a conversation with the law enforcement agency that may still be doing this and advise them of the statutory change. It may be that they are not aware of the change.

**7.** What interpreter services are available to the Courts? Some Courts use the Language Line or Certified Languages International, but are there other resources available? TCS ANSWER: There are list of certified and qualified foreign language interpreters and interpreter firms on our language access resources page found at:
https://courts.michigan.gov/Administration/admin/op/access/Pages/Language-Access-Resources.aspx

If you click on link that reads, "Certified and Qualified interpreters" it will bring you to the entire list: https://courts.michigan.gov/Administration/SCAO/OfficesPrograms/FLI/Pages/Certified-Court-Interpreters.aspx. Certified interpreters are at the top of the page and firms are at the bottom. For rare languages and dialects not represented on the list or that you can't find from a firm, reach out to languageaccess@court.mi.gov or Stacy Westra, MSC Language Access Coordinator directly for access to a national listserv for more resources.

**8.** Court receiving municipal civil infractions involving blight, storage of cars, etc. The defendants do not answer the ticket nor appear at the formal hearing and a default judgment is issued. The city requested the Court enter an order allowing the City to correct the situation and add the cost to the Defendant's taxes. This can be done at the time of the informal, but can it also be done on defaults? TCS ANSWER: If the court asking if it can convert a default judgment to an assessment on property taxes, it should consult with their City or County attorney. We have some concerns with the idea that a person would owe money to the court (on a default judgment) yet the court would end up deleting or converting what is owed to them and allow it to be

collected via taxes. Usually when a person is cited for say, long grass, and the city cites them, many have an ordinance unit that deals with this; the tickets may not make it over to the court until the person disputes it at some point. The city may go out and enforce by cutting the grass and then putting that fee onto the property taxes; but this is not a court matter at that point.

Additionally, if the court is asking whether it has authority to enter an order that allows the municipality to fix the situation (e.g. hire someone to mow the grass, or hire someone to board up a burned down property, etc.) and then assess whatever amount the municipality spent to fix it, against the person's property taxes, the court should consult with their City or County attorney before entering any such an order, as we could not find any authority to support.

**9.** There are about 5-7 people that have purchased late 90's model Jeep Cherokees. These are four door Jeeps that when manufactured didn't have removable doors, but this group took cutting tools and removed the doors. In place of the doors a few of them have taken various pieces of metal and "made" a "barrier". These barriers are nothing more than flimsy strips of metals wrapped in simple foam to prevent the occupants from being cut when touching them. They used a bolt and nut to secure this piece of metal to the jeep. Just looking at these "barriers" any reasonable person would agree that these are not an acceptable replacement for any actual door. In a side impact crash, occupants of these Jeeps would easily be injured or worse. We've found two of these vehicles on the public roadway and so far issued warnings for removing the doors. The owners of these Jeeps are adamant that this is legal. Is it legal? Is there a relevant statute? Does this meet the equipment requirements of MCL 257.708? SOS ANSWER: The legality of vehicle doors is not a driver license, title or registration issue. The Michigan Vehicle Code does not address vehicle doors (or hoods – some vehicles are driven with no hood, resulting in an exposed engine compartment). On the other hand, NHTSA provides certain safety standards that vehicle manufacturers must follow for vehicle body strength include steel beams in doors. MSP ANSWER: (Lance Cook) A use violation example would be outside mirrors are often mounted to the doors on jeeps. Non-dismissible equipment violation, since it is not defective but deliberately removed.

**10.** Officer issues a ticket 5-days after the incident date citing a violation of a Parks and Recreation Areas-State Land Rule. Ticket was mailed to the Court and received by the Court the next day. Is there a filing time requirement, similar to the one listed in MCL 257.728(a), for these types of citations? TCS ANSWER: The DNR may be in a better position to answer this but as far as we can tell MCL 257.728(a) is written under the Motor Vehicle code and would only apply to citations written under that chapter. Since a person who violates a DNR rule for the protection and preservation of lands the is responsible for a state civil infraction, MCL 600.8807 states that "[a] law enforcement officer who witnesses a person violating state law, the violation of which is a state civil infraction, may stop the person, detain the person temporarily for the purpose of issuing a citation, and **prepare and subscribe, as soon as possible and as completely as possible, an original and 3 copies of a citation**." There is no other time frame outlined in the statute.

