

Summary Disposition Table

See the Michigan Judicial Institute's *Civil Proceedings Benchbook*, Chapter 4.

Court Rule (Grounds)	Timing	Evidence Considered/Additional Factors
<p>MCR 2.116(C)(1) (Court lacks jurisdiction over person or property)</p>	<p>Must be raised in a party's first motion under MCR 2.116 or in the party's responsive pleading, whichever is filed first. See MCR 2.116(D)(1).</p>	<p>Pleadings, affidavits, depositions, admissions, and documentary evidence (if admissible). See MCR 2.116(G)(5)-(6). Plaintiff bears the burden of establishing jurisdiction. See <i>Lease Acceptance Corp v Adams</i>, 272 Mich App 209, 218 (2006).</p>
<p>MCR 2.116(C)(2) (Insufficient process)</p>	<p>Must be raised in a party's first motion under MCR 2.116 or in the party's responsive pleading, whichever is filed first. See MCR 2.116(D)(1).</p>	<p>Pleadings, affidavits, depositions, admissions, and documentary evidence (to the extent admissible). See MCR 2.116(G)(5)-(6).</p>
<p>MCR 2.116(C)(3) (Insufficient service)</p>	<p>Must be raised in a party's first motion under MCR 2.116 or in the party's responsive pleading, whichever is filed first. See MCR 2.116(D)(1). A general appearance does not waive a party's right to challenge the sufficiency of process. See <i>Al-Shimmari v Detroit Med Ctr</i>, 477 Mich 280, 293 (2007).</p>	<p>Pleadings, affidavits, depositions, admissions, and documentary evidence (if admissible). See MCR 2.116(G)(5)-(6). Receipt of service, even if improper, is not grounds for dismissal. See MCR 2.105(J)(3). The court may order immediate trial. See MCR 2.116(I)(3). A jury trial is not required. See <i>Al-Shimmari</i>, 477 Mich at 288-289.</p>
<p>MCR 2.116(C)(4) (Court lacks subject-matter jurisdiction)</p>	<p>May be raised any time, even if filed after the deadline that has been set in a scheduling order to file dispositive motions has expired. See MCR 2.116(D)(3).</p>	<p>Pleadings, affidavits, depositions, admissions, and documentary evidence (if admissible). See MCR 2.116(G)(5)-(6). Motion may be granted if plaintiff has failed to exhaust all available remedies. See <i>Citizens for Common Sense in Gov't v Attorney General</i>, 243 Mich App 43, 50 (2000).</p>
<p>MCR 2.116(C)(5) (Plaintiff lacks the legal capacity to sue)</p>	<p>Must be raised in a party's responsive pleading, unless the grounds are stated in a motion filed under MCR 2.116 before the party's first responsive pleading. See MCR 2.116(D)(2).</p>	<p>Pleadings, affidavits, depositions, admissions, and documentary evidence (to the extent admissible). See MCR 2.116(G)(5)-(6).</p>

<p>MCR 2.116(C)(6) (Another action between the same parties involving the same claim has been initiated)</p>	<p>Must be raised in a party’s responsive pleading, unless the grounds are stated in a motion filed under MCR 2.116 before the party’s first responsive pleading. See MCR 2.116(D)(2).</p>	<p>Pleadings, affidavits, depositions, admissions, and documentary evidence (if admissible). See MCR 2.116(G)(5) and MCR 2.116(G)(6). The other action does need to be filed within the Michigan courts or within the federal courts located in Michigan. See <i>Valeo Switches & Detection Sys, Inc v EMCom, Inc</i>, 272 Mich App 309, 319-320 (2006). The trial court must identify which claims are being dismissed and which claims are already pending in another action. See <i>Planet Bingo, LLC v VKGS, LLC</i>, 319 Mich App 308, 326-327 (2017). If the opposing party raises a question regarding whether the other action can and will continue, a stay pending resolution of the issue in the other action should be granted. <i>Id.</i> at 327.</p>
<p>MCR 2.116(C)(7) (Entry of judgment, dismissal of the action, or other relief appropriate due to certain conditions)</p>	<p>Must be raised in a party’s responsive pleading, unless the grounds are stated in a motion filed under MCR 2.116 prior to the party’s first responsive pleading. See MCR 2.116(D)(2). However, the ground of governmental immunity may be raised at any time, even if filed after the deadline that has been set in a scheduling order to file dispositive motions has expired. See MCR 2.116(D)(3).</p>	<p>Pleadings, affidavits, depositions, admissions, and documentary evidence (if admissible). See MCR 2.116(G)(5)-(6). However, a party is not required to submit any material in support of a (C)(7) motion; it can be evaluated on the pleadings alone. See <i>Maiden v Rozwood</i>, 461 Mich 109, 119 (1999). The contents of the complaint are accepted as true, unless contradicted by documentation submitted by the moving party. <i>Id.</i> If the movant properly supports the motion by presenting facts that, if left un rebutted, would show that there is no genuine issue of material fact that the movant is entitled to summary disposition, the burden shifts to the nonmoving party to present evidence that establishes a question of fact. <i>Kincaid v Cardwell</i>, 300 Mich App 513, 537 (2013). Summary disposition is not proper if the parties present evidence that establishes a question of fact concerning whether the moving party is entitled to (C)(7) relief. <i>Id.</i> at 523.</p>