**11.** Scenario: Officer asks Magistrate G to review and authorize a search warrant for a person, place, or thing located outside of Magistrate G's Court's jurisdiction. Officer tells Magistrate G that no magistrate was available in the jurisdiction for which the Officer is seeking to obtain a

search warrant. Magistrate G signs the search warrant. Shortly thereafter, Magistrate G is told the Officer never contacted any Magistrate or Judge in the County for which the warrant was sought. Additionally, Magistrate G is told the only reason the officer asked Magistrate G to review the search warrant was because the Officer just didn't want to drive to the other County.

**Questions:**

**a.** Can a magistrate sign a search warrant for a search of a person, place, or thing for which the search will take place in a County not within the magistrate's Court's jurisdiction? TCS ANSWER: A district court magistrate has authority to issue search warrants. MCL 600.8511(g); MCL 780.651(4). Additionally, there is no constitutional or statutory limit which prevents the district court from issuing a search warrant to be executed outside the county of issuance as long as the case for which the warrant is issued is within the jurisdiction of the court. People v Fiorillo, 195 Mich App 701 (1992).

Basically, a magistrate in county A can issue a search warrant for a property in another jurisdiction as long as the case originates in county A's jurisdiction. The flip side to this is the magistrate cannot issue a search warrant on a case that originates outside of his/her jurisdiction unless there is a multiple district plan. For example, if Farmington Hills arrests a drunk driver in Farmington Hills and asks a magistrate in Oak Park to sign the search warrant for blood, it may be invalid unless the two jurisdictions have a multiple district plan allowing the magistrate in those jurisdictions to sign for matters in each jurisdiction.

**b.** Can a magistrate sign a search warrant for a search which will take place outside of the State of Michigan? TCS ANSWER: We could not find any authority for this in our statutes.

**c.** Is Magistrate G required to notify anyone about signing the out-of-county search warrant when they find out a magistrate for the issuing County was actually available and the officer just did not want to drive to the other Court location? TCS ANSWER: We recommend that you discuss this with your court administrator and chief judge. This would be a matter of court policy and judicial discretion.

**d.** When an investigation and search are taking place entirely outside of a magistrate's jurisdiction and the magistrate authorizes a search warrant, is the search warrant valid? Is the search invalid? Or is it for the attorneys to argue whether the search was a violation of the Defendant's constitutional rights? TCS ANSWER: See above answer regarding a search warrant being valid for an area outside of the magistrate's jurisdiction under certain circumstances. While a judge or district court magistrate should follow the law with respect to issuing search warrants, the defendant always has the right to question the validity and constitutionality of the search warrant.

**12.** Small Claims case Affidavit where the Plaintiff checked the box "Defendant incompetent". If Plaintiff appears at the hearing and the Defendant fails to appear, should a default judgment be entered against the Defendant? Does the box checked incompetent factor in to whether a default judgment should be entered or not? TCS ANSWER: The form includes a checkbox that indicates "I believe the defendant is not mentally competent." MCR 4.304(B)(1) indicates that if the

defendant was properly served (either personally or returned the green card for certified mail service) and the defendant fails to appear, a "judgment *may* be entered by default." I suppose it would be up to the court's discretion whether to consider plaintiff's assertion that defendant is not mentally competent in determining whether to enter a default. See MCR 2.201. (Must be legally declared incompetent. Conservator must be appointed if mentally incompetent.)

**13.** Defendant is currently lodged in the Jail. Prior to being lodged, the Defendant had requested, and was scheduled for, an informal hearing on a separate case. The Court requested the inmate be brought over from the Jail for the informal hearing. The Sheriff's Department informed the Court that this is not a required function of the Sheriff's Office because it is not a criminal matter. Are there any statutes, Court Rules, or case law relevant to this situation? TCS ANSWER: Generally speaking, it seems like it would be the sheriff's responsibility to transport prisoners to court appearances. We suggest that you ask the sheriff to provide you with the authority for why they believe it does not apply to civil infraction hearings, as we could not find anything definitive in the statutes. In any event, if the sheriff will not bring the person to the courthouse, the district courts may allow the use of videoconferencing in a contested civil infraction action by any participant as defined in MCR 2.407(A)(1). Because there is a cost involved when a sheriff has to transport an inmate to the courthouse, not to mention the safety concerns it poses, whenever possible, the better option may be to use Polycom to conduct the informal hearing.

**14.** Minimum amount of information required on a ticket.

**Questions:**

**a.** What is the minimum amount of personal information which must be included on a ticket in order for a Court to accept and file it? TCS ANSWER: MCL 257.728 states that the arresting officer shall prepare, as soon as possible and **as completely as possible**, an original and 3 copies of a written citation to appear in court containing the name and address of the person, the violation charged, and the time and place when and where the person shall appear in court. These are the minimum requirements for a citation. Although there are other fields on a ULC there is nothing in statute that requires the arresting agency to supply the court with the additional information (e.g. DOB). SOS ANSWER: For abstracting purposes the minimum should be name, DOB and DLN.

**b.** Are tickets containing the personal information of only a Defendant's name and address sufficient? TCS ANSWER: Per 257.728, yes. However, a DOB or DLN is required in order to submit an abstract (so before the court can abstract a conviction, which it is required to do, the DOB/DLN must be obtained.) This may be a conversation that needs to take place between the court and local law enforcement. SOS ANSWER – No.

**c.** Is the ticket required to contain a Defendant's driver's license number and/or date of birth? TCS ANSWER: No. SOS ANSWER: However, the name and DOB is required for SOS, DLN is an additional verifying identifier.

**d.** Would a State ID suffice? TCS ANSWER: Yes. SOS ANSWER: Yes, the driver license and PID are the same number.

**e.** Is this a material defect that would invalidate the ticket? TCS ANSWER: If the ticket is missing the required information (such as name, address, violation charged, and time/place where the person shall appear), then the ticket should not be accepted for filing with the court.

**f.** Is this a minor defect? TCS ANSWER: We do not make distinctions between major and minor defects. The statute sets forth what information is required on a ticket. If it is missing the required information, then the court does not have to accept it for filing. If the ticket contains the required information per statute but is missing some of the other needed information, the court will need to determine the process for obtaining that information.

**g.** What happens if the Defendant fails to appear and a default judgment is entered? TCS ANSWER: They could have an FAC suspension placed on their driving record. If there is a DOB, a search could maybe be done to locate the proper DLN/State ID number. SOS ANSWER: Could become eligible for FAC suspension.

**h.** Should the Defendant be scheduled for a Showcause hearing? TCS ANSWER: This is up to the discretion of each court. Most courts will schedule a showcause hearing in attempt to collect the outstanding debt. When the person fails to appear at the showcause hearing, a bench warrant could be issued for failure to appear.

**i.** If a municipality wants a bench warrant issued against the Defendant for failing to appear, who is responsible for obtaining the identifying information? TCS ANSWER: The court and law enforcement department who issued the ticket should work together. There is no authority that we are aware of that dictates who is responsible for this. If the court wants to enter the warrant, the court will probably need to locate the required information for LEIN entry.

**j.** Can a Judgment be enforced against a Defendant on a ticket not containing the minimum required identifying information? TCS ANSWER: A ticket not containing the minimum required information should not have been accepted for filing and therefore there would be no judgment. If the court accepted the ticket for filing without the minimum required information, the court would be responsible for obtaining the necessary information to enter and enforce the judgment. SOS ANSWER: Yes, a search with name and date of birth will have to occur to positively identify the defendant.

**15.** RE: DC84 Affidavit and Claim, Small Claims

The bottom line says: The defendant(s) must be served by <u>Expiration Date.</u>

**Questions:**

**a.** Is the expiration date based on the filing date (91 days)? TCS ANSWER: No, because the clerk is responsible for service of the affidavit, the expiration date is based on when the small claims hearing is scheduled. MCL 600.8406 states that "[t]he date for the appearance of the defendant provided in the notice shall not be less than 15 days nor more than 45 days after the date of the notice."