<p>MCR 2.116(C)(8) (Opposing party has failed to state a claim for which relief can be granted)</p>	<p>May be raised at any time, unless a period in which to file dispositive motions is established under a scheduling order entered pursuant to MCR 2.401. See MCR 2.116(D)(4).</p>	<p>Only pleadings: complaints, answers, and replies (not the motion for summary disposition itself). See MCR 2.116(G)(5); <i>Ingham Co v Mich Co Rd Comm Self-Ins Pool</i>, 321 Mich App 574, 579 (2017). All well-pleaded allegations should be accepted as true and construed most favorably to the non-moving party. <i>Wade v Dep't of Corr</i>, 439 Mich 158, 162-162 (1992). A mere statement of conclusions, unsupported by factual allegations is not sufficient to state a cause of action. <i>ETT Ambulance Svc Corp v Rockford Ambulance, Inc</i>, 204 Mich App 392, 395 (1994).</p>
<p>MCR 2.116(C)(9) (Opposing party has failed to state a valid defense to the claim)</p>	<p>May be raised at any time, unless a period in which to file dispositive motions is established under a scheduling order entered pursuant to MCR 2.401. See MCR 2.116(D)(4).</p>	<p>Only pleadings: complaints, answers, and replies (not the motion for summary disposition itself). See MCR 2.116(G)(5); <i>Ingham Co v Mich Co Rd Comm Self-Ins Pool</i>, 321 Mich App 574, 579 (2017). Properly granted if defense is so clearly untenable that as a matter of law no factual development could possibly deny plaintiff's rights to recovery. See <i>Vayda v Lake Co</i>, 321 Mich App 686, 693 (2017). Summary disposition should not be granted when a material allegation of the complaint is categorically denied and the nonmoving party has stated a legally cognizable defense. See <i>Dimondale v Grable</i>, 240 Mich App 553, 564-565 (2000).</p>

<p>MCR 2.116(C)(10) (There is no genuine issue as to any material fact other than damages)</p>	<p>May be raised at any time, unless a period in which to file dispositive motions is established under a scheduling order entered pursuant to MCR 2.401. See MCR 2.116(D)(4).</p>	<p>Pleadings, affidavits, depositions, admissions, and documentary evidence (if admissible). See MCR 2.116(G)(5) and MCR 2.116(G)(6). Evidence should be considered in the light most favorable to the nonmoving party. See <i>Brown v Brown</i>, 478 Mich 545, 551-552 (2007). Where, except as to the amount of damages, the proffered evidence fails to establish a genuine issue of material fact, the moving party is entitled to judgment or partial judgment as a matter of law. <i>Id.</i> at 552. If the motion is properly made and supported, the opposing party must, by affidavit or otherwise, set forth specific facts demonstrating a genuine issue for trial. See MCR 2.116(G)(4). (C)(10) motions are generally premature if filed before discovery is complete. See <i>Colista v Thomas</i>, 241 Mich App 529, 537 (2000). However, the motion may be granted if there is no reasonable chance that additional discovery will result in factual support for the nonmoving party. <i>Id.</i> at 537-538.</p>
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