**b.** Is the expiration date based on the date the defendant must be served by, based on when the small claims hearing date is scheduled? TCS ANSWER: Yes.

**c.** Is the expiration date seven days prior to the hearing date based on MCR 4.303(C)? TCS ANSWER: Yes.

**d.** Is the expiration date for Small Claims cases determined differently than the expiration date for General Civil cases (expiration date based on the date the case was filed)? TCS ANSWER: Yes, the expiration date is based on the date of the hearing included in the notice.

**e.** What does the Court do if a defendant cannot be served within that time frame? TCS ANSWER: According to MCR 4.303, "[i]f it appears that notice was not received by the defendant at least 7 days before the appearance date and the defendant does not appear, the clerk must, at the plaintiff's request, issue further notice without additional cost to the plaintiff, setting the hearing for a future date." See also MCL 600.8406 which states that "[t]he plaintiff may apply to the clerk…for a new notice setting a new date for the appearance of the defendant which shall be not less than 15 days nor more than 30 days after the date of the issuance of the new notice."

**f.** Can a Plaintiff submit a motion to extend the summons? TCS ANSWER: There is no summons in a small claims case. There is a statement of claim (or affidavit and claim) and a Notice of Hearing.

**g.** Is the Court supposed to dismiss the case without prejudice for nonservice? TCS ANSWER: MCL 600.8406 states that "[i]f a defendant is not personally served or did not sign the certified mail return receipt at least 7 days before the appearance date, there shall not be jurisdiction to render judgment, unless the defendant appears on the appearance date and does not request a continuance." Therefore, it may be possible, if the plaintiff does not request a new notice, for the court to dismiss the case without prejudice for nonservice.

**16.** Court receives a ticket for tinted windows cited under MCL 257.709. Driver produced an appropriate and laminated letter as required under MCL 257.709(3)(e) stating the medical exception, however, the letter is from 2011. Officer informs the driver their letter has to be updated each year. The officer issued the driver a ticket based on the age of the letter. Driver is in process of getting the formal license restriction through SOS.

**Questions:**

**a.** Is a new letter required each year? SOS ANSWER: No. There is no statutory requirement that a physician's letter prescribing tinted vehicle windows be reissued every year.

**b.** Is only the driver who was issued the letter allowed to drive the vehicle? SOS ANSWER: Tinted window use is designated for physician/optometrist diagnosed individuals with light sensitivity or photosensitivity.

**c.** Are others permitted to operate the vehicle with the tinted windows? SOS ANSWER: Tinted window use is designated for physician/optometrist diagnosed individuals with light sensitivity or photosensitivity

**d.** Would a separate letter be required for each person operating the vehicle with tinted windows? SOS ANSWER: Yes

**e.** Does the law distinguish a difference regarding as to whether the vehicle is used as a personal motor vehicle or a commercial motor vehicle? SOS ANSWER: Statue does not differentiate between passenger and commercial vehicles.

**17.** Respondent and Officer both fail to appear for an Informal Hearing.

**Questions:**

**a.** What Judgment should be entered by the Court? TCS ANSWER: If the officer fails to appear (regardless of whether defendant appears) it is our understanding the ticket should be dismissed without prejudice per MCR 4.101(C).

**b.** Do you default the Defendant? TCS ANSWER: No

**c.** Do you dismiss the citation because the Plaintiff failed to appear? TCS ANSWER: Yes, if they both fail to appear or the officer fails to appear, the ticket would be dismissed. If the officer appears but not the defendant, then a default would be entered per MCR 4.101.

**18.** Plaintiff and Defendant both fail to appear for a Small Claims hearing.

**Questions:**

**a.** What Judgment should be entered by the Court? TCS ANSWER: MCR 4.304(B)(3) states "[i]f all parties fail to appear, the claim may be dismissed for want of prosecution or the court may order another disposition, as justice requires." We understand this to mean a dismissal without prejudice (because it is not a decision on the merits) but that would ultimately be up to the discretion of the court.

**b.** Dismissal without prejudice? TCS ANSWER: See above.

**c.** Dismissal with prejudice? TCS ANSWER: See above.

**d.** Default Judgment against the Defendant for failing to appear? TCS ANSWER: According to MCR 4.307(B)(1), you would only enter a default against the defendant, if the defendant was properly served, didn't appear, but plaintiff appeared. "If a defendant fails to appear, judgment may be entered by default if the claim is liquidated, or on the ex parte proofs the court requires if the claims is unliquidated."

**19.** A written citation was filed with the Court under MCL 324.11522 (3). This is a state civil infraction and the penalty section (4)(a) states that the penalty is "a warning by the judge or magistrate." Is the Court permitted to assess any amounts? TCS ANSWER: The statute is pretty

clear that the penalty is a warning only. Therefore, we do not believe there would be any financial assessments. This is also reflected on our state civil infraction list.

**20.** The statute says, "The clerk of the court entering the conviction shall report the conviction to the department of community health on a form prescribed and furnished by that department."

**Questions:**

a. How do Courts handle the reporting defendants to the department of community health, when they are licensed under article 15 of the public health code? TCS ANSWER: Courts handle this differently; some courts have the probation department/officer report this, some have the clerk report it on the courts behalf.

**b.** If there is no PSI and no request for court appointed attorney, how would you know the defendants occupation? TCS ANSWER: Some judges ask on the record what the person does for a living. More often, the court is conducting a PSI or a screening/assessment on offenses that are related to substance use/abuse. In fact, if it's an OWI offense, the statute requires a screening and assessment before sentencing.

**c.** Does the department of community health provide a form in each case, or is there a generic form available online? TCS ANSWER: It is called the MICHIGAN HEALTH PROFESSIONAL REPORT OF CONVICTION (Form linked here: https://www.michigan.gov/documents/lara/lara_HPD003_reportofconviction_414436_7.pdf)

**21.** State of Michigan Commercial Law Citation.

**Questions:**

**a.** Does your court issue a warrant if no one appears for arraignment? TCS ANSWER: Yes. Just like any other offense, if the defendant in a misdemeanor case does not appear for an arraignment and the ULC was issued, a warrant would be issued. If the citation is written directly to the driver, then the warrant would be issued against the driver. In most cases, the citation is often written against the trucking company. In that case, the warrant would be issued to the registered agent of the trucking company.

**b.** Is the Court to issue a warrant if there is a failure to pay? TCS ANSWER: The court should never issue a bench warrant for failure to pay, rather the court should issue an arrest warrant for failure to appear for arraignment.

c. If so, does the Court issue the bench warrant against the carrier, owner, or driver? TCS ANSWER: The court would enter an arrest warrant against the registered agent (if the officer wrote the ticket against the trucking company). Most, if not all, of these tickets are issued to the company. You can locate registered agent information through the state of Michigan website.

**22.** Are Courts allowed to permit officers to re-write their overweight tickets for the sole purpose of giving an owner of a vehicle a break on fines and costs? The officer wants to re-write the ticket at the informal hearing, so that, the tonnage is severely reduced in order to make it look

like the overweight vehicle is a misload. Is this permitted? TCS ANSWER: MCR 4.101(A)(2) states that "[a] violation alleged on a citation may not be amended **except by the prosecuting official or a police officer** for the plaintiff." So, it would appear that the officer would have the authority to amend the ticket.

**23.** The question has come up of what to do when a civil infraction is cited and occurring just outside the county line of the district court where the district court sits. The Officers involved say they have the authority to cite within one mile of a County border for the district court in either of the two counties. Upon looking at MCL 600.8312, venue of the district court under subsection 4 is in regards to state criminal violations: if an offense is committed on the boundary of two or more counties, districts or political subdivisions within one mile of the border, venue would be proper in either county. However, for civil infractions, which is in subsection 6, it's very specific that in the district of the first class venue is in the county where the infraction occurred. How should a Court handle this situation? TCS ANSWER: The local law enforcement agency may be relying on MCL 762.3(3)(a) which states "[i]f an offense is committed on the boundary of 2 or more counties, districts, or political subdivision or within 1 mile thereof, venue is proper in any of the counties, districts, or political subdivisions concerned" if it is a state offense. However, this would not seem to pertain to civil infractions.

See also MCL 257.726a which states "[a] peace officer of any county, city, village or township of this state may exercise authority and powers outside his own county, city, village or township when he is enforcing this act on a street or highway which is on the boundary of the county, city, village or township the same as if he were in his own county, city, village or township."

MCL 764.2a (1) A peace officer of a county, city, village, township, public airport authority, or university of this state may exercise the authority and powers of a peace officer outside the geographical boundaries of the officer's county, city, village, township, public airport authority, or university under any of the following circumstances:

(a) If the officer is enforcing the laws of this state in conjunction with the Michigan state police.

(b) If the officer is enforcing the laws of this state in conjunction with a peace officer of any other county, city, village, township, public airport authority, or university in which the officer may be.

(c) If the officer has witnessed an individual violate any of the following within the geographical boundaries of the officer's county, city, village, township, public airport authority, or university and immediately pursues the individual outside of the geographical boundaries of the officer's county, city, village, township, public airport authority, or university:

(i) A state law or administrative rule.

(ii) A local ordinance.

(iii) A state law, administrative rule, or local ordinance, the violation of which is a civil infraction, municipal civil infraction, or state civil infraction.

If the court believes that venue is improper, it may order a change of venue on its own initiative with notice to the parties and an opportunity for them to be heard on the venue question. See MCR 2.223. However, most of the time, the issue of venue is something that is raised by the parties. In either event, the court must accept the ticket for filing and then go from there.

**24.** Court continues to receive tickets for Expired License cited under MCL 257.301, which is Operate- No License/Multiple Licenses, a misdemeanor that requires an appearance date. The officers write on the ticket, "payable 14-day ticket". The Expired License MCL was done away with a few years ago. The only options now are just No Ops on Person (payable 14 day ticket) or Operate-No License/Multiple Licenses (misdemeanor with an appearance date). How should the Court handle this situation? TCS ANSWER: It seems that both Operate – No License/Multiple Licenses (257.301) and No Ops on Person (257.311) are both misdemeanors. No Ops can be waived if the person brings their valid license to law enforcement prior to the appearance date. There is no such thing as a "payable" misdemeanor in statute. Rather, courts have decided which misdemeanors they will allow defendants to plead guilty to in a writing and pay the ticket at the counter. It sounds like maybe your court allows the No Ops as a payable misdemeanor but the other Operate-No License, the court requires an appearance.

It may be that law enforcement is confused about which one the court allows to be a payable misdemeanor. You may want to talk to your local law enforcement agency(s) and have a conversation about which misdemeanors the courts allows to be paid at the counter.

**25.** Mini-Tort **(Disclaimer: This is not a procedural question but rather a legal one. The court should consult with its City or County attorney as the TCS analysts are not well versed in insurance law.)**

**Questions:**

**a.** Does the $1,000.00 mini-tort limit apply to a defendant who hits a parked car in a parking lot? TCS ANSWER: See MCL 500.3135(4).

**(4)** All of the following apply to an action for damages under subsection (3)(e):

(a) Damages must be assessed on the basis of comparative fault, except that damages must not be assessed in favor of a party who is more than 50% at fault.

(b) Liability is not a component of residual liability, as prescribed in section 3131, for which maintenance of security is required by this act.

(c) The action must be commenced, whenever legally possible, in the small claims division of the district court or the municipal court. If the defendant or plaintiff removes the action to a higher court and does not prevail, the judge may assess costs.

(d) A decision of the court is not res judicata in any proceeding to determine any other liability arising from the same circumstances that gave rise to the action.

(e) Damages must not be assessed if the damaged motor vehicle was being operated at the time of the damage without the security required by section 3101(1).

**b.** Does MCL 500.3123 no recovery for the Plaintiff if their vehicle was unreasonably parked? TCS ANSWER: MCL 500.3123(1) states that damage to vehicles and their

contents are excluded from property protection insurance benefits unless the vehicle is parked in a manner as not to cause unreasonable risk of the damage which occurred.